

November 26, 2019

RESOLUTION 2019-

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY, NEW JERSEY AUTHORIZING AND DIRECTING THE MAYOR AND MUNICIPAL CLERK TO EXECUTE A SHARED SERVICE AGREEMENT (40A:65-1) TO PROVIDE MUNICIPAL COURT SERVICES TO THE BOROUGH OF AVON BY THE SEA

Mayor Engelstad offered the following resolution and moved its adoption:

WHEREAS, the Boroughs of Bradley Beach and Avon by the Sea are municipal corporations of the State of New Jersey; and

WHEREAS, N.J.S.A. 40A:65-1 provides that municipalities may enter into a Shared Service Agreement by the adoption of a resolution authorizing such agreement;

WHEREAS, the Boroughs of Bradley Beach and Avon by the Sea are desirous of renewing a Shared Service Agreement for Municipal Court Services; and

WHEREAS, the agreement shall commence on January 1, 2020 and extend through December 31, 2022 and:

NOW, THEREFORE, BE IT RESOLVED, on this 26th day of November, 2019 by the Mayor and Council of the Borough of Bradley Beach, Monmouth County, New Jersey, as follows:

1. The Mayor and Municipal Clerk are hereby authorized and directed to execute a Shared Service Agreement with the Borough of Avon by the Sea for Municipal Court Service (s).
2. A copy of the Shared Service Agreement is attached to made part of this Resolution.
3. A certified copy of this Resolution shall be forwarded to:

Marc Freda, Municipal Clerk
Borough of Avon-By-The-Sea
301 Main Street
Avon, New Jersey -7717

John Tonelli, Municipal Division Manager
Monmouth County Superior Court
71 Monument Park
Freehold, New Jersey 07728

Seconded by Councilman _____ and adopted upon the following vote:

	AYES	NAYS	ABSTAIN	ABSENT
Mr. Weber				
Mr. Goldfarb				
Mr. Bonnell				
Mr. Cotler				
Mayor Engelstad				

CERTIFICATION

I, Kelly Barrett, Municipal Clerk of the Borough of Bradley Beach, Monmouth County, New Jersey, do hereby certify that the foregoing is a true copy of a Resolution adopted by the Mayor and Council at the regular meeting held on November 26, 2019.

Kelly Barrett, RMC, CMR
Municipal Clerk

**SHARED SERVICE AGREEMENT BETWEEN THE BOROUGH OF BRADLEY
BEACH AND THE BOROUGH OF AVON BY THE SEA**

THIS SHARED SERVICES AGREEMENT effective the 1st day of January, 2020 between THE BOROUGH OF BRADLEY BEACH (“Bradley Beach”), a municipal corporation of the State of New Jersey with its principal offices located at 701 Main Street, Bradley Beach, New Jersey 07720, and THE BOROUGH OF AVON BY THE SEA (“Avon”), a municipal corporation of the State of New Jersey, with its principal offices located at 301 Main Street, Avon by the Sea, New Jersey 07717. Bradley Beach and Avon will be collectively referred to herein as the “Parties”.

WITNESSETH:

WHEREAS, the “Uniform Shared Services and Consolidation Act” at N.J.S.A. 40A:65-1 et seq. (the “Act”), allows a local unit to enter into an agreement with any other local unit or units to provide or receive any service that each local unit participating in this agreement is empowered to provide or receive within its own jurisdiction, including services incidental to the primary purposes of any of the participating local units; and

WHEREAS, Chapter 12, Municipal Courts, at N.J.S.A. 2B:12-1(c) provides that “two or more municipalities, by ordinance or resolution, may agree to provide jointly for courtrooms, chamber, equipment, supplies and employees for their municipal courts and to agree to appoint judges and administrators without establishing a joint municipal court. Where Municipal courts share facilities in this manner, the identities of the individual courts shall continue to be expressed in the captions of orders and process”; and

WHEREAS, pursuant to N.J.S.A. 2B:12-1(c), Bradley Beach adopted the appropriate resolution establishing a municipal court, and providing for the sharing of court facilities and court staff including the court administrators, other court employees and security personnel hereinafter referred to as a “Shared Municipal Court”, which is currently shared with the Borough of Allenhurst (“Allenhurst”); and

