

**BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY**

**RESOLUTION 2021-117**

**RESOLUTION AUTHORIZING THE SETTLEMENT OF PENDING LITIGATION  
BEFORE THE SUPERIOR COURT OF NEW JERSEY, MONMOUTH COUNTY  
ENTITLED BARRETT v. BOROUGH OF BRADLEY BEACH, ET AL.,  
DOCKET NO. MON-L-2945-19**

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**Mayor Fox** offered the following Resolution and moved its adoption:

**WHEREAS**, on or about August 19, 2019, a Complaint was filed against the Borough of Bradley Beach, County of Monmouth, State of New Jersey (the “Borough”) entitled *Barrett v. Borough of Bradley Beach, et al.* – Docket No. *MON-L-2945-19* (the “Action”); and

**WHEREAS**, upon receiving the employee complaint that is the subject of the Action, the Borough hired independent third-party counsel to review and investigate the underlying facts and circumstances giving rise to the Action; and

**WHEREAS**, upon completion of the independent counsel’s investigation, the Borough was advised that no wrong-doing had occurred, despite the allegations in the Action; and

**WHEREAS**, since its filing, the Borough has been ably defended in the Action by the law firm of Kevin B. Riordan, Esq., LLC (“JIF Counsel”) under the terms of the Borough’s membership in the Monmouth County Municipal Joint Insurance Fund (the “JIF”), which JIF has provided insurance coverage to the Borough for the Action and directed its defense; and

**WHEREAS**, by motion to dismiss decided on or about December 4, 2019, the Borough was successful in dismissing certain claims made in the Action as a matter of law; and

**WHEREAS**, that same day, the Borough filed an Answer in the Action denying all of the remaining allegations and claims made in the Action; and

**WHEREAS**, the Borough expressly denies all liability for all allegations and claims made in the Action and has fully and comprehensively provided JIF Counsel with all documents, information, and materials relevant to the Borough’s defenses to all such claims; and

**WHEREAS**, given the costs of defense inherent in civil litigation such as the Action, JIF Counsel has recommended that the JIF and the Borough settle the Action in return for payment of \$75,000 to the claimant, rather than continue to litigate and defend against the claims made; and

**WHEREAS**, the JIF is financially responsible for the Action, except for the Borough’s already-remitted \$2,500 deductible; and the Borough’s refusal to settle the Action contrary to the

recommendation and desire of the JIF could affect continuing coverage for the Borough in the Action, potentially exposing Borough taxpayers to financial risk; and

**WHEREAS** it appears to be in the best interests of the taxpayers of the Borough that the Action be fully and finally settled insofar the JIF is financially responsible therefor, the Borough previously tendered its deductible to the JIF, and the Borough should not bear the costs of continuing litigation in the event of adverse effects upon its insurance coverage; and

**WHEREAS**, despite the Borough's firm conviction that it and its Council members are innocent of wrong-doing, and despite the Borough's continuing denial of any liability in the Action, it appears to be in the best interests of the taxpayers of the Borough that the Action be fully and finally settled; and

**WHEREAS**, as a condition of the settlement, the plaintiff in the Action will be ineligible for any future employment in the Borough;

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body of the Borough of Bradley Beach, County of Monmouth, State of New Jersey as follows:

1. That the Governing Body authorizes the full and final settlement of *Barrett v. Borough of Bradley Beach, et al. – Docket No. MON-L-2945-19*, and directs the Borough Administrator and Borough Attorney to administratively execute said settlement; and
2. That a certified copy of this resolution be forwarded to the Chief Financial Officer, Borough Administrator, Borough Clerk, the JIF, and JIF Counsel.

Seconded by Councilman Gubitosi and adopted upon the following vote:

	<b>AYES</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Mr. Bonnell	X			
Mr. Gubitosi	X			
Mr. Sexsmith	X			
Mr. Weber		X		
Mayor Fox			X	

### **CERTIFICATION**

I, Erica Kostyz, Municipal Clerk, Borough of Bradley Beach, Monmouth County, New Jersey, do hereby certify that the foregoing resolution was duly adopted by the Governing Body at the April 13, 2021 Council Meeting.



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Erica Kostyz, RMC, CMR  
Municipal Clerk