

**BOROUGH OF INTERLAKEN  
MINUTES  
AUGUST 20, 2014  
7:30 P.M. AT BOROUGH HALL**

The meeting of the Borough of Interlaken was called to order at 7:32 p.m., by Mayor Nohilly. It was followed by a salute to the flag and a moment of silence dedicated in memory of Mayor Bill Duffy. The following statement was read by Borough Administrator Reibrich. “The notice of the requirements of the Open Public Meetings Act has been satisfied by forwarding annual notice to the Coaster and Asbury Park Press. A copy of the annual notice is posted on the Borough bulletin board and is on file in the Borough Clerk’s office.”

Present: Mayor Nohilly, Council President White Council members Cohen, Handerhan, Miller, Napoli

Also Present: Borough Administrator/Municipal Clerk Lori Reibrich, Borough Attorney Representative Susan DeSimone

**1. PUBLIC COMMENTS – FOR AGENDA SPECIFIC ITEMS ONLY – EXCLUSIVE OF ORDINANCES**

Mayor Nohilly opened the floor for public comment.

Jodi Heinz, 512 Bridlemere Avenue, stated that she knows there is a need to fill a vacancy for Tom Morley. There are two names Pat Mytrik and Rob Wolf are being considered. Ms. Heinz stated that she was asking Council, in all fairness, to vote how the election went in the past primary. Ms. Heinz asked that Council put Pat Mytrik on Council because the people spoke loud and clear about their feelings. Ms. Heinz stated that she would like to address every single person on the Council and remind them that they are representatives of the people of the town. Ms. Heinz also wanted to say that Pat Mytrik obviously cares enough that she was present at the meeting and Mr. Wolf was not. Ms. Heinz believes that shows something.

Hank Heinz, 512 Bridlemere Avenue, stated that he echoes what Ms. Heinz just said, asking Council to consider her points. Mr. Heinz also asked Council to consider that Pat Mytrik is more enthusiastic about the needs of the town. Mr. Heinz also would like Council to consider that the rest of the town has already spoken that they want change in the town. Mr. Heinz stated that he feels that Pat Mytrik is the better choice.

Jeanne Held, 414 Bridlemere Avenue, stated that she wanted to echo Mr. & Mrs. Heinz’s statements. Ms. Held feels the people have spoken loud and clear about Pat Mytrik. Ms. Mitryk’s skill, knowledge and commitment are similar to what the people in the town feel strongly about. Ms. Held thanked Council for listening.

**2. APPROVAL OF MINUTES: AUGUST 6, 2014- REGULAR & WORKSHOP**

Councilman Napoli MOTIONED to approve minutes, seconded by Councilman Handerhan. Council President White stated that the minutes should reflect that he was absent for the August 20, 2014 meeting. Upon notation of correction, Council unanimously carried.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve				X		
Motion to Second						X
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

**3. RESOLUTION 2014-99: APPOINTMENT OF \_\_\_\_\_ TO VACANCY ON BOROUGH COUNCIL DUE TO RESIGNATION OF THOMAS MORLEY PURSUANT TO N.J.S.A. 40A:16-11; UNEXPIRED TERM TO BE PLACED ON THE BALLOT FOR NOVEMBER 4, 2014 GENERAL ELECTION.**

Councilman White stated that he would like to recommend, based on the Republican Chair's name, Pat Mytrik to fill the vacancy of Councilman Morley. Councilman Cohen seconded.

Municipal Clerk Reibrich took roll call.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve		X				
Motion to Second					X	
Approved		X			X	
Opposed						
Abstain/Recuse			X	X		X
Absent/Excused						

Mayor Nohilly questioned what do the vote results mean.

Council President White stated that it means that the vote is off the table.

Municipal Clerk Reibrich stated unless there is another name, the vote was off the table.

Borough Attorney Representative DeSimone agreed.

Councilman Napoli stated that another motion as not made.

Borough Attorney Representative DeSimone stated that Councilman Napoli was entitled to make a motion.

Councilman Napoli stated that the Council had 30 days to agree on the replacement.

Borough Attorney DeSimone stated the appointment must be made 30 days from the vacancy.

Municipal Clerk Reibrich stated that the appointment must be made within 30 days from the vacancy, which was July 25, 2014. The vote was scheduled for tonight's meeting, because there was not another meeting.

Municipal Clerk Reibrich stated that in the case that the Council does not appoint someone at this meeting; the Republican Chair has 15 days to make an appointment himself.

Councilman Miller asked if the Republican Chair does not appoint someone, will the seat stay vacant for two months to the November election.

