

VILLAGE OF LOMBARD  
REQUEST FOR BOARD OF TRUSTEES ACTION  
For Inclusion on Board Agenda

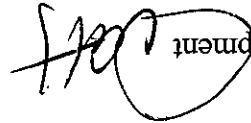
Resolution or Ordinance (Blue) \_\_\_\_\_  
Recommendations of Boards, Commissions & Committees (Green) \_\_\_\_\_  
Other Business (Pink) \_\_\_\_\_

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: May 29, 2007 (B of T) Date: June 7, 2007

TITLE: Lombard Cemetery

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a resolution stating the Village's intent to enter and maintain Lombard Cemetery. (DISTRICTS #1 and 4)

Staff recommends approval of this resolution.

Please place this item on the June 7, 2007 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_

Finance Director X \_\_\_\_\_

Village Manager X 

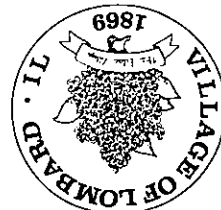
Date \_\_\_\_\_

Date \_\_\_\_\_

Date 5/30/07

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon.

Wednesday, prior to the Agenda Distribution.



**MEMORANDUM**

**TO:** William T. Lichter, Village Manager

**FROM:** David A. Hulseberg, AICP, Assistant Village Manager  
*DH*

**DATE:** June 7, 2007

**SUBJECT:** Lombard Cemetery

**BACKGROUND**

Lombard Cemetery, located on Main Street between Washington Boulevard and Lilac Lane, has been used as a burial ground since 1851. It has been used as a final resting-place for many of Lombard's founders and best-known residents.

In 1864, Reuben and Anna Mink conveyed the land to DuPage County "for the benefit and use of the Babcocks Grove Cemetery Corporation." Josiah Lombard acquired the property in 1870 and laid it out as a cemetery. The first Lombard Cemetery Association was formed in 1874 and incorporated in 1880. The Association oversaw improvements including the construction of a storage shed, drainage improvements, and walkways until its dissolution in 1968.

A survey from the summer of 1975 notes that the cemetery was in good condition. However, as time passed the Village began receiving complaints from nearby residents regarding the condition of the cemetery and a cleanup was organized as part of 1991's Pride Week.

Lombard Cemetery Association re-incorporated in 1991 with several descendants of the original Association members now serving as its Directors. This group of volunteers is now solely responsible for the upkeep of this highly visible location.

**RECENT ACTIVITY**

The Association members are now largely retired, and some no longer live in the Lombard area. To ensure continuity of care and maintenance of this important site, staff has taken action to allow the Village of Lombard to assume maintenance activities for the cemetery.

Illinois statutory law contains guidelines for the control and ownership of cemeteries by municipalities, as well as municipal control of abandoned cemeteries without the necessity of acquiring ownership. The Village may perform general maintenance and upkeep on the cemetery provided that a newspaper notice is published prior to the entry and cleanup of the grounds.

**RECOMMENDATION**

Staff recommends that the Board take the following steps:

1. Pass a resolution stating its intent to periodically enter the Lombard Cemetery as an abandoned cemetery, pursuant to 65 ILCS 5/11-49-1, to "cause the grounds to be cleared and made orderly;"
2. If in the future it is deemed desirable by the Board, the Village could enter into an agreement with either the Historical Commission or the Lombard Historical Society to oversee maintenance of and proposed improvements to the cemetery (to occur at a later date).

**R E S O L U T I O N**  
**R**  
**08**

**A RESOLUTION ANNOUNCING THE INTENT OF THE  
VILLAGE TO ENTER AND MAINTAIN LOMBARD CEMETERY  
AS AN ABANDONED CEMETERY**

WHEREAS, Lombard Cemetery, located on Main Street between Washington Boulevard and Liliac Lane, has been used as a burial ground since 1851; and

WHEREAS, the President and Board of Trustees have deemed the continued maintenance of Lombard Cemetery to be in the best interests of the Village; and

WHEREAS, the Corporate Authorities of the Village of Lombard may enter any abandoned cemetery to "cause the grounds to be cleared and made orderly" pursuant to 65 ILCS 5/11-49-1; and

WHEREAS, the Village of Lombard intends to periodically enter the Lombard Cemetery as an abandoned cemetery to perform general maintenance and upkeep activities; and

WHEREAS, the Village is not exercising control or ownership over the Lombard Cemetery.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS, as follows:

**SECTION 1:** That the Village shall periodically enter the Lombard Cemetery to cause the grounds to be cleared and made orderly, including but not limited to the following activities: (a) mowing the lawn to prevent an overgrowth of grass and weeds; (b) trimming of greenery to prevent excessive overgrowth and remove dead limbs; (c) repair of drains, water lines, roads, buildings, fences and other structures of the cemetery premises; and (d) any other maintenance assistance deemed necessary to ensure the public health, safety, and welfare.

