

**ORDINANCE NO. 6803**

**AN ORDINANCE VACATING A PORTION OF THE PROGRESS ROAD  
RIGHT-OF-WAY, EAST OF GARFIELD STREET**

**WHEREAS**, the Village of Lombard (hereinafter the “VILLAGE”) maintains a right-of-way of fifty-three feet (53) in width for that portion of Progress Road which is located within the corporate limits of the VILLAGE; and

**WHEREAS**, a private educational/institutional building, known as the School for Expressive Arts and Learning (hereinafter the “SCHOOL”), has been developed East of the Eastern terminus of the Progress Road right-of-way, at 240 Progress Road, Lombard Illinois; and

**WHEREAS**, said SCHOOL is subject to a development agreement for Lot 1 of the Terrace Lakes Subdivision, approved by the President and Board of Trustees (hereinafter the “Corporate Authorities”) of the VILLAGE on September 15, 2011 (Village Resolution No. 31-12) (hereinafter the “Development Agreement”); and

**WHEREAS**, the Corporate Authorities find that the Progress Road right-of-way, East of Garfield Street (hereinafter referred to as the “SUBJECT RIGHT-OF-WAY”) extends for a length of 257.71 feet, and terminates without a turn-around cul-de-sac; and

**WHEREAS**, the Corporate Authorities find that no abutting property owners currently take access from the SUBJECT RIGHT-OF-WAY; and

**WHEREAS**, the Corporate Authorities find that the existing lot, to the South of the SUBJECT RIGHT-OF-WAY, is vacant, and can be accessed from Garfield Street; and

**WHEREAS**, the Corporate Authorities find that the existing lot, to the North of the SUBJECT RIGHT-OF-WAY, is currently improved with a mortuarial service establishment, with the access thereto from Garfield Street; and

**WHEREAS**, the Corporate Authorities have determined that environmental constraints, and existing conservation easements, preclude the possibility of Progress Road right-of-way from extending beyond its current Eastern terminus, and make the construction of a cul-de-sac bulb, in compliance with VILLAGE standards, infeasible; and

**WHEREAS**, the Corporate Authorities have determined that the SUBJECT RIGHT-OF-WAY would primarily be for the use and benefit of the SCHOOL, as owner of the parcel at the Eastern terminus of the SUBJECT RIGHT-OF-WAY, and would not serve the transportation needs of the VILLAGE; and

**WHEREAS**, the VILLAGE would benefit by transferring the future maintenance responsibilities, relative to the SUBJECT RIGHT-OF-WAY, from the VILLAGE to the SCHOOL; and

**WHEREAS**, the Corporate Authorities have determined that the SUBJECT RIGHT-OF-WAY is still needed for public utility purposes; and

**WHEREAS**, the Corporate Authorities of the VILLAGE have received a Plat of Right-of-Way Vacation for the SUBJECT RIGHT-OF-WAY, a copy of which is attached hereto as "Exhibit A" and made part hereof (hereinafter the "Plat of Vacation"); and

**WHEREAS**, the SCHOOL has completed, to the satisfaction of the VILLAGE, those improvements noted below, as required by the Development Agreement; and

**WHEREAS**, with the completion of those improvements noted below, the Corporate Authorities of the VILLAGE deem it to be in the best interest of the VILLAGE to authorize that the SUBJECT RIGHT-OF-WAY be vacated, as set forth herein, subject to the retention of a public utility easement over the SUBJECT RIGHT-OF-WAY;

**NOW THEREFORE BE IT ORDAINED** by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: The President and Board of Trustees find as follows:

- A. Pursuant to 65 ILCS 5/11-91-1, an ordinance vacating a street can provide that it shall not become effective until the owner of a particular parcel of property abutting upon the street to be vacated pays compensation to the municipality in an amount which, in the judgment of the corporate authorities, shall be the fair market value of the property acquired or of the benefits which will accrue to said owner by reason of the vacation.
- B. Pursuant to 65 ILCS 5/11-91-1, if the ordinance vacating a street provides that only the owner of a particular parcel abutting upon the street to be vacated shall make the aforementioned compensation payment, then said owner of said particular parcel shall acquire title to the entire vacated street.
- C. That the fair market value of that portion of the SUBJECT RIGHT-OF-WAY, (as determined by an MAI appraiser) as described in Section 2 below, is Thirty-Two Thousand and No/100 Dollars (\$32,000).
- D. That the owner of Lot 1 in Terrace Lakes Subdivision, a subdivision of the Southwest Quarter of Section 32, Township 40 North, Range 11 East, of the Third Principal Meridian, DuPage County, Illinois; permanent tax index number 03-32-301-039 (hereinafter the "ABUTTING PROPERTY OWNER") shall make payment to the Village for the entire compensation due relative to the street vacation referenced in Section 2 below, as more specifically set forth in Section 3 below.

