

**BOROUGH OF INTERLAKEN
MINUTES
AUGUST 21, 2019
7:30 P.M. AT BOROUGH HALL**

The regular meeting of the Borough of Interlaken was called to order 7:16 p.m., by Mayor Nohilly. The Sunshine Statement was read by Borough Clerk Administrator Reibrich. It was followed by a salute to the flag and a moment of silence. "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 was posted on the Borough bulletin board and is on file in the Borough Clerk's office."

Present: Mayor Nohilly, Council President White, Council members: Horowitz, Butler, Watson, Fama and Maloney

Absent:: None

Also Present: Borough Attorney Richard Shaklee, and Borough Clerk/Administrator Lori Reibrich

1. PUBLIC COMMENTS: FOR AGENDA SPECIFIC ITEMS ONLY- EXCLUSIVE OF ORDINANCES

Mayor Nohilly opened the floor or public comment.

3. APPROVAL OF MINUTES: JULY 17, 2019 WORKSHOP & REGULAR MEETINGS

With no further comments from the Governing Body, Council President White made a motion to approve, seconded by Councilman Fama and unanimously carried.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama
Motion to Approve		X					
Motion to Second							X
Approved		X	X	X	X	X	X
Opposed							
Abstain/ Recuse							
Absent/ Excused							

4. ORDINANCE 2019-6: BOND ORDINANCE

FIRST READING BY TITLE

**BOROUGH OF INTERLAKEN
COUNTY OF MONMOUTH**

Bond Ordinance No. 2019-6

BOND ORDINANCE PROVIDING FOR VARIOUS IMPROVEMENTS AND APPROPRIATING \$390,200 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$152,000 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE BOROUGH OF INTERLAKEN, IN THE COUNTY OF MONMOUTH, NEW JERSEY

BE IT ORDAINED by the BOROUGH COUNCIL OF THE BOROUGH OF INTERLAKEN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The improvements described in Section 3 of this bond ordinance are hereby authorized as general improvements to be undertaken in and by the Borough of Interlaken, in the County of Monmouth, New Jersey (the "Borough"). For the improvements or purposes described in Section 3, there is hereby appropriated the sum of \$390,200, said sum being inclusive of all appropriations heretofore made therefor, and including the sum of \$38,200 as the down payment for

said purposes as required by the Local Bond Law, N.J.S.A. 40A:2-1 *et seq.*, and \$200,000 grant funds expected to be received from the New Jersey Department of Transportation. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in the Capital Improvement Fund of one or more previously adopted budgets.

Section 2. In order to finance the costs of said improvements or purposes not provided for by the application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount not to exceed \$152,000, pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3 (a). The improvements hereby authorized and the purposes for which the obligations are to be issued consist of the projects listed below, together with all purposes necessary, incidental or appurtenant thereto, all as shown on and in accordance with plans, specifications or requisitions therefor on file with or through the Borough Clerk, as finally approved by the governing body of the Borough, and the estimated cost of each project, estimated maximum amount of bonds or notes, and the period or average period of usefulness of the improvements are as follows:

- (i) road improvements to Woodmere Road, with a total appropriation and estimated cost of \$222,000, estimated maximum amount of bonds or notes therefor of \$20,900, grant funds in the amount of \$200,000 from the New Jersey Department of Transportation, and an average period of usefulness of 10 years; and
- (ii) various road and sidewalk improvements with a total appropriation and estimated cost of \$168,200, estimated maximum amount of bonds or notes therefor of \$131,100, and an average period of usefulness of 10 years.

(b) The estimated maximum amount of bonds or notes to be issued for the improvements or purposes described in Section 3(a) hereof is \$152,000, as stated in Section 2 hereof.

(c) The estimated cost of the improvements or purposes described in Section 3(a) hereof is \$390,200, which is equal to the amount of the appropriation herein made therefor. The excess of the appropriation of \$390,200 over the estimated maximum amount of bonds or notes to be issued therefor being the amount of said \$38,200 down payment and the New Jersey Department of Transportation grant in the amount of \$200,000.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Borough, provided that no note shall mature later than one (1) year from its date. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer, who shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of such notes occurs, such report shall include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not a current expense and are improvements or purposes that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness of the improvements or purposes, within the limitations of the Local Bond Law and taking into consideration the amount of the obligations authorized for said purposes, according to the reasonable life thereof computed from the date of the

bonds authorized by this bond ordinance, is 10 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Borough Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such Statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$152,000 and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$23,380 for interest on said obligations, costs of issuing said obligations, engineering costs, legal fees and other items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included as part of the cost of said improvements and is included in the estimated cost indicated herein for said improvements.