**SECTION 2:** That, pursuant to 65 ILCS 5/11-49-1, the Village shall publish a notice in the newspaper not more than 45 but at least 30 days prior to entry and cleanup of cemetery grounds. Said notice shall provide:

(1) notice of the corporate authorities' intended entry and cleanup of the cemetery;

(2) the name and geographic location of the cemetery;

(3) the right of the cemetery authority or owner of the property to deny entry to the corporate authorities upon written notice to those authorities; and  
(4) the date or dates of intended cleanup.

**SECTION 3:** That this Resolution shall be in full force and effect from and after its passage and approval as provided by law.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

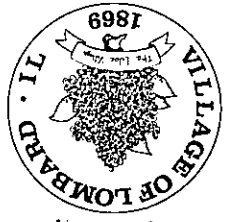
Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
William J. Mueller  
Village President

ATTEST:

\_\_\_\_\_  
Brigitte O'Brien  
Village Clerk

070371



**To:** Honorable President and Board of Trustees

**From:** William T. Lichter, Village Manager *WL*

**Date:** June 6, 2007

**Subject:** Lombard Cemetery

After reviewing the agenda for the Board of Trustees meeting of June 7, 2007, legal counsel has advised that an ordinance, rather than a resolution, regarding entry and cleanup of the Lombard Cemetery should be considered by the Village Board. Please find attached the proposed ordinance.

Several trustees have inquired as to the frequency with which the notice of entry and maintenance must be published. Legal counsel has advised that, with respect to notice by publication, it would be permissible to provide only one notice annually indicating the time frame during which periodic maintenance would be undertaken (i.e. April 1, 2008 through November 30, 2008) although the notice would need to be published not more than 45 days nor less than 30 prior to the indicated start date. A separate notice would be required for any improvement not considered to be general maintenance as defined in the ordinance (i.e. construction of a new fence).

Staff will available at the meeting of June 7<sup>th</sup> to address any questions that the Village Board may have regarding this item.

- C. repair of drains, water lines, buildings, fences and other structures of the cemetery premises; and
- B. trimming of greenery to prevent excessive overgrowth and remove dead limbs;
- A. mowing the lawn to prevent an overgrowth of grass and weeds;

the grounds thereof to be cleared and made orderly, including the following activities: contractors working for the Village to periodically enter the Lombard Cemetery, to cause staff is hereby authorized to periodically enter the Lombard Cemetery, or cause

**SECTION 2:** That based on the findings as set forth in Section 1 above, the Village

Cemetery and make the grounds thereof orderly.

- D. That is in the best interests of the Village to enter upon the Lombard
- C. That the Village of Lombard may enter any abandoned cemetery to "cause the grounds to be cleared and made orderly" pursuant to 65 ILCS 5/11-49-1.
- B. That the Lombard Cemetery meets the criteria of an "abandoned cemetery" as set forth in 65 ILCS 5/11-49-1.
- A. That there is a cemetery located on the West side of Main Street, between Washington Boulevard and Lilac Lane, has been used as a burial ground since 1851 (hereinafter the "Lombard Cemetery").

**SECTION 1:** That the President and the Board of Trustees find as follows:

Lombard, DuPage County, Illinois, as follows:

BE IT ORDAINED by the President and Board of Trustees of the Village of

**AN ORDINANCE DECLARING THE LOMBARD CEMETERY AN ABANDONED CEMETERY PURSUANT TO 65 ILCS 5/11-49-1 AND ANNOUNCING THE INTENT OF THE VILLAGE TO ENTER THE LOMBARD CEMETERY AND CAUSE THE GROUNDS THEREOF TO BE MADE ORDERLY**

