

Introduced by: Council Member Chris Hoffman

Adopted: June 15, 2020

**RESOLUTION NO. 2054-2020**

**A RESOLUTION AMENDING RESOLUTION NO. 2047-2019 BY THE CITY OF JACKSONVILLE BEACH, FLORIDA, TO INCORPORATE NEW RESEARCH RESULTS AND COUNCIL DECISIONS IN THE MATTER KNOWN AS THE LAKESIDE DRIVE GATE; DECLARING VALID PUBLIC PURPOSES FOR A MANUALLY OPERATED GATE TO REMAIN PERMANENTLY CLOSED WITH EXCEPTION FOR KINGS ROAD BRIDGE CLOSURES, CERTAIN EMERGENCY EVENTS AND PUBLIC SERVICES; PROVIDING FOR LEGISLATIVE FINDINGS, COUNCIL AUTHORITY, STAFF DIRECTIONS, PUBLIC PURPOSES, REPEAL OF PRIOR INCONSISTENT RESOLUTIONS AND DECISIONS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Jacksonville Beach (“City”) holds fee title ownership of real property described in Duval County Property Appraiser records as Ocean Forest Unit No.7, Parcel A, RE#178602-0502 in the Ocean Forest subdivision (“City’s Lot”), conveyed to the City through W.P. Tinney Construction Co.’s March 26, 1990, Warranty Deed; and

**WHEREAS**, the Warranty Deed contains no restrictions, limitations, covenants or conditions, and identifies the City’s Lot being recorded in Duval County public records Plat Book 37, Page 22 which contains a survey of Lakeside Drive (“Lakeside”) as a dead end cul-de-sac road, the Lakeside parcels (including City’s Lot), and the surveyor’s February 29, 1980, certification that the Plat is a correct representation of the lands surveyed; and

**WHEREAS**, the City’s Lot was vacant and unimproved until approximately 2004, when the City of Neptune Beach (“Neptune Beach”) planned construction work and temporary vehicular traffic closure on the Kings Road bridge (“the bridge”), that would temporarily remove the only ingress and egress access to residences in the City’s northwest portion of the Ocean Forest subdivision, Neptune Beach residences south of the bridge, and prevent emergency and service vehicles from reaching those areas; and

**WHEREAS**, around the time bridge construction plans formed, the City developed plans to install a water utility distribution and connection to be routed under the City’s Lot for service in the same northwest portion of the City’s residential area; and

**WHEREAS**, the City, in cooperation with Neptune Beach, developed a design for a temporary traffic detour route (“detour route”) with a manually operated gate on the City’s Lot that would connect Lakeside and Seagate Avenue (“Seagate”) to provide temporary ingress and egress to the areas impacted by the bridge closure; and

**WHEREAS**, on April 5, 2004, the City Council approved installation of the City’s water utility, the detour route and gate on the City’s Lot, with the gate approved to be open only in

times when bridge construction caused traffic closure, and closed with no thru traffic except for emergency purposes when the bridge was open to traffic; and

**WHEREAS**, in 2004, construction of the detour route on the City’s Lot included removal of vegetation and installation of a paved surface, curbs, a wood siding fence and a manually operated gate that could be opened and closed at City Council’s discretion; and

**WHEREAS**, the gate was opened to allow use of the detour route when the bridge was closed for repairs, inspections revealed timber beams cracks, which caused further bridge repairs and closure longer than expected, so for this reason only the gate remained open. Finally bridge repairs were completed and the bridge was opened, so the gate was permanently closed; and

**WHEREAS**, afterwards and currently, the Florida Department of Transportation (“FDOT”) is performing reconstruction of the bridge to bring it up to FDOT specifications which has caused extended closure and necessitated the gate being open for use of the detour route; and

**WHEREAS**, some residents want the detour route made into a permanent road or street as an additional means of ingress and egress, and the gate removed or they want private access to control the gate; and

**WHEREAS**, other residents want the detour route and gate closed when the bridge reopens to traffic (as planned since initial bridge repairs and approved by the City Council on April 5, 2004), and the gate opened only during bridge closures and for emergency purposes; and

**WHEREAS**, FDOT reports that soon the bridge will be open as an improved ingress and egress route for all legal loads of traffic and large vehicles; and

**WHEREAS**, on December 2, 2019, the City Council adopted Resolution No. 2047-2019 and resolved that an electronically controlled gate would be installed on the City’s Lot, that would remain permanently closed with the exception that it may be opened during bridge closures and for certain emergency events; and

**WHEREAS**, the City Council determined that emergency fire rescue, law enforcement and public works departments should have electronically controlled access to open and close the gate in order to provide services to the neighborhoods usually accessed by the bridge; and

**WHEREAS**, the City Council directed staff to research and report on the costs, feasibility, logistics and necessity of having an electronic gate installed and used by emergency fire rescue, law enforcement and public works departments; and