Municipal Clerk Reibrich explained that if the Republican Committee chair does not make the appointment, in all reality, yes, the seat could remain vacant and the elected Councilmember would take office in January.

Councilman Miller asked for clarification. If the Republican Chair does not name someone, is it open for filing for the November election?

Municipal Clerk Reibrich stated that there is no filing. What happens is that the Republican and Democratic Committee Chair people are offered, by the County, to put a name on the ballot. It is not completed by petition and it is not a Municipal Clerk role. The committees would be providing the names to be placed on the ballot directly to the Clerk of Elections. A person could also do a write-in campaign.

Mayor Nohilly asked, if there were any additional motions.

No additional motions were made.

**4. ORDINANCE 2014-2 - SECOND READING/PUBLIC HEARING:**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXII OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF INTERLAKEN TO ADD SECTION 22-2 TREE PRESERVATION AND REMOVAL**

*ORDINANCE 2014-2 WAS POSTED IN BOROUGH HALL ON AUGUST 6, 2014 AND ADVERTISED IN FULL IN THE ASBURY PARK PRESS ON AUGUST 11, 2014. PUBLIC HEARING WAS SET FOR AUGUST 20, 2014.*

**ORDINANCE NO. 2014-2**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXII OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF INTERLAKEN TO ADD SECTION 22-2 TREE PRESERVATION AND REMOVAL**

BE IT ORDAINED by the Borough Council of the Borough of Interlaken, County of Monmouth, State of New Jersey as follows:

**SECTION I**

1. Section 22-2, "Tree Preservation and Removal Ordinance" of the Borough of Interlaken is hereby added to the Revised General Ordinances.

**SECTION II**

2. Section 22-2, shall read as follows:

**22-2 Tree Preservation and Removal**

**22-2.1 Purpose**

The purpose of this chapter is to prevent indiscriminate, uncontrolled, and excessive destruction, removal, and clear cutting of trees upon lots and tracts of land within the Borough of Interlaken in order to maintain the aesthetic character of the Borough of Interlaken, prevent erosion, and control actions that will substantially change drainage patterns, and restrict actions that will cause a hazard to persons or property.

**22-2.2 Definitions**

Clear Cutting -the removal of all standing trees on a site or portion of a site.

Emergency - any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger or hazard to person or property.

Public Right-of-way - any street or road shown upon a map or plan filed in the Monmouth County Clerk's office or on the Official Map of the Borough of Interlaken.

Removal - the actual removal of trees, or direct or indirect actions resulting in the effective removal of trees through damage or poison, or similar actions directly or indirectly resulting in the death of trees subject to the provisions of this ordinance. Moving a tree to a different location on the same property does not constitute removal. Removal shall not include pruning for maintenance purposes.

Significant Specimen Trees - any tree with a diameter at breast height (DBH) exceeding 60% of that of the largest similar tree listed in either the 'Monmouth County's Largest Trees', prepared and annually updated by the Monmouth County Shade Tree Commission or 'New Jersey's Big Trees', prepared and updated bi-annually by the Division of Parks & Forestry of the New Jersey Department of Environmental Protection.

Site - any lot, tract, parcel or parcels of land within the Borough.

Tree - any living deciduous or evergreen tree with a single trunk at a height of one foot above the root crown, with a normally anticipated mature height of thirty feet or greater. (Including, but not limited to: Norway; Silver and Sugar Maple; Sweetgum; London Plane; American Sycamore; White and Red Pin Oak; American Elm; Yellow and White Poplar; Copper Beech; Cedar; Spruce; Pine; and Fir.)

Tree Removal Permit - a certificate issued by the Borough to remove trees as defined in this section.

Undisturbed Area - an area in which trees, shrubs, and understory will not be disturbed by filling, cutting or by any other means

#### 22-2.3 Tree Removal Prohibited

No person shall remove, or cause to be removed, four (4) or more existing trees with a diameter of nine inches or greater caliper at breast height, upon any lands within the Borough of Interlaken except as follows:

1. Trees that are to be removed as the direct result of a Development Application that has been approved by the Borough of Interlaken Planning Board;
2. Any trees cut or removed in accordance with a "management plan" developed by the New Jersey Department of Environmental protection, Bureau of Forestry, filed with the Construction Official of the Borough;
3. Trees directed to be removed by municipal, county, state or federal authority;
4. Trees that are to be removed as the result of the issuance of a Tree Removal Permit.

No person shall remove any tree growing on or over a public right of way or public land without the express written consent of a competent municipal authority (Code Enforcement Officer, Borough Engineer, etc.) or Commission.

