

July 1, 2025

**BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY**

**RESOLUTION 2025-235**

**RESOLUTION AUTHORIZING RETENTION OF DAVID F. BAUMAN, J.S.C. (Ret.)  
OF BRESSLER, AMERY & ROSS, P.C. TO SERVE AS HEARING OFFICER TO  
DECIDE AN APPEAL OF AN OUTDOOR PREMISES EXPANSION PERMIT  
PURSUANT TO N.J.S.A. 40:55D-166**

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

**WHEREAS**, under newly enacted portions of the New Jersey Municipal Land Use Law, namely, N.J.S.A. 40:55D-164 to 166, the Zoning Officer of the Borough of Bradley Beach (the "Borough") approved an application filed by D'Arcy's Tavern for an outdoor premises expansion permit to allow permanent outdoor dining and liquor service within the tavern's parking lot; and

**WHEREAS**, under N.J.S.A. 40:55D-166, interested persons and parties may file an appeal of the Borough Zoning Officer's issuance of an outdoor premises expansion permit with the Borough Clerk for consideration by the Borough Council; and

**WHEREAS**, in accordance with N.J.S.A. 40:55D-166, Brian Downey has duly filed an appeal of the outdoor premises expansion permit issued to D'Arcy's Tavern; and

**WHEREAS**, N.J.S.A. 40:55D-166 provides that the Borough Council may appoint a licensed New Jersey attorney to serve as a hearing officer to decide appeals thereunder; and

**WHEREAS**, the Borough Council finds that it is in the best interests of the Borough and the parties to the appeal to appoint an experienced attorney and retired judge to decide this case of first impression under newly enacted portions of the New Jersey Municipal Land Use Law; and

**WHEREAS**, the Borough obtained a Proposal from David F. Bauman, J.S.C. (Ret.) of Bressler, Amery & Ross, P.C., which is attached hereto as Exhibit A, at the hourly rate of \$550.00 and an initial retainer of \$4,000.00 to hear and decide the aforementioned appeal; and

**WHEREAS**, the Borough seeks to retain Judge Bauman as Hearing Officer to the Borough to perform said investigation; and

**WHEREAS**, the Chief Financial Officer has certified as to the sufficiency of funds;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Bradley Beach, County of Monmouth, State of New Jersey, that:

- (1) The Borough hereby awards a professional services contract to David F. Bauman, J.S.C. (Ret.) of Bressler, Amery & Ross, P.C., as Hearing Officer, at the rate of \$550.00 per hour, with a \$4,000.00 retainer, in an amount not to exceed \$11,000.00; and

- (2) The Borough shall publish notice of this contract award in the designated official newspapers as required by law within ten (10) days of this Resolution; and
- (3) A certified copy of this resolution shall be forwarded to the Chief Financial Officer, Borough Clerk, and David F. Bauman, J.S.C. (Ret.) of Bressler, Amery & Ross, P.C.

Seconded by Councilperson Nowicki and adopted upon the following vote:

|                | <b>AYES</b> | <b>NAYS</b> | <b>ABSTAIN</b> | <b>ABSENT</b> |
|----------------|-------------|-------------|----------------|---------------|
| Ms. DeNoble    | X           |             |                |               |
| Ms. Greenblatt | X           |             |                |               |
| Mr. Nowicki    | X           |             |                |               |
| Mr. Weber      | X           |             |                |               |
| Mayor Gubitosi | X           |             |                |               |

**CHIEF FINANCIAL OFFICER'S CERTIFICATION**

I hereby certify that legally appropriated funds are available in the following account(s):

**5-01-21-180-000-200 - \$11,000.00**

**CHIEF FINANCIAL OFFICER CERTIFICATION**



**Jeanette M. Larrison, Interim Chief Financial Officer**

**CERTIFICATION**

I, Erica Kostyz, Municipal 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 July 1, 2025 Council Meeting.



**Erica Kostyz, RMC, CMR**  
Municipal Clerk