

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

 X Resolution or Ordinance (Blue) X *Waiver of First Requested*
 Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: Scott Niehaus, Village Manager
DATE: October 3, 2022 (B of T) Date: October 6, 2022
TITLE: Declaration of Surplus Property and Approval of Transfer of Ownership
Patriot K9 Rescue, Inc. – Retired K9 Thor

BACKGROUND/POLICY IMPLICATIONS:

Attached please find a proposed Ordinance Authorizing the Transfer of Municipal Owned Personal Property and a Transfer of Ownership Agreement between the Village of Lombard and Patriot K9 Rescue, Inc. (“Patriot”) in regards to the care and ownership of narcotics detection and patrol K9 Thor.

Please place this item on the October 6, 2022 Board of Trustees agenda under Separate Action with waiver of first requested.

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X Scott Niehaus _____ Date 10/4/22

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: Scott Niehaus, Village Manager
FROM: Nicole P. Aranas, Assistant Village Manager
Roy Newton, Chief of Police
DATE: October 3, 2022
SUBJECT: Declaration of Surplus Property and Approval of Transfer of Ownership
Patriot K9 Rescue, Inc. – Retired K9 Thor

Attached please find a proposed Ordinance Authorizing the Transfer of Municipal Owned Personal Property and a Transfer of Ownership Agreement between the Village of Lombard and Patriot K9 Rescue, Inc. (“Patriot”) in regards to the care and ownership of Police K9 Thor post-retirement. Patriot is a non-profit working dog rescue organization in Pennsylvania which provides care, housing, and adoption services for retired military and police canines.

Lombard Police dog Thor is a 6-year old German Shephard, born and trained in Germany and Mexico. Thor has been an active narcotics detection and police patrol dog and integral part of the Lombard Police Department since 2018. Thor has recently entered retirement as a working police dog and the attached agreement provides for the subsequent transfer of his ownership to Patriot K9 for eventual adoption.

The Illinois Police Dog Retirement Act provides that upon retirement, a police dog shall initially be offered by the agency to the officer who had custody and control of the animal during his service. The officer who has housed and handled Thor has opted not to pursue ownership of Thor as a pet at this time.

The Act provides that if the officer or employee does not wish to keep the dog, that the dog may be offered to a non-profit organization or shelter to facilitate appropriate adoption of the dog. Thor’s handler initially identified Patriot as a potential non-profit with which to partner and eventually recommended Thor’s transfer to Patriot for rescue. Accordingly, Police Department staff have identified the non-profit Patriot as a suitable organization, which meets the requirements of the Act, as the recommended organization to take ownership of Thor moving forward to facilitate his adoption

Patriot is a non-profit organization dedicated to the care and placement of retired police, military, and working dogs. The organization operates a care facility in central Pennsylvania where retired animals are cared for and housed while awaiting placement with civilian homes through adoption. Patriot has successfully placed more than 70 dogs formerly working as police, military, or working dogs for private adoption in homes throughout the United States.

Potential adopters are screened with care for experience and fit, and often, retired working dogs are placed with former law enforcement or K9 handlers. Patriot prohibits third-party adopters

from assigning their adoption to separate parties and requires that an adopted dog must be returned to Patriot in lieu of any subsequent transfer to a third party or shelter.

Under the agreement, Patriot would assume ownership and responsibility for costs of care, including medical care, feeding, handling, training, and housing of Thor. Upon assuming custody of Thor, Patriot will work with Thor to decompress and acclimate as he undergoes appropriate adoption and temperament testing. Following successful evaluation, Thor will be slotted for adoption by Patriot to a third party strictly as a pet. By agreement, Patriot may not sell Thor for a profit or put him into further work as a narcotics detection or patrol dog.

Recognizing that Thor has current medical needs including ongoing prescription medication for a preexisting medical condition and a medical procedure prior to his adoption, and that Patriot has agreed to cover all costs associated Thor's ongoing care until such time as he is suitably adopted as a pet, the Village will make a onetime donation of \$3,500 to Patriot. The Patriot facility features indoor and outdoor spaces for animal housing and care and Patriot agrees to provide suitable accommodations moving forward.

Please place this item on the Village Board of Trustees agenda for October 6, 2022. Thor was placed into boarding with a local animal hospital concurrent with the scheduled vacation of his handler, where he currently remains. Availability at Patriot facilities is open as of this week and they have agreed to take custody of Thor immediately upon approval of the proposed agreement.

Should you have any further issues, questions, or concerns regarding this matter, please feel free to reach out to either of us for additional information.