#### 22-2.4 Tree Removal Permit

A Tree Removal Permit shall be required for the removal of four (4) or more trees of 9" or greater caliper at breast height, as follows:

1. Trees that are dead, severely damaged by natural causes or accident to the point that the natural habit of the tree cannot be restored as determined by a N.J. Certified Tree Expert or competent public authority (Borough Engineer); trees that are severely diseased and require removal as certified by a N.J. Certified Tree Expert; or trees that pose an imminent public safety hazard as determined by a N.J. Certified Tree Expert or a competent public authority (police, Borough Engineer, etc.).
2. Trees required to be removed subject to a construction permit as issued by the construction official for construction of new residences, additions to residences, or the construction of swimming pools or other accessory buildings or structures that are not the subject of Planning Board application approvals. Such trees shall clearly be shown on the construction plans and identified by size and the removal of same shall, in the opinion of the construction official or his designee, clearly be necessary for the construction of the subject building or structure.
3. Individual residential lots with a dwelling located on the lot that remove four (4) or more trees per 12 month period. Trees removed as a result of 1 or 2 above shall not be counted towards these four (4) trees. If trees are pruned or damaged due to activities within the dripline of the tree, e.g., the piling of soil or placement of large equipment, those trees will be counted toward this total.

#### 22-2.5 Tree Removal Permit Requirements:

Application Form: An application form can be obtained from the Code Enforcement Officer or Borough Clerk and shall include the following information:

1. Name and address (street and lot and block) of the owner of the premises and status of legal entity (individual, partnership, corporation).

2. Description of the premises where removal is to take place, including lot and block numbers, and street address as assigned if different than the address of the owner.
3. Purpose of tree removal.
4. In addition to the application form, a survey showing the approximate location and size of all trees with a diameter at breast height of nine inches or greater caliper that exist on the lot, and identifying those trees to be removed. At the discretion of the Code Enforcement Officer or his/her designee, other appropriate documents may be substituted if a survey is not available.
5. If a tree is removed under the requirements of Section 22-2.4.2, a mitigation plan must be submitted which will provide for the replacement of all removed trees by planting a tree of 3" to 3 1/2" caliper or a fee to the Borough of Interlaken in the amount of \$150.00 per tree removed.
6. For any trees removed under the requirements of Section 22-2.4.3, a replacement plan must be submitted showing the planting of trees for any tree removal in excess of the four which would be allowed to be removed without a permit. For example, if ten trees are approved for removal, a replacement plan for six trees must be submitted and approved. The replacement trees must be a minimum caliper of 3" to 3 1/2" or a fee to the Borough of Interlaken in the amount of \$150.00 for each tree may be made. These plans must be submitted and approved by the Code Enforcement Officer or his/her designee prior to the issuance of any permits.

#### 22-2.6 Fees

Upon the filing of an application with the Code Enforcement Officer for a tree removal permit under the terms of this section, the applicant shall pay an application fee of \$10.00 for up to 4 trees removed.

#### 22-2.7 Permit Approval

1. Time limits for action.
  - a. The Code Enforcement Officer or his/her designee shall act on an application for tree removal permit within thirty (30) days of the receipt of a complete application. Failure to act within thirty days shall be deemed to be an approval of the application and thereafter, a tree removal permit shall be issued.
2. Duration of Permits.
  - a. If granted for a lot or parcel of land for which no building permit is required -3 months from the date of issuance.
  - b. If granted for a lot or parcel of land for which a building permit is required but for which no variance, subdivision, or site plan approval is required or has been approved by the Planning Board, until expiration of building permit granted with such tree removal permit.

#### 22-2.8 Completion

The holder of a tree removal permit shall notify the Code Enforcement Officer when the tree removal has been completed.

#### 22-2.9 Significant Specimen Trees

It is presumed that Significant Specimen Trees should only be removed in the most compelling and extraordinary circumstances. Removal will be permitted only after approval by a Hearing Panel, as described in Section 22-2.10 of this ordinance. The loss of lot yield, building area, or profitability of developmental layout shall be deemed neither compelling nor extraordinary.

#### 22-2.10 Appeals

Whenever any application for a tree removal permit shall be denied by the Code Enforcement Officer or his/her designee, the applicant may appeal the denial to the Borough Administrator by filing a written notice of appeal with the Borough Clerk within ten days after receiving notice of the denial. Upon receipt of the notice of appeal, the Borough Administrator shall appoint a hearing panel consisting of three members: The Borough Engineer, an employee of the Department of Public Works, and any other designee of the Borough Administrator. This panel shall proceed to hear the appeal upon notice to the applicant within thirty (30) days of the filing of such notice of appeal. This panel shall have the discretion, after interviewing both the applicant and the Code Enforcement Officer or his/her designee, to reverse, affirm, or modify the aforesaid decision.