**SECTION 2:** It is hereby determined that the public interest will be served by vacating the SUBJECT RIGHT-OF-WAY as hereinafter described:

THAT PART OF PROGRESS ROAD LYING SOUTH OF AND ADJOINING LOT 3 IN PROGRESS BUSINESS CENTER IN THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT NO. R88-105071, BETWEEN GARFIELD STREET AND THE EAST LINE OF SAID WEST HALF, IN DU PAGE COUNTY, ILLINOIS;

as shown on the Plat of Vacation attached hereto as Exhibit "A" and designated "hereby vacated" be and the same hereby is vacated, subject to the retention of a public utility easement over the SUBJECT RIGHT-OF-WAY and the conditions listed in Section 3 below.

**SECTION 3:** That in lieu of the payment of compensation by the SCHOOL, as the ABUTTING PROPERTY OWNER, in the amount of Thirty-Two Thousand and No/100 Dollars (\$32,000), as set forth in Section 1 above, the SCHOOL completed construction of the following public improvements, as set forth within the Development Agreement, and provided for the following:

- A. A new depressed curb was constructed and installed connecting the East side of the Garfield Avenue curb line with the South side of the Progress Road curb line; with said design being approved by the Village Engineer.
- B. A blanket public utility easement is provided over the SUBJECT RIGHT-OF-WAY, in compliance with the VILLAGE'S Subdivision and Development Ordinance (Title 15, Chapter 154 of the Lombard Village Code).
- C. The SUBJECT RIGHT-OF-WAY has been improved in conformance with a site plan, in full conformance with all applicable VILLAGE Codes and Ordinances and consistent with the terms and conditions as noted in the Development Agreement.
- D. A Plat of Consolidation shall be submitted for approval by the Lombard Department of Community Development; with the Plat of Consolidation consolidating the entire SUBJECT RIGHT-OF-WAY and the adjoining Lot 1 of the Terrace Lakes Subdivision, into a single lot of record.

E. All public improvements constructed by the ABUTTING PROPERTY OWNER have met the requirements of the Subdivision and Development Ordinance (Title 15, Chapter 154 of the Lombard Village Code).

SECTION 4: Pursuant to 65 ILCS 5/11-91-1, the following parcel shall acquire title to the SUBJECT RIGHT-OF-WAY upon the vacation thereof: PIN: 03-32-301-039.

SECTION 5: That the Department of Community Development is hereby directed to record a certified copy of this Ordinance, along with the original Plat of Vacation, with the DuPage County Recorder of Deeds.

SECTION 6: That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

First reading waived by action of the Board of Trustees this 7<sup>th</sup> day of March, 2013.

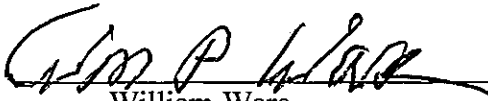
Passed on second reading this 7<sup>th</sup> day of March, 2013, pursuant to a roll call vote as follows:

AYES: Trustees Gron, Giagnorio, Wilson, Breen, Fitzpatrick and Ware


NAYS None

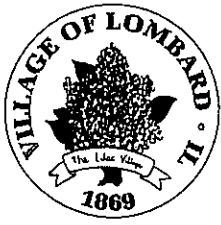
ABSENT: None

**APPROVED** by me this 7<sup>th</sup> day of March, 2013.

  
William Ware  
Acting Village President

ATTEST:

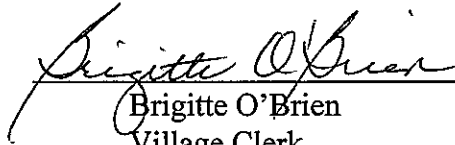
  
Brigitte O'Brien  
Village Clerk



**I, Brigitte O'Brien**, hereby certify that I am the duly qualified Village Clerk of the **Village of Lombard**, DuPage County, Illinois, as authorized by Statute and provided by local Ordinance, and as such Village Clerk, I maintain and am safekeeper of the records and files of the President and Board of Trustees of said Village.

I further certify that attached hereto is a copy of ORDINANCE 6803 AN ORDINANCE VACATING A PORTION OF THE PROGRESS ROAD RIGHT-OF-WAY, EAST OF GARFIELD STREET of the said Village as it appears from the official records of said Village duly passed March 7, 2013.

**In Witness Whereof**, I have hereunto affixed my official signature and the Corporate Seal of said **Village of Lombard**, Du Page County, Illinois this 7<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
Brigitte O'Brien  
Village Clerk  
Village of Lombard  
DuPage County, Illinois

