

JUN 02 2008

ORDINANCE NO. 2656

**AN ORDINANCE TO VACATE A BUBBLE CUL-DE-SAC  
RIGHT-OF-WAY, A MUNICIPAL STREET RIGHT OF WAY  
IN THE COLUMBIA LAKES II, PHASE 4 SUBDIVISIONS  
IN THE CITY OF COLUMBIA, ILLINOIS**

*Debra J. Jaffner*  
City Clerk

WHEREAS, Section 5/7-101 of the Roads and Bridges Act of the Illinois Highway Code provides and requires that Illinois Municipalities shall have the powers granted and duties imposed by said Act in addition to the powers granted by the Illinois Municipal Code; and, further, provides that Illinois Municipalities shall have the power to vacate streets and alleys which are or will become part of the municipal street system provided they are vacated in the manner provided by the Illinois Municipal Code (605 ILCS 5/7-101);

WHEREAS, the Illinois Municipal Code allows and provides that the corporate authorities of each municipality in Illinois (being the City Council of the City of Columbia, Illinois in the case of the City of Columbia) may vacate streets, alleys and avenues ( 65 ILCS 5/11-61-2);

WHEREAS, Section 11-91-1 of Division 91 ("Vacating of Streets and Alleys", hereinafter referred to as the "Act") of the Illinois Municipal Code requires that whenever the Corporate Authorities determine that it is in the public interest to vacate a street, or part thereof, within an incorporated area, they may vacate the street, or part thereof, by an ordinance, (65 ILCS 5/11-91-1);

WHEREAS, the Act further requires that the ordinance vacating the street, or part thereof, must contain a legal description or permanent index number of the particular parcel of property acquiring title to the vacated property which ownership is determined by Section 11-91-2 of the Act (65 ILCS 5/11-91-2);

WHEREAS, the Act further requires that the street vacation ordinance shall be passed by the affirmative vote of at least three fourths (3/4's) of the aldermen holding office at the time of reference (65 ILCS 5/11-91-1);

WHEREAS, the Act further provides that a notice of public hearing and the conduct of a public hearing is required before a street vacation ordinance can be enacted if a street under the municipalities jurisdiction is located in an unincorporated area but no such notice and hearing is required if the street is located in an incorporated area of the City; and the portion of the subject street that is the subject of vacation in this ordinance is located in an incorporated area of the city (65 ILCS 5/11-91-1);

WHEREAS, the Act further provides that if there are any public service facilities locate in such street, or part of a street, to be vacated the vacation ordinance shall also reserve to the municipality or to the public utility that owns the public service facilities,

such property, right of way and easements as, in the judgment of the corporate authorities, are necessary or desirable for continuing public service by means of those facilities and for the maintenance, renewal and reconstruction thereof (65 ILCS 5/11-91-1);

WHEREAS, the Act further provides that the determination of the corporate authorities that the nature and extent of the public use or public interest to be subserved is such as to warrant the vacation of said street, or part thereof, shall be conclusive, and the passage of a vacation ordinance to provide for the same is sufficient evidence of that determination (65 ILCS 11-91-9);

WHEREAS, the City Council of the City of Columbia, Illinois (the "City"), has found and determined and does hereby declare that the public interest is subserved by the vacation of the right of way for the subject bubble cul-de-sac in the Columbia Lakes II, Phase 4 Subdivision in the City involved in this ordinance for the following reasons:

(1) The subject portion of Lake Shore Drive was originally required by the City to provide for a turn a round at the terminus of Lake Shore Drive in the Columbia Lakes II, Phase 4 Subdivision at the subject location but is no longer required for its originally intended purpose because Lake Shore Drive has been extended so that the cul-de-sac for the dead ending thereof is no longer required and the vacated property will be added to the adjacent common ground to be maintained by the Columbia Lakes Homeowner's Association for open space and recreational uses and purposes in the Columbia Lakes II Subdivision;

(2) The vacation of the subject bubble cul-de-sac right of way will relieve the City from the burden and responsibility of maintaining that portion of the street.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

**Section 1.** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

**Section 2.** The City hereby and herewith reserves a permanent and perpetual municipal, public and private utility easement and telecommunication easement in, over, along, under, through and across all of the land described in the next successive Section 3 of this ordinance, which land is the subject of the street vacation involved herein, for municipal, public, private and telecommunication services heretofore installed therein or which the City shall hereafter authorized to be constructed and installed therein and for the maintenance, renewal and reconstruction thereof.