#### 22-2.11 Protection of Existing Trees

In connection with any construction, subsequent to tree clearing but prior to the start of other construction, snow fencing or other protective barrier acceptable to the Construction Official and/or Borough Engineer, shall be placed around trees that are not to be removed. The protective barriers shall be placed at the dripline or canopy line of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits, or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

#### 22-2.12 Emergency Action

In the event of an emergency, any person otherwise subject to this section, having responsibility, jurisdiction and/or authority to cure, remedy or mitigate dangerous, hazardous, inconvenient, unhealthy or obnoxious conditions resulting from the emergency, may, without first applying for and obtaining a permit under this section, take any lawful action which is otherwise a regulated activity. However, such person or the agent or designee of such person, shall apply for a Tree Removal Permit not later than the end of the second succeeding business day after any regulated activity takes place and may not proceed with non-emergency work including restoration, until a permit is obtained.

#### 22-2.13 Notice to Proceed for Removal of Four (4) or Less Trees

For removal of four (4) or less trees of 9" or greater caliper in any twelve (12) month period on an individual residential lot, no application or permit is required, however, for every tree removed, any person removing same must first notify the Code Enforcement Officer of the removal and pay a fee of \$10.00 for up to four (4) trees, upon which a Notice to Proceed will be issued by the Code Enforcement Officer. The purpose of this requirement is so the Borough will have a record of tree removals.

#### 22-2.14 Penalties

When regulated trees are removed without a tree removal permit, the affected areas shall be replanted as required by the Code Enforcement Officer or his/her designee. Any such replanting shall be in accordance with the requirements of Site Plan Ordinance. Any person found guilty of violating any of the provisions of this section shall be subject to a fine not exceeding \$200.00 per removed tree. Each tree removed or destroyed in violation of this section shall be considered a separate violation.

### SECTION III

3. All other ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

### SECTION IV

4. If any section, paragraph, subparagraph, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subparagraph, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

### SECTION V

5. This Ordinance shall take effect upon its final passage and publication as provided by law.

Councilman Napoli made MOTION to open public hearing regarding Ordinance 2014-2, Councilman Miller seconded.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve				X		
Motion to Second			X			
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

Mayor Nohilly opened the floor for public comment.

Jodi Heinz, 512 Bridlemere Avenue stated that she had been looking forward to this ordinance finally being passed.

Councilman Napoli made MOTION to close public hearing regarding Ordinance 2014-2, Councilman Miller seconded.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve			X			
Motion to Second				X		
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

Mayor Nohilly closed the floor to public comment.

Mayor Nohilly opened the floor for Council comment.

Councilman Cohen commented on the beauty of the trees in Interlaken but also agrees that homeowners should be able to take trees down on their property. Councilman Cohen also feels there should be a maintenance element as part of the responsibility of the Shade Tree Commission.

Councilman Miller stated that this ordinance has been around for five or six years. It was agreed upon in committee to allow homeowners to remove up to four trees. Council had discussed this ordinance to death and Councilman Miller thinks it has come time to vote for it, to get it done and on the books.

Councilman Napoli stated that Councilman Miller was correct. In 2008, the Borough spent a significant amount of time on the ordinance and it went absolutely nowhere. In 2012 it was revisited at the Planning Board level. A new ordinance was written and it was never adopted. The committee looked at the ordinance and worked in a hand-in-hand collaboration with the Shade Tree Commission to come up with a balanced ordinance. This ordinance lets a homeowner take up to four trees out. The permit fee is reduced to a nominal fee of \$10.00. There is a simple appeals process. It is not government using a hammer preventing people from removing trees. Unfortunately, it does not have any maintenance provisions within it, but it is a balanced ordinance. It gives rights to remove trees and protects properties from clear cutting. This was something the Shade Tree Commission made clear they wanted. The ordinance is a protection ordinance and Councilman Napoli stated that he endorses it wholeheartedly.

Mayor Nohilly asked, if that was a motion. Councilman Napoli stated that it was.