WHEREAS, Bradley Beach has agreed to allow Avon to utilize Bradley Beach’s Court Room and Court offices effective upon the execution of the Agreement and notice to and the approval of the Administrative Office of the Courts (“The AOC”) and the Assignment Judge of Monmouth County Superior Court (“the Assignment Judge”), whichever occurs later; and

WHEREAS, the Governing Bodies of Bradley Beach and Avon find that it would be in the best interest of the Parties for Avon to utilize the Bradley Beach Municipal Court Room, Court Offices, and to share employees, facilities, and equipment under the terms and conditions referenced herein; and

WHEREAS, this Agreement is established in accordance with the Uniform Shared Services and Consolidation Act, P.L. 2007m c. 63 at N.J.S.A. 40A:65-1, *et seq.* (“The Agreement”).

NOW THEREFORE, with the foregoing recitals incorporated herein by reference and in consideration of the mutual covenants contained herein, Bradley Beach and Avon, intending to be legally bound, hereby agree as follows:

1. **Establishment of a Shared Municipal Court.** The Borough of Bradley Beach, and the Borough of Avon by the Sea hereby agree to the sharing of Bradley Beach court facilities as authorized by N.J.S.A. 2B:12-1(c), which shall provide for the establishment of the Bradley Beach Municipal Court and Avon Municipal Court in Bradley Beach (which arrangement shall hereinafter referred to as the “Shared Courts”). The Shared Court agreement will continue in 2020. The renewal agreement is contingent upon receipt of written approval from the Administrative Office of the Courts and the Assignment Judge, Superior Court of New Jersey, Monmouth County.
2. **Location and Days of Operation of the Shared Courts.** The Shared Courts, including the court room and court administrative offices and all court sessions will be located and conducted at 701 Main Street, Bradley Beach, New Jersey 07720, in the Bradley Beach Borough Hall. Bradley Beach will provide day-to-day Court administrative services and support to include day-to-day operations, record-keeping, and administrative functions of the Bradley Beach Court and Avon Court. Avon understands and acknowledges that Bradley Beach also shares its court with the Borough of Allenhurst. Avon’s court sessions will be set so as not to interfere with Bradley Beach’s or Allenhurst’s court sessions.
3. **Bank Accounts.** In accordance with N.J.S.A. 28:12-1(c), Bradley Beach and Avon each maintain a general and bail account. These accounts will be maintained according to standard financial procedures established to process and track all monies received in the municipal courts. The Municipalities will receive and appropriately distribute all fines generated by all cases on their respective court dockets. Bradley Beach and Avon will each maintain a dedicated fund for Parking Offenses Adjudication Act (“POAA”) Funds and Alcohol Education and Rehabilitation and Enforcement (“DWI”) Funds which will be made available to their respective municipal court operations.
4. **Operating Costs and Expenses.** For the first calendar year of this Agreement Avon shall pay Bradley Beach an annual fee of \$35,700.00 for the use of the facility, complete court office staffing and court sessions in accordance with paragraph 8 below. This amount shall be increased to \$36,500.00 for the second or subsequent years of this Agreement. The Parties further agree that any forms or supplies, as set forth on Exhibit A, which are specifically utilized by one Municipal Court, shall be the sole responsibility of that Municipal Court and shall not be a shared expense.