(e) To the extent that moneys of the Borough are used to finance, on an interim basis, costs of said improvements or purposes, the Borough reasonably expects such costs to be paid or reimbursed with the proceeds of obligations issued pursuant hereto. This ordinance shall constitute a declaration of official intent for the purposes and within the meaning of Section 1.150-2(e) of the United States Treasury Regulations.

Section 6. The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Borough Clerk and is available there for public inspection.

Section 7. Any grant or similar moneys from time to time received by the Borough for the improvements or purposes described in Section 3 hereof, excluding the grant funds referred to in Section 1 hereof, shall be applied either to direct payment of the cost of the improvements within the appropriation herein authorized or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are received and so used.

Section 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and, unless paid from other sources, the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation as to rate or amount.

Section 9. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ORDINANCE READING	DATE
1ST READING BY TITLE:	August 21, 2019
2ND READING BY TITLE:	

With no further comments from the Governing Body, Council President White made a motion to approve, seconded by Councilwoman Fama and unanimously carried.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama
Motion to Approve		X					
Motion to Second							X
Approved		X	X	X	X	X	X
Opposed							
Abstain/ Recuse							
Absent/ Excused							

5. **ORDINANCE 2019-7: AN ORDINANCE AMENDING “PROTECTION OF TREES”**

BOROUGH OF INTERLAKEN

ORDINANCE NO. 2019-7

**AN ORDINANCE OF THE BOROUGH OF INTERLAKEN AMENDING
AND SUPPLEMENTING CHAPTER XXII “PROTECTION OF TREES”**

BE IT ORDAINED by the Borough Council of the Borough of Interlaken, in the County of Monmouth and State of New Jersey, that:

SECTION ONE. Chapter XXII “Protection of Trees” of the Code of the Borough of Interlaken is amended and supplemented as follows:

22-1 ESTABLISHMENT OF THE SHADE TREE COMMISSION.

22-1.1 Intent and Purpose.

- a. The intent of this section is to enhance the Borough's aesthetic environment and quality of life; aid in the stability of the soil by the prevention of erosion and sedimentation; reduce storm water runoff and the resulting costs of same; help the air quality in the Borough with the production of oxygen and the removal of carbon dioxide; provide a buffer and screen against noise; provide shade; aid in the control of drainage; provide a haven for wildlife; protect and increase property values and conserve and enhance the Borough's unique qualities.
- b. It is the purpose of this section to provide for the creation of a Shade Tree Commission in the Borough of Interlaken; definition of the powers of the Commission; penalties for violation of the rules and regulations of the Commission and the establishment of a Tree Preservation Ordinance.
(Ord. No. 286 § 1)

22-1.2 Short Title.

This section shall be known and cited as "The Shade Tree Commission and Tree Preservation Regulations of the Borough of Interlaken." (Ord. No. 286 § 2)

22-1.3 Shade Tree Commission Established.

- a. The regulation, planting, care and control of shade and ornamental trees ~~and shrubbery~~ upon or in the Borough of Interlaken, except County parks, parkways and rights-of-way shall be exercised by and under the authority of a Commission consisting of no less than five (5) nor more than seven (7) residents of the Borough of Interlaken, unless otherwise prescribed by State Statute, which Commission shall be known as "The Shade Tree Commission of the Borough of Interlaken." The members of the Commission shall be appointed by the Mayor and shall serve without compensation.
- b. All appointments, except to fill vacancies, shall be made to take effect upon the first day of January of each year for a full term of five (5) years. Any member appointed to fill a vacancy occurring in the membership of the Commission by reason of death, resignation or removal shall be designated for the unexpired term by the Mayor.
- c. The Shade Tree Commission shall organize annually by the election of one of its members as Chairman and the appointment of Secretary.
- d. The Shade Tree Commission shall have the power:
 1. To exercise full, sole and exclusive control over the regulation, planting and care of shade and ornamental trees ~~and shrubbery~~ now situate, or which may hereinafter be planted in or upon any public right-of-way, highway, road, park or parkway except County rights-of-way, parks or parkways of the Borough and including the planting, trimming, spraying, care and protection of the same for the public good; the right to regulate and control the use of the ground surrounding the same so far as may be necessary for their proper growth, care and protection; the right to remove or require the removal of any tree or part thereof dangerous to public safety.
 2. To encourage arboriculture.