Councilman Napoli made MOTION to approve Ordinance 2014-2, Councilman Miller seconded. Ordinance passed.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve				X		
Motion to Second			X			
Approved		X	X	X		X
Opposed					X	
Abstain/Recuse						
Absent/Excused						

**5. ORDINANCE 2014-4 – SECOND READING/PUBLIC HEARING:**

**AN ORDINANCE OF THE BOROUGH OF INTERLAKEN AMENDING AND SUPPLEMENTING CHAPTER IX OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF INTERLAKEN TO ADD SECTION 11-3 “REMOVAL OF DEAD, DISEASED OR DAMAGED TREES OR TREE LIMBS THAT PRESENT HAZARDS TO LIFE OR PROPERTY**

*ORDINANCE 2014-4 WAS POSTED IN BOROUGH HALL ON AUGUST 6, 2014 AND ADVERTISED IN FULL IN THE ASBURY PARK PRESS ON AUGUST 11, 2014. PUBLIC HEARING WAS SET FOR AUGUST 20, 2014.*

**BOROUGH OF INTERLAKEN  
MONMOUTH COUNTY, NEW JERSEY**

**ORDINANCE NO. 2014-4**

**AN ORDINANCE OF THE BOROUGH OF INTERLAKEN AMENDING AND SUPPLEMENTING CHAPTER XI OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF INTERLAKEN TO ADD SECTION 11-3 “REMOVAL OF DEAD, DISEASED OR DAMAGED TREES OR TREE LIMBS THAT PRESENT HAZARDS TO LIFE OR PROPERTY”**

**WHEREAS**, in furtherance of its powers to enact Ordinances it deems necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, pursuant to N.J.S.A. 40:48-2, and its powers to enact Ordinances necessary and expedient for the preservation of the public health, safety, and general welfare regarding the removal of dead and dying trees, stumps and roots , pursuant to N.J.S.A. 40:48-2.13, the Borough Council deems it necessary, proper and expedient to enact this Ordinance; and,

**WHEREAS**, it is in the interest of public safety to ensure that dead, diseased or damaged trees or tree limbs be removed where they present hazards to persons or properties;

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Interlaken as follows:

1. Section 1. A new section of the Revised General Ordinances of the Borough of Interlaken be added to be designated as Section 11-3 and entitled “Removal of Dead, Diseased or Damaged Trees or Tree Limbs that Present Hazards to Life or Property”.

2. Section 2. Section 11-3.1 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

## **Definitions**

a. "Potential Hazard" shall mean "Any tree or tree limb that is, by reason of its position, condition, angle or other perceptible factors, in reasonably discernible danger of falling upon adjacent lots , overhead utility lines, public streets or other public rights of way, homes or other structures, due to disease, damage or death." If in doubt as to whether a tree is diseased, the Code Enforcement Officer shall consult the certified tree expert of the Borough.

b. "Imminent Hazard" shall mean "a 'Potential Hazard' as previously defined which, based on discernible, observable factors, may imminently fall upon adjacent lots, overhead utility lines, public streets or other public rights of way, homes or other structures, due to disease, damage or death." If in doubt as to whether a tree is diseased, the Code Enforcement Officer shall consult the certified tree expert of the Borough.

c. "Felled Tree" shall mean "Any tree, or part thereof, including, but not limited to a tree trunk, branch or limb that has fallen and is laying on an adjacent lot, public street or other public right of way, sidewalk or public park."

3. Section 3. Section 11-3.2 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

### **Removal of Potential and Imminent Hazards**

a. Upon a finding of the Code Enforcement Officer of a potential hazard, he or she will issue a notice to the owner, occupant or controller of the property on which the base of the tree is situated to remove said potential hazard within 30 days. Upon the property owner's, occupant's or controller's failure to comply, the Code Enforcement Officer may issue a summons to appear in Municipal Court, as hereinafter provided, and/or said removal may be undertaken by the Borough with the cost thereof to be charged against the dwelling or land, and become a lien upon such dwelling or land, as hereinafter provided. The Code Enforcement Officer is authorized to grant extensions of time for compliance in the exercise of reasonable discretion.

b. Upon the finding of the Code Enforcement Officer of an imminent hazard, he or she will issue an immediate notice to abate such a violation to the owner, occupant or controller of the property on which the base of the tree is situated. If such removal does not occur within ten (10) days of the notice, as hereinafter provided, the Code Enforcement Officer may issue a summons to appear in Municipal Court, and/or said removal may be undertaken by the Borough with the cost thereof to be charged against the dwelling or land, and become a lien upon such dwelling or land, as hereinafter provided. In situations where the Code Enforcement Officer reasonably determines that ten (10) days may not be allowed for removal because of the nature of the hazard, he or she may determine a shorter period of time. The Code Enforcement Officer is authorized to grant extensions of time for compliance in the exercise of reasonable discretion.

