

**BOROUGH OF SOUTH TOMS RIVER  
COUNCIL MEETING  
OCTOBER 11, 2016, 7:00 PM**

Mayor Oscar Cradle opened the meeting with a Moment of Silence, followed with the Flag Salute.

The Municipal Clerk read the following State of Public Notice:

This meeting of the Mayor and Borough Council was called pursuant to the provisions of the Open Public Meeting Law. Notice of this meeting was sent to the Asbury Park Press and published on January 1, 2016; in addition a copy of notice is posted on the bulletin board in the Municipal Building, and filed in the office of the Borough Clerk.

**ROLL CALL:**

	Gleason	Rolzhausen	Mosley	Murray	McCormack	Ross	Cradle
Present	x	x	x		x		x
Absent				x		x	

**PUBLIC COMMENT**

Mayor Cradle read the following Proclamation for the 2016 Halloween Parade and Trick-or-Treating schedule.

**MAYOR'S PROCLAMATION**

The undersigned does hereby find and determine that it is necessary within the Borough of South Toms River to issue curfew regulations during the Halloween Season. It is ordered on the 26<sup>th</sup> day of September, 2016.

1. No one under the age of 18, unless accompanied by an adult, will be permitted on the streets after the hour of 8:00 p.m. on October 29, 2016, October 30, 2016, and 9:00 p.m on October 31, 2016.
2. South Toms River Trick-or-Treat day will coincide with Toms River's schedule
  - a. Trick-or-Treating is on October 30st and the Toms River Halloween Parade is on October 31, 2016

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Oscar L. Cradle, Sr., Mayor  
Borough of South Toms River

Mayor Cradle and Council President Mosley thanked the families for attending, and called up each student present to accept their Student of the Month certificate.

Councilman Gleason motioned for a short recess; Seconded by Councilman McCormack, and full Council consent.

Councilman Rolzhausen motioned to enter back into public session; seconded by Councilman McCormack, and full Council consent.

The Municipal Clerk opened the floor for Public Comment. Seeing no public comments, Councilwoman Mosley motioned to close Public Comment; seconded by Councilman McCormack, and full Council consent.

**ORDINANCES**

Ordinance 8-16      Ordinance of the Municipal Council of the Borough of South Toms River, County of Ocean, State of New Jersey, Adopting the Model Indemnification Ordinance (Second Reading)

**ORDINANCE 8-16**

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE  
BOROUGH OF SOUTH TOMS RIVER, COUNTY OF OCEAN,  
NEW JERSEY, ADOPTING THE MUNICIPAL EXCESS**

**LIABILITY JOINT INSURANCE FUND MODEL  
INDEMNIFICATION ORDINANCE**

An Ordinance Authorizing the Borough of South Toms River to Provide Legal Counsel and Indemnification for Officials, Employees and Appointees of the Borough Council in Certain Actions Brought Against Said Officials, Employees and Appointees.

BE IT ORDAINED by the Borough Council that:

Section 1. Except as hereinafter provided, the Borough of South Toms River, hereinafter known as the Borough Council shall, upon the request of any present or former official, employee or appointee of the Borough Council provide for indemnification and legal defense of any civil action brought against said person or persons arising from an act or omission falling within the scope of their public duties.

Section 2. The Borough Council shall not indemnify any person against the payment of punitive damages, penalties, or fines, but may provide for the legal defense of such claims in accord with the standards set forth herein. The Borough Council may refuse to provide for the defense and indemnification of any civil action referred to herein if the (governing body name) determines that a) the act or omission did not occur within the scope of a duty authorized or imposed by law; b) the act or failure to act was the result of actual fraud, willful misconduct or actual malice of the person requesting defense and indemnification; or c) the defense of the action or proceeding by the Borough Council would create a conflict of interest between the Borough Council and the person or persons involved.

Optional wording for Section 2:

Section 2. Pursuant to 59:10-4, the indemnification and defense provided for in this ordinance shall include exemplary or punitive damages resulting from the employee's civil violation of State or federal law if, in the opinion of the (governing body name) the acts committed upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong.

Section 3. The terms of this ordinance and the definition of official, employee and appointee are to be construed liberally in order to effectuate the purposes of this ordinance except that these terms shall not mean a) any person who is not a natural person; b) any person while providing goods or services of any kind under any contract with the Borough Council except an employment contract; c) any person while providing legal or engineering services for compensation unless said person is a full-time employee of the Borough Council; and d) any person who as a condition of his or her appointment or contract is required to indemnify and defend the Borough Council and/or secure insurance.

Section 4. The Borough Council shall provide for defense of and indemnify any present or former official, employee or appointee of the Borough Council who becomes a defendant in a civil action if the person or persons involved a) acted or failed to act in a matter in which the Borough Council has or had an interest; b) acted or failed to act in the discharge of a duty imposed or authorized by law; and c) acted or failed to take action in good faith. For purposes of this ordinance, the duty and authority of the Borough Council to defend and indemnify shall extend to a cross-claim or counterclaim against said person.

Section 5. In any other action or proceeding, including criminal proceedings, the Borough Council may provide for the defense of a present or former official, employee or appointee, if the (governing body name) concludes that such representation is in the best interest of the Borough Council and that the person to be defended acted or failed to act in accord with the standards set forth in this ordinance.