ORDINANCE _____

AN ORDINANCE AUTHORIZING THE TRANSFER OF MUNICIPAL OWNED PERSONAL PROPERTY

WHEREAS, in the opinion of the Corporate Authorities of the Village of Lombard, it is no longer necessary or useful to or in the best interest for the Village of Lombard to retain the following-described personal property:

- One (1) six-year-old German Shepherd police dog named “Thor” and Thor’s personal care items

now owned by the Village of Lombard; and

WHEREAS, the Village routinely declares such type of personal property surplus when its useful life as a police dog has come to an end, and the best interests of the Village of Lombard will be served by its transfer;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

Section 1: Pursuant to 65 ILCS 5/11-76-4, the President and Board of Trustees find the following-described property:

- One (1) six-year-old German Shepherd police dog named “Thor” and Thor’s personal care items

now owned by the Village of Lombard is no longer necessary or useful to the Village of Lombard and the best interests of the Village will be served by its transfer of ownership to Patriot K9 Rescue, Inc., a non-profit organization, in accordance with the Police Dog Retirement Act, 510 ILCS 82/1, et seq.

Section 2: Pursuant to said 65 ILCS 5/11-76-4 and said Police Dog Retirement Act, 510 ILCS 82/1, et seq., the Village President and Clerk are hereby authorized and directed to transfer the aforementioned personal property now owned by the Village of Lombard to Patriot K9 Rescue, Inc., and the Village Manager is authorized to execute the Transfer of Ownership Agreement attached hereto as **Exhibit A** and made a part hereof, as well as all documents necessary to transfer ownership of the personal property to Patriot K9 Rescue, Inc..

Section 3: This ordinance shall be in full force and effect from and after its adoption and approval as provided by law.

Passed on first reading this _____ day of _____, 2022

First reading waived by action of the Board of Trustees this _____ day of _____, 2022.

Passed on second reading this ____ day of _____, 2022.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2022.

Keith Giagnorio
Village President

ATTEST:

Elizabeth Brezinski
Village Clerk

TRANSFER OF OWNERSHIP AGREEMENT

This **TRANSFER OF OWNERSHIP AGREEMENT** (the "Agreement") is entered into this ___ day of _____, 2022, by and between the Village of Lombard (the "Village"), an Illinois non-home rule municipal corporation, and Patriot K9 Rescue, Inc. ("Patriot"), a duly incorporated Pennsylvania not-for-profit corporation, with its principal place of business located _____, Pennsylvania. The Village and Patriot are sometimes referred to collectively herein as "Parties" or individually as a "Party".

WHEREAS, the Village owns a male police dog named Thor ("Thor") and the Village has determined that Thor is no longer fit for police service; and

WHEREAS, Patriot is a not-for-profit corporation that cares for retired police and military dogs, and finds suitable homes for the dogs based on the needs and temperament of the dogs and the qualifications of prospective adopters; and

WHEREAS, the Village desires to retire Thor from service and transfer ownership of Thor to Patriot in accordance with the Police Dog Retirement Act (the "Act"), 510 ILCS 82/1, et seq., and the terms and conditions of this Agreement; and

WHEREAS, the Act provides as follows in regard to retired police dogs:

"Notwithstanding any provisions in the State Property Control Act to the contrary, a police dog, including a search and rescue dog, service dog, accelerant detection canine, or other dog that is in use by a county, municipal, or State law enforcement agency, which is deemed no longer fit for public service, shall be offered by the law enforcement agency to the officer or employee who had custody and control of the animal during its service. If the officer or employee does not wish to keep the dog, this dog may be offered to another officer or employee in the agency, or to a non-profit organization or a no-kill animal shelter that may facilitate an appropriate adoption of the dog."; and

WHEREAS, Thor's handler declined to take ownership of Thor after being offered to take ownership of Thor by the Village, as required by the Act; and

WHEREAS, Patriot is a not-for profit organization that has experience in and is qualified to facilitate an appropriate adoption of Thor so that he is properly cared for during his retirement; and

WHEREAS, the Village has offered Thor to Patriot pursuant to the Act and Patriot has agreed to accept Thor pursuant to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the of the mutual promises hereinafter set forth, the Village and Patriot agree as follows:

1. The above recitals are incorporated herein as material terms and conditions of this Agreement.
2. The Village shall physically deliver Thor to Patriot's facility located in Elysburg, Pennsylvania as soon as practicable following execution of this Agreement by the Parties.
3. Upon transfer by the Village of physical custody of Thor, Patriot agrees and thereby shall assume ownership and all responsibility for the cost of care, medical care, feeding, handling, training, housing, and all other responsibilities associated with Thor. Ownership

of Thor shall be conveyed to Patriot on an "as-is, where-is" basis, without any representations or warranties of any kind, express or implied, either oral or written, made by the Village or any agent, employee or representative of the Village with respect to the physical, mental or any other condition of Thor, including any propensities of or training of Thor.