4. Section 4. Section 11-3.3 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

**Felled Trees**

The Code Enforcement Officer shall issue a notice to any property owner, occupant or controller of property from which a Felled Tree has fallen onto an adjacent lot, public street or other public right of way, sidewalk or public park, to remove any such Felled Tree, including any trunk, branch or limb thereof, within ten (10) days of such notice. If such removal does not occur within ten (10) days of the notice, as hereinafter provided, the Code Enforcement Officer may issue a summons to appear in Municipal Court, and/or said removal may be undertaken by the Borough, with the cost thereof to be charged against the dwelling or land, and with said cost to become a lien upon such dwelling or land, as hereinafter provided. The Code Enforcement Officer is authorized to grant extensions of time for compliance in the exercise of reasonable discretion.

5. Section 5. Section 11-3.4 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

**Interpretation Consistent with Chapter XXII, Protection of Trees**

Nothing stated in this Section shall be construed in such a way as to be inconsistent with the provisions Chapter XXII of the Revised General Ordinances of the Borough of Interlaken, "Protection of Trees". Nothing in this Section shall be construed to be an abrogation of the responsibilities, duties and powers of the Shade Tree Commission. It is the intent of this section that the Code Enforcement Officer should refrain from taking any action in enforcement of this section, which encroaches upon the exclusive jurisdiction and authority of the Shade Tree Commission.

6. Section 6. Section 11-3.5 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

**Penalties for Violations**

Any person convicted of a violation of this Section shall have imposed upon him or her a penalty consistent with the provisions of Section 1-5 of the Revised General Ordinances of the Borough of Interlaken. Each violation of the provisions of this section and each day of the violation shall be deemed to be a separate and distinct violation.

7. Section 7. Section 11-3.5 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

**Assessment of Costs for Removal by the Borough**

In any case where the property owner, occupant or controller has failed to act in accordance with the dictates of this section, the Borough is authorized to enter the property and destroy and remove the trees, trunk, branches, limbs or stumps. Where such action has occurred, the Code Enforcement Officer shall certify the cost thereof to the governing body, which shall examine the certificate, and if found

correct, shall cause the cost as shown thereon to be charged against the dwelling or lands. The amount so charged shall forthwith become a lien upon such dwelling or lands and shall be added to and become a part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

8. Section 8. Section 11-3.7 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

**Felled Trees Falling Into Deal Lake or Its Watershed**

Upon a finding of the Code Enforcement Officer that a felled tree, including, but not limited to, the entire tree or a tree trunk, branch or limb, has fallen upon or in Deal Lake, its watershed or onto the banks adjacent to the lake, he or she will issue a notice to the owner, occupant or controller of the property on which the base of the tree is or was located to remove said tree, or component part, within 30 days. Upon the property owner’s, occupant’s or controller’s failure to comply, the Code Enforcement Officer may issue a summons to appear in Municipal Court and/or said removal may be undertaken by the Borough with the cost thereof to be charged against the dwelling or land, and become a lien upon such dwelling or land. The Code Enforcement Officer is authorized to grant extensions of time for compliance in the exercise of reasonable discretion.

In addition, the provisions of Sections 11-3.5 and 11-3.6 will apply for any violations of this section.

9. Section 9. The provisions of this Ordinance are declared to be severable. Any invalidation of any provision of this Ordinance by a court of law shall not be deemed to affect the validity of the remaining provisions.

10. Section 10. Except as provided herein, any Ordinance(s) inconsistent with this Ordinance are repealed.

11. Section 11. This Ordinance shall take effect upon adoption and publication as provided by law.

Councilman Napoli made MOTION to open the floor for public hearing, Councilman Handerhan seconded.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve				X		
Motion to Second						X
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

Mayor Nohilly opened the floor for public comment.

With no public comment. Councilman Handerhan made MOTION to close the floor for public hearing, Councilman Miller seconded, unanimously passed.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve						X
Motion to Second			X			
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

Councilman Napoli made MOTION to adopt Ordinance 2014-4, Councilman Miller seconded. Ordinance passed.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve				X		
Motion to Second			X			
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

Mayor Nohilly opened the floor for Council comment.

Councilman Napoli stated that this ordinance is the felled tree ordinance and is a companion ordinance to the tree preservation ordinance. This ordinance is in the interest of public safety. It also addresses the Borough problem of trees that have fallen into Deal Lake and trees that have fallen on peoples' property. The ordinance gives the Borough some right to the site, if they feel the tree is a hazard to either the community or to the neighboring residents.

Mayor Nohilly closed the floor for Council comment.