3. To ~~propose make, alter, amend and repeal, in the manner described for~~ the passage, alteration, amendment and repeal of ordinances by the Governing Body of this Borough, any and all rules and regulations necessary or proper for carrying out the provisions of this chapter.
4. To arrange, administer treatment to, or remove any tree situate upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the Municipality and enter upon private property for that purpose, with the consent of the owner thereof, provided the suspected condition is first confirmed by certificate issued by or on behalf of the New Jersey State Department of Agriculture. All reasonable costs of same shall be the responsibility of the homeowner.
- e. A copy of any rule, rules, regulation or regulations of the Shade Tree Commission, certified to under the hand of the Chairman or Secretary of the Commission, shall be taken in any court of this State as full and legal rule, rules, regulation or regulations.
- f. Except as herein provided, the initial cost of all trees planted by the Commission, the costs of planting the same, the costs of the posts, boxes or guards used for the protection of the same, and the cost of the removal of any tree on Borough property dangerous to the public safety shall be paid for by the Shade Tree Commission.
- g. During the month of December in each year, the Shade Tree Commission shall certify to the Borough Council the estimated sum necessary for the proper conduct of its work during the ensuing fiscal year, which shall include the sums estimated to be expended for such items as it is anticipated expenditure will be made, including payment of any wages or salaries authorized hereunder, expenses incurred in discharging official duties of the Commission and the purchase of necessary equipment and materials and the cost of services for the prudent promotion of the work hereunder. The Borough Council shall annually appropriate such amount as it may deem necessary for the above purposes.
(Ord. No. 286 § 3)

22-1.4 Definitions.

As used in this chapter:

Borough property shall mean any and all land designed by the Borough Tax Map as land owned solely and exclusively by the Borough of Interlaken, including but not limited to Borough parks and Borough property or rights-of-way located between the sidewalks and curbs.

Circumference Diameter at breast height shall mean the ~~circumference diameter~~ **circumference diameter** of the main stem of a tree measured at a point on the stem four and one-half (4 1/2) feet above ground.

Tree shall mean any woody perennial plant having a main stem diameter minimum of two (2) inches measured at a point six (6) inches above the ground.

(Ord. No. 286 § 4)

22-1.5 Prohibited Acts.

No person shall do or cause to be done any of the following acts on Borough-owned property, right-of-way, street, road, highway, park or parkway without the recommendation and approval of the Shade Tree Commission:

- a. Cut, trim, break, remove, climb with spikes, disturb the roots or otherwise intentionally injure, misuse or spray with harmful chemicals any tree two (2) inches or more in diameter measured six (6) inches above the ground or remove any device installed to support or protect such trees.
- b. Plant any tree.
- c. Fasten any rope, wire, electrical equipment, sign or other device to a tree or install any guard about such a tree.
- d. Pile, heap or store any building materials, soil, debris or other matter or make mortar or cement within a distance of three (3) feet of a tree.
- e. Cause any oil, gas or other injurious chemical to come in contact with the trunk or roots of any tree.
(Ord. No. 286 § 5)

22-1.6 Exemptions.

Reasonable pruning of trees by utility companies necessary to provide for line clearance for utility wires shall be exempt from the provisions of this chapter. (Ord. No. 286 § 6)

22-1.7 Violations.

- a. Any person, firm, association or corporation who violates the terms of this chapter or any rule or regulation promulgated hereunder shall, upon conviction, be liable for the penalty established in Chapter I, Section 1-5. In addition to the foregoing, the Borough of Interlaken may institute and maintain a civil action for injunctive relief restraining the continuance of any unlawful tree removal project.

- b. All monies or funds collected hereunder, either as fines, penalties, grants or otherwise under any provision of this chapter or any amendment thereto, shall be forthwith paid over to the Borough Treasurer, shall be placed to the credit of the Shade Tree Commission of the Borough, and shall be subject to be drawn upon by the Commission for the conduct of its performance hereunder. (Ord. No. 286 § 7)

22-1.8 Rights of Other Authorities and Contractors.