4. To offset the costs of Patriot to care for and house Thor until such time as Thor is adopted, the Village shall make a onetime payment to Patriot in the amount of \$3500.00.
5. Patriot agrees that it shall be solely and fully responsible for the future care of Thor including, without limitation, the cost of all medical care, maintenance, housing, food and personal care items. However, the Village shall remain responsible for any medical bills incurred for Thor prior to the date on which Patriot takes physical custody of Thor.
6. Upon transfer of physical custody and ownership of Thor to Patriot, Thor will undergo adoption and temperament testing by Patriot to test whether Thor, in Patriot's sole discretion, is suitable to be subsequently adopted by a third party as a pet. If, in the sole discretion of Patriot, Thor passes the evaluation then Thor will be slotted for adoption by a suitable adopter who has adequate property, restrictive fencing, and time to manage Thor and his needs and agrees to keep Thor as a pet and for no other purpose whatsoever. Any adoption agreement between Patriot and a third-party adopter for Thor shall prohibit the third-party adopter from assigning the adoption agreement or any part of it without the prior written consent of Patriot and should the third-party adopter choose to relinquish Thor, Thor must be returned to Patriot and cannot be given to a third party or shelter.
7. Patriot agrees that it will not put Thor into service as a canine drug/patrol dog for any entity at any time in the future, including actual use in narcotics searches, detection or patrol functions, as well as for any training associated with narcotics searches, detection or patrol functions. Patriot agrees not to sell Thor for profit, loan Thor to any entity, or give him away, except as expressly authorized by this Agreement.
8. Patriot agrees that all of Thor's certifications for conducting narcotics detection, searches or patrol functions shall expire upon Thor's retirement from service with the Village. Patriot agrees that it will not attempt to re-certify Thor for narcotics detection, searches, patrol functions or any law enforcement purpose whatsoever, and will not offer Thor's services to any private or public entity, or personally use Thor for any such purpose.
9. Patriot, its beneficiaries, successors, assigns, legal and personal representatives, executors, administrators, devisees, legatees and heirs, shall hereafter defend, indemnify and hold harmless the Village, its officers, trustees, servants, agents, successors, assigns and employees thereof, respectively (collectively, "Village Affiliates"), both in their capacities as municipal representatives and as individuals, from and against any and all civil liabilities, actions, responsibilities, obligations, losses, damages and claims, and all costs and expenses (including but not limited to attorneys' fees and expenses) pursuant to any claim of property damage, personal injury, death or bodily harm, whether asserted or unasserted, direct or indirect, existing or inchoate, known or unknown, having arisen or to arise in the future, and in any manner incurred relating to or growing out of the transfer of the ownership interest in and possession of Thor by the Village to Patriot including, but

not limited to, attacks on persons or animals, arising or occurring once physical custody of Thor has passed to Patriot. In the event that the Village Affiliates, or any one of them, are named as defendants in a lawsuit arising out of the matters to be indemnified hereunder, the Village Affiliates, and each of them, shall have the right to choose the attorneys who represent them in said lawsuit, and the reasonable costs, expenses and fees associated with said attorneys in relation to said lawsuit shall be paid by Patriot. The duties of Patriot to defend, indemnify, and hold the Village Affiliates harmless under this Agreement shall not be limited or extinguished by any subsequent transfer, relinquishment or abandonment of Thor by Patriot, or transfer to and/or adoption by any third parties.

10. Patriot, its beneficiaries, successors, assigns, legal and personal representatives, executors, administrators, devisees, legatees and heirs hereby agree to release, waive and covenant not to sue and forever discharge the Village Affiliates, and each of them, for any claims, suits or action, whether or not well founded in fact or in law, which Patriot has or may have, arising or growing out of the transfer of the ownership interest and possession of Thor to it from the Village including, but not limited to, attacks on persons or animals, arising or occurring once physical custody of Thor has passed to Patriot. It is the express purpose of this document that upon transfer of the physical custody and ownership of Thor to Patriot by the Village, Patriot shall assume all responsibility, damages, liability and obligations for and resulting from the condition and actions of Thor and that the Village Affiliates will at no time assume responsibility or liability for the actions of that animal. As between the Village Affiliates and Patriot, Patriot shall be held solely responsible to all persons or property that come into contact with Thor.
11. Patriot warrants and represents to the Village that it has suitable accommodations for the care and keeping of Thor and will take reasonable steps to assure that they will continue to have suitable accommodations for the care and keeping of Thor in the future.
12. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Illinois, and any court proceedings between the Parties hereto shall be brought in DuPage County, Illinois or in the United States Federal Court for the Northern District of Illinois.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date(s) set forth below, and the date of the last signatory below shall be inserted on page 1 of this Agreement, as the Effective Date of this Agreement.

**THE REMAINDER OF THIS PAGE
HAS INTENTIONALLY BEEN LEFT BLANK**

PATRIOT K9 RESCUE, INC.,
a Pennsylvania not-for-profit corporation

By: _____

Title: _____

VILLAGE OF LOMBARD,
an Illinois municipal corporation

By: _____

Scott, Niehaus, Village Manager