Councilman Napoli made MOTION to adopt Ordinance 2014-4, Councilman Miller seconded. Municipal Clerk Reibrich called roll call, unanimously passed.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve				X		
Motion to Second			X			
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

**6. RESOLUTION 2014-100: AUTHORIZING THE MAYOR AND MUNICIPAL CLERK TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH MONMOUTH COUNTY FOR COOPERATIVE PARTICIPATION PURSUANT TO THE INTERLOCAL SERVICES ACT**

**RESOLUTION AUTHORIZING THE MAYOR AND MUNICIPAL CLERK TO EXECUTE AN AMENDMENT TO THE 2012-14 AGREEMENT WITH MONMOUTH COUNTY FOR COOPERATIVE PARTICIPATION IN THE COMMUNITY DEVELOPMENT PROGRAM PURSUANT TO THE INTERLOCAL SERVICES ACT**

**WHEREAS**, certain federal funds are potentially available to Monmouth County under Title I of the Housing and Community Development Act of 1974, as amended, commonly known as the Community Development Block Grant Program; and

**WHEREAS**, it is necessary to establish a legal basis for the County and its people to benefit from this program; and

**WHEREAS**, an Agreement has been proposed under which the Borough of Interlaken and the County of Monmouth in cooperation with other municipalities will establish an Interlocal Services Program pursuant to N.J.S.A. 40:8B-01; and

**WHEREAS**, it is in the best interest of the Borough of Interlaken to enter into such an agreement.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Borough Council of the Borough of Interlaken that the agreement entitled “AGREEMENT BETWEEN THE COUNTY OF MONMOUTH AND CERTAIN MUNICIPALITIES LOCATED HEREIN FOR THE ESTABLISHMENT OF A COOPERATIVE MEANS OF CONDUCTING CERTAIN COMMUNITY DEVELOPMENT ACTIVITIES,” a copy of which is attached hereto, be executed by the Mayor and Municipal Clerk in accordance with the provisions of law.

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately upon its enactment.

**BE IT FURTHER RESOLVED** that certified copies of this resolution are to be provided to the following:

1. Owen P. Redmond, Assistant Community Development Director
2. Lori Reibrich, Borough Administrator/Clerk

Councilman Miller made MOTION to authorize an amendment, Council President White seconded. Passed unanimously with no Council comment.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve			X			
Motion to Second		X				
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

**7. RESOLUTION 2014-101: AMENDMENT TO AGREEMENT BETWEEN THE COUNTY OF MONMOUTH AND THE BOROUGH OF INTERLAKEN FOR THE ESTABLISHMENT OF A COOPERATIVE MEANS OF CONDUCTING CERTAIN COMMUNITY DEVELOPMENT ACTIVITIES**

**AMENDMENT TO AGREEMENT BETWEEN THE COUNTY OF MONMOUTH AND THE BOROUGH OF INTERLAKEN FOR THE ESTABLISHMENT OF A COOPERATIVE MEANS OF CONDUCTING CERTAIN COMMUNITY DEVELOPMENT ACTIVITIES**

WHEREAS, the County of Monmouth and the Borough of Interlaken are parties to an Agreement dated November 16, 2011 concerning, generally, the cooperation between participating municipalities and the County to receive CDBG entitlement funding; and

WHEREAS, the U.S. Department of Housing and Urban Development: Community Planning and Development (“HUD”), has issued additional requirements for what must be included in all cooperation agreements entered into between counties and participating municipalities; and

WHEREAS, the Agreement dated November 16, 2011 must be amended to legally conform to HUD’s new requirements; and

WHEREAS, the Borough of Interlaken and the County of Monmouth have decided that it is in its residents' best interests to amend the Agreement to conform to HUD's cooperation agreement requirements; and

NOW, THEREFORE, the County and the Borough of Interlaken hereby agree as follows:

1. Section J shall be adopted and shall contain the following language:

A unit of general local government may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under Title I of the Transportation, Housing and Urban Development, and Related Agencies Appropriates Act, 201, Pub. L. 113-76.

2. All other provisions of the original Agreement shall remain in place and not be affected by this amendment.

Council President White made MOTION to authorize an amendment, Councilman Handerhan seconded. Passed unanimously with no Council comment.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve		X				
Motion to Second						X
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

**8. REPORTS/CORRESPONDENCE**

- ADMINISTRATION/FINANCE - Council President White thanked Municipal Clerk Reibrich and Deputy Clerk Gina Kneser for an outstanding job, going above and beyond with their work at the picnic.
- PUBLIC SAFETY – Councilman Miller noted that the Deal Police monthly report showed that tickets increased significantly in the month of July.
- STREETS & ROADS – No Report.
- RECREATION ADVISORY COMMITTEE – No Report.
- SHADE TREE COMMISSION - No Report.