5. **Personnel and Appointments.** The Parties agree that the Shared Courts staffing will be provided by the Borough of Bradley Beach. The Compensation of the Court Administrator, Deputy Court Administrator and Violations Clerk (all staffing) shall be the responsibility of the Borough of Bradley Beach. The hiring, employment and appointment of the aforementioned positions shall be the responsibility of the Borough of Bradley Beach. The Parties agree that the Shared Courts will not share the following personnel and appointees: Judge, Prosecutor, Assistant Prosecutors, Special Counsel, Public Defender, and Assistant Public Defender. The parties agree that the staffing and salaries of these positions shall be the exclusive determination and right of each municipality. Bradley Beach and Avon shall be solely responsible for the appointment of their respective Municipal Court Judge, Prosecutor, Assistant Prosecutors, Special Counsel, Public Defender, and Assistant Public Defender. The jurisdiction of the Municipal Court of each municipality shall be separate and each municipality retains its right of appointment as provided in N.J.S.A. 2B:12-4 (Judge), 2B:24-3 (Public Defender), and 2B:25-4 (Prosecutor).
6. **Salaries, Wages and Benefits.** The salaries, wages and benefits, including FICA, PERS Contributions, worker's compensation insurance and group health insurance, of the Municipal Court staffing shall be paid by the Borough of Bradley Beach. The following personnel of the Shared Courts: Judge, Prosecutor, Assistant Prosecutors, Special Counsel, Public Defender, Assistant Public Defender, are not shared and shall be paid by the appointing municipality.
7. **Court Security.** The Parties shall be responsible to provide law enforcement security for their respective court sessions. The Municipalities shall be individually responsible to provide security for weapon screening at the entrance of the courtroom prior to and during all their respective court sessions. The Municipalities shall be individually responsible to provide police security within the courtroom for their respective court sessions as per their approved court security plan. Bradley Beach will provide a magnetometer for use by Avon and each town shall use a hand held wand to screen each individual entering the Municipal Building. **This security shall be in accordance with the approved court security plan.**
8. **Term of Contract.** This Agreement shall commence January 1, 2020 or as soon thereafter as is approved by the Vicinage Assignment Judge, and remain in effect until December 31, 2022. This Agreement may be terminated at the end of a calendar year by any Party by providing written notice of termination no later than September 1 of the calendar year in which the Shared Services Agreement will terminate.
9. **Payment Procedures.** Bradley Beach shall provide an invoice for Avon's operating costs and expenses on February 1st of each year and Avon agrees to pay the invoice within sixty (60) days after submission.
10. **The Shared Municipal Court Services Advisory Committee ("SMCSAC").** Bradley Beach and Avon agree that they will cooperate with each other to effectuate the intent of this Agreement, which is to sustain excellent municipal court services in a more cost-

efficient manner. To this end, Bradley Beach and Avon will each designate in writing its Municipal Administrator and one additional elected official or employee to serve on the SMCSAC. The SMCSAC shall meet at such times as deemed necessary but, in no event, less than two times per year. The Borough of Allenhurst's Administrator and Deputy Administrator will also be part of the SMCSAC.

11. **Modification.** Any modification to the Agreement may be explored first by the SMCSAC if the Parties so choose, or directly negotiated between the Parties, and amendments shall be made and adopted by resolution of both Parties with notice to the AOC and the Assignment Judge.
12. **Indemnification.** In addition to the other rights and remedies of the Parties herein, Avon, to the extent permitted by law, agrees to indemnify and hold harmless Bradley Beach, its officials, employees and agents, from any and all liability and claims for damages or injuries on the part of Avon caused by or resulting from negligent acts or omissions of Avon arising out of the Agreement or any of the obligations assumed by Avon hereunder provided it is determined by a court of competent jurisdiction that Avon is solely responsible for such liability. In the event it is determined by the Court that Avon is not solely responsible for said liability, Avon shall be limited to that degree of liability determined by said Court to be the proportionate liability of Avon.
13. **Uniform Shared Services and Consolidation Act.** The governing bodies of Bradley Beach and Avon are authorized to enter into this Agreement with each other pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, *et seq.* in accordance with the terms of that Act.
14. **Insurance.**
 - A. Insurance coverage shall be obtained by Bradley Beach that protects the Shared Municipal Court and its personnel from claims against them arising out of bodily injury, property damage, personal injury, or civil rights violations, and such other coverage as may be necessary, without regard to whether the claim is attributable to Bradley Beach cases or Avon cases. Bradley Beach is a member of the Monmouth County Municipal Joint Liability Insurance Fund, 9 Campus Drive, Suite 216, Parsippany, New Jersey 07054. Bradley Beach shall obtain and maintain insurance for the Shared Municipal Court in accordance with Bulletin MEL 19-13 dated January 1, 2019, as may reasonably be amended from time-to-time, and as reasonably recommended by the Borough's Insurance Agent and agreed to by Bradley Beach.
 - B. Bradley Beach shall continue to provide liability insurance which protects Bradley Beach's employees and/or facilities subject to the cost-sharing arrangement set forth herein.
 - C. The Parties to this Agreement recognize that the Shared Municipal Court employees are exclusively Bradley Beach employees. Bradley Beach shall cover the cost of claims made by or against Shared Municipal Court employees and