**WHEREAS**, the City Council also directed the City Attorney to research legal issues and options for allowing low-speed vehicles (“LSV”) to use a path or sidewalk on the City’s Lot; and

**WHEREAS**, the Fire Marshal established a committee of representatives from the Police Department, Beaches Energy, Public Works and Information Technology departments, and the

Fire Marshal consulted with the City of Jacksonville Fire and Rescue Department (“JFRD”), to research the options and needs for having an electronically controlled gate; and

**WHEREAS**, the Fire Marshal reported to the City Council that the committee determined no City department or JFRD, needs an electronically controlled gate and closure of the gate will not impact delivery of their services to neighborhoods south of the bridge; and

**WHEREAS**, JFRD reports that once the bridge is open, the neighborhoods that the bridge services would be assigned to Fire Station 55, so Lakeside Drive would not be used for emergency access, and the City’s Police Department reports that it also would not use Lakeside Drive to access those same neighborhoods for service calls; and

**WHEREAS**, the City Attorney reported to City Council that Florida Statutes expressly restrict operation of LSV only on streets where the posted speed limit is 35 MPH or less, and that there is no legal discretion the City Council could safely exercise to develop a path, sidewalk, or mixed-use path on which LSV may be operated; and

**WHEREAS**, the City Attorney reported that many other Florida local governments recognize that the Florida Statutes mandate that LSV may not be lawfully operated on paths, sidewalks, or mixed-use paths and those local governments do not allow LSV to be operated in any way that is inconsistent with the Florida Statutes.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, THAT:**

**SECTION 1. Recitals and Legislative Findings Adopted.** The above recitals and legislative findings are adopted by the City of Jacksonville Beach City Council, and made a part of this Resolution. The City has taken all appropriate and required action necessary to the processing and majority vote approval of this Resolution.

**SECTION 2. Council Authority.** Municipalities may exercise broad governmental powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes not expressly prohibited by the constitution, general or special law, or county charter. Article VIII, § 2 Fla. Const., F.S. §166.021(4). It constitutes a public purpose to expend public funds to develop or improve local infrastructure. F.S. §166.021(8)(c). Valid municipal purposes includes regulating transportation facilities. F.S. §125.01(m).

**SECTION 3: Public Purposes.** The City Council finds it is in the best interests of the large majority of City residents residing in and around the Ocean Forest subdivision, and that it serves valid public purposes of promotion of the public health, safety, security, and welfare to have a manually operated gate on the City’s Lot. The gate will remain permanently closed with the exception that it may be opened at the City’s discretion to allow use of the City’s Lot as a temporary detour during Kings Road bridge closures and for ingress and egress during certain emergency events. The City Council finds that JFRD, the City police department and municipal service departments would not use the City’s Lot and do not need access to the gate under

normal circumstances in order to provide their services. The City Council finds that the permanent closure of the gate will serve a public purpose and benefit City residents by maintaining the Lakeside Drive roadway and cul-de-sac as originally designed and as existed at the time the Warranty Deed and Plat were recorded, and prior to bridge construction in 2004. Based on FDOT information, the City Council believes that the newly constructed Kings Road bridge will provide safe passage for all legal loads of traffic and large vehicles pursuant to FDOT specifications. Permanent closure of the gate will reduce or eliminate the detour route flow-through traffic on Lakeside Drive and surrounding roads. This should contribute to public welfare, comfort, convenience, and safer neighborhood roads in that community. The bridge will provide safe ingress and egress for residents that live south of the bridge, and will be the primary route for JFRD and the police department servicing calls in the area south of the bridge.

**SECTION 4. Administrative Assignment and Authorization.** The City Council hereby authorizes and directs the City Manager and staff to commence activities to install a secure and manually operated gate on the City's Parcel. The City Manager is authorized to let contracts, execute and enter into agreements and take any other steps on behalf of the City consistent with the findings and intention of this Resolution. The City Manager is authorized to delegate these activities to City staff as he deems appropriate.

**SECTION 5. Repeal of Prior Inconsistent Resolutions and Council Decisions.** All resolutions or parts of resolutions in conflict herewith are repealed to the extent of the conflict. The City Council hereby retracts prior Council actions that are inconsistent with this Resolution.

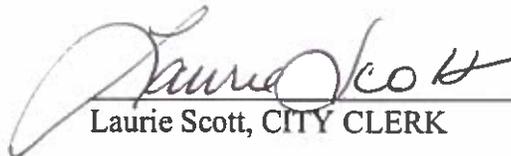
**SECTION 6. Severability.** If any section, subsection, sentence, clause, phrase, word, or portion of this resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto.

**SECTION 7. Effective Date.** This Resolution shall become effective immediately upon its passage and adoption.

AUTHENTICATED this 15 day of June, 2020.



William C. Latham, MAYOR



Laurie Scott, CITY CLERK