PLANNING BOARD – Councilman Miller stated that the August meeting was cancelled.

- BOARD OF EDUCATION – Councilman Miller stated that the Board of Education meeting was scheduled for Monday, August 25, 2014.
- BOROUGH ADMINISTRATOR – Borough Administrator Reibrich thanked Deputy Clerk Kneser for all the work she did at the picnic and with the kids' activities. Borough Administrator Reibrich stated that she got some letters of thanks for the picnic.

Borough Administrator Reibrich stated that a request was received from Life Cycle to have a ride through town.

Councilman Miller asked to confirm that the date not be the same day as the race.

Council agreed to permit the race.

## **9. COMMENTS FROM THE PUBLIC**

Mayor Nohilly opened the floor for public comment.

Mindy Horowitz, 502 Buttermere Avenue, questioned Council about the vote for the Council seat. Ms. Horowitz stated that there were three abstentions and two yes votes and questioned the minimum number of votes required.

Municipal Clerk Reibrich stated that, in the case of Interlaken, five members are left. It would have to be three yes votes to pass. If it was a two- to- two tie, the Mayor could break the tie. There were not three yes votes to pass.

Ms. Horowitz asked, "What happens next?"

Municipal Clerk Reibrich stated that at this point there were no names that were appointed. It goes back to the Republican Committee Chairman to make a recommendation to the Council within the next fifteen (15) days. If there is not a name submitted, the seat would remain empty.

Ms. Horowitz asked if there is a vote on the Chairman's recommendation.

Municipal Clerk Reibrich stated that the Republican chairman could appoint someone. If he appoints someone who does not want to do it, it would remain vacant. The seat would remain vacant and the person elected will fill the seat in January.

Mr. Kolojeski, 201 Buttermere Avenue, questioned whether someone could get on to the ballot under the Republican party.

Municipal Clerk Reibrich stated that they could not.

Mr. Kolojeski asked if someone could get on the ballot under the Democratic party.

Municipal Clerk Reibrich stated that they could not be added to the ballot by submission. The names are submitted by the chairpersons.

Mr. Kolojeski asked if someone could get on the ballot as an Independent.

Municipal Clerk Reibrich responded that they could not.

Councilman Cohen stated that they could not because of the way Interlaken's form of government is set up.

Council President White stated that he thinks Mr. Kolojeski is asking whether someone can get their name on the ballot now. They cannot, because the filing deadline has passed.

Councilman White stated that Councilman Morley resigned before September 1<sup>st</sup>. The name could have been added to the ballot in November, if the Council had come to an agreement and voted for a replacement during this meeting. The person elected this November will fill the unexpired term to take that candidate through December 2015. Council did not come to an agreement, so what happens now is that it goes back to the Republican Chairperson. The Republican Chairperson, Hunt Parry, can then appoint the replacement without any Council vote. At the same time then, that person can also go on the ballot for the November election to fill the unexpired term.

Robert Cancellari, 742 Bridlemere Avenue, stated that he found it amazing that three Councilmen can make a decision on a tree and cannot make a decision on the Council. If Council wanted to stay open and transparent, they should have taken the vote now. Mr. Cancellari asked Council what other information do you need to know? Mr. Cancellari feels they just don't want to be blamed for voting for someone other than Rob and leave it to Hunt Parry and blame it on him. Mr. Cancellari stated that obviously the town doesn't want him, they spoke loud and clear. Mr. Cancellari stated that he finds it sickening once again.

Barbara Schoor, 515 Bendermere Avenue, stated that she came out to the meeting to support Pat Mityrk and was disappointed in the Council for not taking action. Ms. Schoor stated that she was the original drafter of the preservation ordinance in 2002 and is glad it finally got adopted in some form. Ms. Schoor served on the Shade Tree Commission for eight years and feels the ordinance is not nearly close to the original intent but feels at least it's a start.

With no additional public comment, Mayor Nohilly closed the floor.

**10. COMMENTS FROM MEMBERS OF COUNCIL**

Mayor Nohilly opened the floor for Council comment. With no Council comment, Mayor Nohilly closed the floor.

**11. ADJOURNMENT**

Councilman Cohen MOTIONED to adjourn, seconded by Councilman Napoli and unanimously carried. No Council comment.

	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan
Motion to Approve					X	
Motion to Second			X			
Approved		X	X	X	X	X
Opposed						
Abstain/Recuse						
Absent/Excused						

---

Lori Reibrich  
Borough Administrator/Clerk  
Date Approved: \_\_\_\_\_