security personnel, including court costs and reasonable attorney's fees in defense of any and all claims against the employee arising out of any act or omission of the employee, including but not limited to Workers Compensation claims, claims under the New Jersey Tort Claims Act, and State and Federal Civil Rights actions. In accordance with N.J.S.A. 40A:65-6, Bradley Beach shall be designated as the primary employer of all Shared Municipal Court employees. Any appointee, including the Municipal Court Judge, Prosecutor, Public Defender and Court Administrator if any of same is selected solely by Avon to serve as the municipality's Court Personnel are not considered Shared Municipal Court employees.

- D. Bradley Beach shall name Avon as an additional insured on its liability policies pertaining to the Shared Municipal Court or any shared court personnel or any Bradley Beach court personnel and shall cause all such court personnel to be covered by its liability policies and by its workers compensation policies. Bradley Beach shall indemnify or hold Avon harmless from all claims, including attorney's fees and costs, arising out of the performance of duties of any shared court personnel or Bradley Beach court personnel pursuant to the terms of this Agreement.

- E. Avon shall name Bradley Beach as an additional insured on its liability policies pertaining to any Avon court personnel and shall cause such court personnel to be covered by its liability policies and by its workers compensation policies. Avon shall indemnify and hold Bradley Beach harmless from all claims, including attorney's fees and costs, arising out of the performance of duties of any shared court personnel or Avon court personnel pursuant to the terms of this Agreement.

15. **Miscellaneous.** Whenever, pursuant to the terms of this Agreement, written notice is required or permitted to be given by one party to the other party, such notice shall be deemed to have been sufficiently given if personally delivered to the appropriate Municipal Clerk or if mailed by way of certified or registered mail return receipt requested, and addressed to the party to whom notice is to be given , as set forth below:

Bradley Beach:	Attention: Kelly Barrett, Borough Clerk 701 Main Street Bradley Beach, New Jersey 07720
Avon:	Attention: Marc Freda, Borough Clerk 301 Main Street Avon by the Sea, New Jersey 07717

In the event that any court of competent jurisdiction shall declare any section of this Agreement invalid for any reason, or if the laws of the State of New Jersey relied upon to enter this Agreement or amend it to forbid such Agreements, all other sections of the Agreement shall remain in full force and effect.

This Agreement may be modified from time-to-time by mutual agreement and authorizing resolutions of the respective municipalities. This Agreement may not be assigned by either party.

- 16. **Complete Agreement.** This Agreement contains the complete understanding as to the operation of the Shared Municipal Court between Bradley Beach and Avon and no other promises or agreements shall be binding unless signed by the parties. In signing this Agreement, the parties are not relying on any fact, statement or assumption not set forth in this Agreement. By signing below, Bradley Beach and Avon indicate that they have carefully read and understand the terms of this Agreement, enter into this Agreement knowingly, voluntarily and of their own free will, understand its terms and significance and intend to abide to its provisions without exception.

This Agreement is subject to the approval of the Monmouth Vicinage Assignment Judge.

IN WITNESS WHEREOF, the Parties caused this Agreement to be signed by their respective officers duly authorized, and have caused this Agreement to be dated as of the day and year written above.

ATTEST:

BOROUGH OF BRADLEY BEACH

Kelly Barrett
Municipal Clerk

Gary Engelstad
Mayor

ATTEST:

BOROUGH OF AVON BY THE SEA

Marc Freda
Municipal Clerk

John Magrini
Mayor