No Statute giving an individual or State or Municipal Board, body or official, power or authority to lay any sidewalk along, or to open, construct curb or pave any street or do any like act shall be held or construed to permit or authorize any interference with or injury to a highway shade tree without the consent of the Shade Tree Commission; provided that, in all cases the Commission shall reasonably cooperate with such individual board, body or official for the general public good; and provided further, that nothing herein contained shall be held to take away or diminish any of the powers or authority of any County Park Commission over the trees or shrubbery in any County park or parkway within its jurisdiction or to give the Shade Tree Commission any power or authority with respect to such trees or shrubbery. (Ord. No. 286 § 10)

22-1.9 Liabilities.

Nothing in this chapter shall be construed to hold the Shade Tree Commission or any member thereof responsible for the death or injury of any person or for an injury to any property or highway tree or shrub. (Ord. No. 286 § 11)

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.

Heritage Tree- shall mean any tree with a circumference of 40 inches or more.

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, **any heritage tree** ~~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 **any heritage tree** ~~four (4) or more trees of 9" or greater caliper at breast height,~~ as follows:

1. **Heritage** Trees that are dead, severely damaged or in an advanced state of decline by natural causes or accident to the point that the natural habit of the **heritage** tree can not be restored as determined by a N.J. **Licensed Certified** Tree Expert or competent public authority (Borough Engineer); **heritage** trees that are severely diseased and require removal as certified by a N.J. **Licensed Certified** Tree Expert; or **heritage** trees that pose an imminent public safety hazard as determined by a N.J. **Licensed Certified** Tree Expert or a competent public authority (police, Borough Engineer, etc.).
2. **Heritage** 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. **Heritage trees located on any residential lot. Heritage trees may only be removed in the most compelling and extraordinary circumstances. 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 **heritage** tree removal.
4. In addition to the application form, a survey showing the approximate location and size of **heritage** 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 **heritage** 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 **heritage** trees by planting a tree of 3" to 3 1/2" caliper **with a similar mature height** or a fee to the Borough of Interlaken in the amount of **\$500.00** ~~150.00~~ per tree removed.
6. For any **heritage** trees **to be** removed under the requirements of Section 22-2.4.3, a replacement plan must be submitted showing the planting of trees for any **heritage** 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" **with a similar mature height** or a fee to the Borough of Interlaken in the amount of **\$500.00** ~~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 **\$25.00** ~~10.00 for up to 4 trees removed.~~ **An application may include more than one heritage tree within a single application fee.**

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.~~

22-2.9 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.

22-2.10 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.

22-2.11 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.~~

22-2.12 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 \$1250.00 ~~200.00~~ per removed tree. Each **heritage** tree removed or destroyed in violation of this section shall be considered a separate violation.

SECTION TWO: All other sections and sub-subsections of Chapter XIII,

“Swimming Pools,” will remain unaltered.

SECTION THREE. If any section, subsection, paragraph, sentence or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

SECTION FOUR. All ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby replaced to the extent of such inconsistencies.

SECTION FIVE. This Ordinance shall take effect immediately upon its final passage and publication according to law.

APPROVED:

MICHAEL NOHILLY
Mayor

ATTEST:

LORI REIBRICH, Borough Clerk

ORDINANCE READING	DATE
1 ST READING BY TITLE:	August 21, 2019
2 ND READING BY TITLE:	

Councilman Fama made a motion to introduce, seconded by Councilwoman Horowitz and unanimously carried.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama
Motion to Approve							X
Motion to Second			X				
Approved		X	X	X	X	X	X
Opposed							
Abstain/ Recuse							
Absent/ Excused							

Council discussed the proposed changes in great detail.

Councilwoman Maloney stated that she fully supports the purpose of the proposed changes to prevent indiscriminate and excessive destruction and removal of trees but has concerns with the definition of a Heritage Tree. A Heritage Tree with a 40-inch circumference would only be about 12 inches wide, making most trees within the Borough a Heritage Tree. Other towns specify tree varieties to be protected.

Councilwoman Maloney also has concerns regarding the appeal process and questions the consistency of applying the need for tree removal to have “most compelling and extraordinary circumstances.” What circumstances would be considered and who will be making these decisions?

Councilwoman Maloney feels the ordinance is over-reaching. The proposed changes do not maintain the rights of the homeowner giving the homeowner the right over the trees on their own property to make the determination over whether a tree should be removed or not. The homeowner has no rights at all and must go through a permit process.

