ORDINANCE 2015-17

AN ORDINANCE AUTHORIZING THE TOWNSHIP OF OCEAN TO PROVIDE LEGAL COUNSEL AND INDEMNIFICATION FOR OFFICIALS, EMPLOYEES AND APPOINTEES OF THE TOWNSHIP OF OCEAN IN CERTAIN ACTIONS BROUGHT AGAINST SAID OFFICIALS, EMPLOYEES AND APPOINTEES.

BE IT ORDAINED by the Township Committee of the Township of Ocean, County of Ocean, State of New Jersey that:

SECTION I Except as hereinafter provided, the Township of Ocean shall, upon the request of any present or former official, employee or appointee of the Township of Ocean 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 II 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 Township Committee acts committed upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong.

SECTION III 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 Township of Ocean 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 Township of Ocean; and d) any person who as a condition of his or her appointment or contract is required to indemnify and defend the Township of Ocean and/or secure insurance.

SECTION IV The Township of Ocean shall provide for defense of and indemnify any present or former official, employee or appointee of the Township of Ocean 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 Township of Ocean 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 Township of Ocean to defend and indemnify shall extend to a cross-claim or counterclaim against said person.

SECTION V In any other action or proceeding, including criminal proceedings, the Township of Ocean may provide for the defense of a present or former official, employee or appointee, if the Township Committee concludes that such representation is in the best interest of the Township of Ocean and that the person to be defended acted or failed to act in accord with the standards set forth in this ordinance.

SECTION VI Whenever the Township provides for the defense of any action set forth herein and as a condition of such defense, the Township of Ocean may assume exclusive control over the representation of such persons defended and such person shall cooperate fully with the Township of Ocean.

SECTION VII The Township of Ocean 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 Township of Ocean under any appropriate insurance policy that requires the insurer to provide defense.

SECTION IX This ordinance shall take effect immediately upon passage and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Township Committee of the Township of Ocean on first reading at a regular meeting held on the 12th day of November, 2015. The Ordinance will be considered for second and final reading at a meeting of the Township Committee which is scheduled for the 10th day of December, 2015, at 6:30 p.m., in Committee Chambers, at the Municipal Building, 50 Railroad Ave, Waretown, N.J., at which time and place any person desiring to be heard upon the same will be given the opportunity to be so heard.

Submitted by Diane B. Ambrosio, RMC, Municipal Clerk.

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Diane B. Ambrosio, RMC
Municipal Clerk