Section 6. Whenever the Borough Council provides for the defense of any action set forth herein and as a condition of such defense, the Borough Council may assume exclusive control over

the representation of such persons defended and such person shall cooperate fully with the Borough Council.

Section 7. The Borough Council may provide for the defense pursuant to this ordinance by authorizing its attorney to act in behalf of the person being defended or by employing other counsel for this purpose or by asserting the right of the Borough Council under any appropriate insurance policy that requires the insurer to provide defense.

Section 8. This ordinance shall take effect immediately upon passage and publication as required by law.

**PUBLIC NOTICE IS HEREBY GIVEN** that the foregoing ordinance was duly introduced and passed upon first reading at a regular meeting of the Borough Council of the Borough of South Toms River, in the County of Ocean, New Jersey, held on September 12, 2016. Further notice is hereby given that said ordinance will be considered for final passage and adoption, after public hearing thereon, at a regular meeting of said Borough Council held in the Borough Hall, 19 Double Trouble Rd., South Toms River, New Jersey on October 11, 2016 at 7pm

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Joseph Kostecki, MPA,RMC,QPA,CMR  
Municipal Clerk

**PUBLIC HEARING:**

Seeing no public comments, the Municipal Clerk asked for a motion to close.

Motion to close: 1ST: Mosley. 2ND: McCormack

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
	x	Gleason	x			
x		Rolzhausen	x			
		Mosley	x			
		Murray				
		McCormack	x			
		Ross				x

**RESOLUTIONS**

Resolution 2016-180 Approving Change Order No. 3 for Streetscape Improvements to Atlantic Boulevard/NJSH Route 166

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
	x	Gleason	x			
		Rolzhausen	x			
x		Mosley	x			
		Murray				
		McCormack	x			
		Ross				x

Resolution 2016-181 Approving CDBG Urban County Qualification FY 2017-2019 Cooperation Agreement

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
	x	Gleason	x			
		Rolzhausen	x			
		Mosley	x			
		Murray				
x		McCormack	x			
		Ross				x

Resolution 2016-182 Approving a Shared Service Agreement for Prosecutor's Program FY 2015-16

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
		Gleason	x			
		Rolzhausen	x			
	x	Mosley	x			
		Murray				
x		McCormack	x			
		Ross				x

Resolution 2016-183 October is National Fire Safety month. Each year about 3,000 people are killed and 17,000 are injured in fires in the United States. The Safety Director encourages every Department to have a dialogue with their employees about fire safety in the workplace and at home.

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
		Gleason	x			
	x	Rolzhausen	x			
		Mosley	x			
		Murray				
x		McCormack	x			
		Ross				x

Resolution 2016-184 Authorizing the Entry into Shared Services Agreement with the Township of Berkeley for Signage Materials and Labor.

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
	x	Gleason	x			
x		Rolzhausen	x			
		Mosley	x			
		Murray				
		McCormack			x	
		Ross				x

Resolution 2016-184 failed. The Municipal Clerk stated it would be reintroduced at the next meeting.

Resolution 2016-185 Authorizing the renewal of Contract for Animal Control Services for the year 2017

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
	x	Gleason	x			
x		Rolzhausen	x			
		Mosley	x			
		Murray				
		McCormack	x			
		Ross				x

Resolution 2016-186 Authorizing the execution of a Shared Services Agreement with the County of Ocean Police Services for the Traffic Safety Program known as Driving While Intoxicated Enforcement Program (DWIEP)

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
		Gleason	x			
		Rolzhausen	x			
	x	Mosley	x			
		Murray				
x		McCormack	x			
		Ross				x

Resolution 2016-187 Authorizing the execution of a Shared Services Agreement with the County of Ocean Police Services for the Traffic Safety Program known as the Drug Recognition Expert Callout Program (D.R.E.C.P)

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
	x	Gleason	x			
		Rolzhausen	x			
x		Mosley	x			
		Murray				
		McCormack	x			
		Ross				x

The minutes hereby reflect the present attendance of Councilman Sandford Ross as he entered the room.

Resolution 2016-188 Executive Session for the purpose of personnel

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
	x	Gleason	x			
		Rolzhausen	x			
		Mosley	x			
		Murray				x

x		McCormack	x			
		Ross	x			

**NEW BUSINESS**

The CFO provided copies of the CY2016/SFY2017 Municipal Best Practices, and reviewed said CY2016/SFY2017 Municipal Best Practices with the Governing Body. He provided insight into the changes of computation in the Best Practices list and how those calculations are a range now.

Resolution 2016-189 Accepting the Personnel Action

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
		Gleason	x			
		Rolzhausen	x			
		Mosley	x			
		Murray				x
x		McCormack	x			
	x	Ross	x			

Councilman Rolzhausen stated his opposition to the pending Gas Tax. He motioned and requested a Second. It was seconded by Councilwoman Mosley, with full Council consent.

Motion to Adjourn by Councilman Gleason, Seconded by Councilman Ross and full Council consent. Adjournment at 8:25pm.

Respectfully submitted:

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Municipal Clerk

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Oscar Cradle, Mayor