

February 22, 2023

BOROUGH OF BRADLEY BEACH

RESOLUTION 2023-76

**RESOLUTION ANNOUNCING PAYMENT RESTRICTIONS
ON PROFESSIONAL SERVICES RENDERED FOR WHICH THE
BOROUGH COUNCIL HAS NOT BEEN APPRISED OR WAS UNAWARE.**

Councilman Gubitosi offered the following Resolution and moved its adoption:

WHEREAS, the Borough of Bradley Beach (the “Borough”) desires to effectively manage the amount of payments made to professional services firms that may be performing work for the Borough, but of which work, the Council has not been apprised or was unaware; and

WHEREAS, no professional service contractor, in any capacity, can be paid in excess of \$44,000 (the Borough’s bid threshold) without a Resolution of the Council under the Local Public Contracts Law; and

WHEREAS, under Borough Code Section 5-14(J), the Mayor has the power to make “acting” appointments for 90 days for positions that require Council advice and consent, for which Council advice and consent is withheld; and

WHEREAS, all professional service contracts for the Borough Auditor, Borough Engineer, Borough OPRA Attorney, and Borough Labor Attorney expired on December 31, 2022; and

WHEREAS, to date, the Borough Council has not granted its advice and consent to the appointment of the Mayor’s nominees for Borough Auditor or Borough Engineer; and

WHEREAS, the Mayor has effectively appointed the prior professionals as “Acting Borough Engineer” and “Acting Auditor” with terms beginning January 1, 2023, and expiring on April 1, 2023, absent further Resolution of the Council; and

WHEREAS, the Borough is permitted to incur professional service charges from these “acting” appointments up to the QPA bid threshold of \$44,000 without any Resolution of the Council under the Local Public Contracts Law; and

WHEREAS, the Mayor is empowered to unilaterally appoint qualified contractors to the positions of Labor Attorney and OPRA Attorney as officers of the Borough, pursuant to N.J.S.A.

40:69A-124, without the advice and consent of the Council; and

WHEREAS, consistent with the Local Public Contracts Law, the positions of Labor Attorney and OPRA Attorney can be paid up to the QPA bid threshold of \$44,000 by the Borough without a Resolution of the Council; and

WHEREAS, under the Faulkner Act, at N.J.S.A. 40:69A-130, the Council is likewise required to approve all disbursements from the Borough, notwithstanding any of the above;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Bradley Beach, County of Monmouth, State of New Jersey that the Borough shall not be responsible, and shall not make payment for any professional services rendered, for which the professional service contractor has not complied with the Contractor/Vendor Reporting Obligations Addendum, as adopted for all Council-approved professionals on January 25, 2023.

BE IT FURTHER RESOLVED that the Borough Clerk shall immediately notify all professional services contractors affected by this Resolution of the intent of the Borough Council.

Seconded by Councilperson Weber and adopted upon the following vote:

	AYES	NAYS	ABSTAIN	ABSENT
Ms. DeMarco		X		
Ms. DeNoble	X			
Mr. Gubitosi	X			
Mr. Weber	X			
Mayor Fox		X		

CERTIFICATION

I, Erica Kostyz, Borough Clerk of the Borough of Bradley Beach, Monmouth County, New Jersey, do hereby certify that the foregoing resolution was duly adopted by the Governing Body at the February 22, 2023 Council Business Meeting.

Erica Kostyz
Erica Kostyz, RMC, CMR
Municipal Clerk