ORDINANCE NO. \_\_\_\_\_

assumed, ownership or control of, or maintenance responsibility in relation to the Lombard Cemetery by this Ordinance generally or pursuant to 65 ILCS 5/11-52-1 et seq., 65 ILCS 5/11-52.1-1 et seq., 65 ILCS 5/11-52.2-1 et seq., or any other Illinois statute pursuant to which a governmental entity may exercise ownership, control, or maintenance responsibility relative to a cemetery. Furthermore, as the Village is expressly disclaiming ownership or control of, or maintenance responsibility in relation to the Lombard Cemetery, the Village shall not be held liable for and is not assuming

**SECTION 5:** That the Village is not assuming, and shall not be deemed to have

with said notice to be in the form attached hereto as Exhibit A and made part hereof:

- A. Notice of the Village's intended entry and cleanup of the cemetery;
- B. The name and geographic location of the cemetery;
- C. The right of the cemetery authority or owner of the property to deny entry to the Village upon written notice to the Village; and
- D. The date or dates of intended entry and cleanup;

above. Said notice shall provide:

prior to entering the Lombard Cemetery to perform any work as authorized in Section 2 in a local newspaper not more than forty-five (45) days nor less than thirty (30) days

**SECTION 4:** That pursuant to 65 ILCS 5/11-49-1, the Village shall publish a notice

upon the adoption of an Ordinance authorizing same.

not specifically referenced in Section 2 above shall only be undertaken by Village Staff

**SECTION 3:** That any maintenance or other improvement to the Lombard Cemetery

- D. any other general maintenance and upkeep activities to necessary to "cause the grounds to be cleared and made orderly."



and shall not assume liability for any claims of any nature, including but not limited to claims of injury, based on failure to adequately maintain, control or operate the Lombard Cemetery.

**SECTION 6:** That this Ordinance shall be in full force and effect from and after

its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

William J. Mueller  
Village President

ATTEST:

Brigitte O'Brien  
Village Clerk

Published by me in pamphlet form this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Brigitte O'Brien  
Village Clerk

NOTICE IS FURTHER HEREBY GIVEN that the Village is not assuming, and shall not be deemed to have assumed, ownership or control of, or maintenance responsibility in relation to the Lombard Cemetery by this Ordinance generally or pursuant to 65 ILCS 5/1-52-1 et seq., 65 ILCS 5/1-52.1-1 et seq., 65 ILCS 5/1-52.2-1 et seq., or any other Illinois statute pursuant to which a governmental entity may exercise ownership, control, or maintenance responsibility relative to a cemetery. Furthermore, as the Village is expressly disclaiming ownership or control of, or maintenance responsibility in relation to the Lombard Cemetery, the Village shall not be held liable for and is not assuming and shall not assume liability for any claims of any nature, including but not limited to claims of injury, based on failure to adequately maintain, control or operate the Lombard Cemetery.

(2) declining the corporate authority authorization to enter the property; said written notification to be received by **[date fourteen (14) days after publication]**

and  
 (1) demonstrating the ownership or authority to control or manage the cemetery, to deny entry for the above-stated purposes upon written notification to the Village; owner of the property or the legally responsible cemetery authority shall have the right

NOTICE IS FURTHER HEREBY GIVEN pursuant to 65 ILCS 5/1-49-1 that the

the above-referenced maintenance to the Lombard Cemetery pursuant to 65 ILCS 5/1-49-1, as the Lombard Cemetery has been found to be an "abandoned cemetery" by the Village within the meaning of said statute pursuant to Village Ordinance No. \_\_\_\_\_.

NOTICE IS FURTHER HEREBY GIVEN that the Village is authorized to perform

- (4) any other general maintenance and upkeep activities necessary to "cause the grounds to be cleared and made orderly."
- (3) repair of drains, water lines, buildings, fences and other structures of the cemetery premises; and
- (2) trimming of greenery to prevent excessive overgrowth and remove dead limbs;
- (1) mowing the lawn to prevent an overgrowth of grass and weeds;

orderly by performing the following activities:

staff or contractors duly authorized by the Village intend to enter the premises of the cemetery located on the West Side of Main Street between Washington Boulevard and Lilac Lane in the Village of Lombard, Illinois (hereinafter referred to as the "Lombard Cemetery") on **[insert date or dates]** to cause the grounds to be made clear and

NOTICE IS HEREBY GIVEN that the Village of Lombard (hereinafter "Village")

**NOTICE OF ENTRY AND CLEANUP OF LOMBARD CEMETERY  
 PURSUANT TO 65 ILCS 5/1-49-1 AND  
 VILLAGE OF LOMBARD ORDINANCE NO. \_\_\_\_\_**