**Section 3.** The City hereby vacates the following described portion of the right of way for the bubble cul-de-sac on Lake Shore Drive at the subject location in the Columbia Lakes II, Phase 4 Subdivision in the City:

PART OF LAKE SHORE DRIVE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF "COLUMBIA LAKES II ~ PHASE 4", BEING A SUBDIVISION OF PART OF U.S. SURVEY 644, CLAIM 501, TOWNSHIP 1 SOUTH, RANGE 10 WEST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF COLUMBIA, MONROE COUNTY, ILLINOIS, REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF MONROE COUNTY, ILLINOIS, IN ENVELOPE 2-85B, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT WHICH MARKS THE MOST EASTERLY CORNER OF LOT 83 OF "COLUMBIA LAKES II ~ PHASE 4", REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF MONROE COUNTY, ILLINOIS, IN ENVELOPE 2-85B; THENCE NORTH  $61^{\circ}22'36''$  WEST, ALONG THE NORTHERLY LINE OF LOT 83 AND THE NORTHWESTERLY EXTENSION THEREOF, A DISTANCE OF 175.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT OF LAND; THENCE SOUTH  $28^{\circ}37'24''$  WEST, A DISTANCE OF 120.71 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF  $70^{\circ}31'44''$  AND A CHORD OF 28.87 FEET WHICH BEARS NORTH  $06^{\circ}38'28''$  WEST, AN ARC LENGTH OF 30.77 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF  $160^{\circ}31'44''$  AND A CHORD OF 98.56 FEET WHICH BEARS NORTH  $38^{\circ}21'32''$  EAST, AN ARC LENGTH OF 140.09 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.09 ACRES, MORE OR LESS.

**Section 4.** The legal description of the particular parcel of property belonging to the Columbia Lakes Development, LLC, an Illinois Limited Liability Company, acquiring title to the vacated right of way of the bubble cul-de-sac involved herein (which vacated right of way will be owned and maintained by the Columbia Lakes Homeowners Association as common ground in the Columbia Lakes II, Phase 4 Subdivision as aforesaid), is as follows:

ALL THAT PART OF THE COMMON GROUND WHICH LIES NORTHERLY AND WESTERLY OF LAKE SHORE DRIVE AS SHOWN ON THE PLAT OF "COLUMBIA LAKES II ~ PHASE 4", BEING A SUBDIVISION OF PART OF U.S. SURVEY 644, CLAIM 501, TOWNSHIP 1 SOUTH, RANGE 10 WEST OF THE THIRD PRINCIPAL MERIDIAN,

CITY OF COLUMBIA, MONROE COUNTY, ILLINOIS, REFERENCE  
BEING HAD TO THE PLAT THEREOF RECORDED IN THE  
RECORDER'S OFFICE OF MONROE COUNTY, ILLINOIS, IN  
ENVELOPE 2-85B.

**Section 5.** All ordinances or resolutions or parts of ordinances or resolutions in conflict herewith, to the extent of such conflict, are hereby repealed.

**Section 6.** This ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

Alderman Oberfell moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Ebersohl, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Henja, Oberfell, Stumpf and Mayor Hutchinson.

NAYS: None.

ABSENT: None.

ABSTENTIONS: None.

PASSED by three fourths (3/4's) vote of the Aldermen holding office and APPROVED by the Mayor this 2<sup>nd</sup> day of June, 2008.

  
KEVIN B. HUTCHINSON, Mayor

ATTEST:

  
WESLEY J. HOEFFKEN, City Clerk

(SEAL)