Councilman Fama stated that the Shade Tree Commission has worked diligently on studying many ordinances in this area. Each ordinance targets a different thing. The Borough is working on protecting the tree canopy. Shade Tree has been working with a local licensed tree expert, Bill Brash, to develop an effective, fair approach. The idea was to give enough discretion to the Shade Tree Commission, which will be the group designated to review the applications. It is presumed that the Commission will be reasonable about the applications.

Mayor Nohilly stated that the Borough Administrator will make sure that this process is adhered to and it will be managed by the Borough Office. The Shade Tree Commission will be dispatched to make an inspection and make a determination. The Borough goes over the line more than most municipalities to make sure that it is working with residents. The definition has been intentionally set up to give flexibility for the resident. The goal is not to protect one tree that is a thorn in someone’s side. It is about maintaining the Borough tree canopy.

Mayor and Council continued discussion regarding verbiage, interpretation, application and enforcement of proposed changes.

Council President White spoke to the difference in the process between removing a dead Heritage tree and Heritage trees that a homeowner would want to remove that was not dead. A tree that is dead or diseased can be removed after inspection. Other Heritage trees can only be removed under the “most compelling and extraordinary circumstances”. Council President White feels that including this the phrasing “most compelling and extraordinary circumstances” is kind of overkill. Paragraph one of the ordinance protects the trees. If the homeowner calls to say they feel the tree is a hazard, it is being said that the Borough will work with the resident and allow removal, so why is this verbiage necessary.

Councilman Fama stated that the ordinance is written so the Shade Tree Commission and the Zoning Officer can inspect and to make a determination. Something can be worked out based on the totality of the circumstances.

Councilman Maloney has concerns that future Shade Tree Commissioners may not be as reasonable in their determinations as the present Commissioner are.

Mayor Nohilly stated that it is the Borough’s discretion to dispatch a representative to take a look at the tree and decide if it meets the criteria for a hazard or anything else. The Borough is still managing the entire process, so if the homeowner is not happy with the Shade Tree Commission’s determination then they make an appeal that is also managed by the Borough office.

Council discussed trees being removed due to pools or construction additions.

Mayor Nohilly stated that there is no black and white. Everyone feels the way Councilwoman Maloney does. You buy your house. You pay your taxes. You take care of your property. You should be able to exercise good judgement over your property. But at the end of the day the Borough cannot rely on everybody to have the same good judgment. At the same time the Borough must protect the canopy over Interlaken. There was a time when the canopy was disappearing at a very fast rate. The current ordinance was put in place, but it was a watered-down ordinance. The changes are being made to protect the canopy.

Council discussed basing the ordinance on specific tree varieties, weighing what would most protect the canopy.

Councilman Fama noted that non-heritage trees can be removed without permit and that the Borough does not have a lot of resources. The Borough of Freehold for example has two certified tree experts on staff.

Council President White noted that if Councilwoman Maloney is satisfied with what is being presented, she can make motion to table the matter and send it back to Committee for further conversation and make changes. Borough Attorney Shaklee agreed.

Councilman Fama expressed his concern about tabling the matter. The Shade Tree Commission has put in many hours trying to come up with an ordinance to be a good compromise and protect the canopy. This version is a very strong representation of what needs to be adopted to ensure the tree canopy is protected.

With no further comments from the Governing Body, Councilwoman Maloney made a motion to table the ordinance, seconded by Council President White and carried by roll call vote.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama
Motion to Approve						X	
Motion to Second		X					
Approved		X		X	X	X	
Opposed			X				X
Abstain/ Recuse							
Absent/ Excused							

6. **ORDINANCE 2019-8: AN ORDINANCE AMENDING “SWIMMING POOLS”, SUBSECTION “FENCING”**

With no further comments from the Governing Body, Council President White made a motion to approve, seconded by Councilman Watson and unanimously carried.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama

Motion to Approve		X					
Motion to Second					X		
Approved		X	X	X	X	X	X
Opposed							
Abstain/ Recuse							
Absent/ Excused							

MAYOR SETS THE PUBLIC HEARING FOR SEPTEMBER 18, 2019

7. **RESOLUTIONS 2019-67: ACCEPTING THE 2018 MUNICIPAL AUDIT**

ACCEPTING THE 2018 MUNICIPAL AUDIT

WHEREAS, N.J.S.A. 40:A5-4 requires the Governing Body of every local unit to have made an annual audit of its books, accounts and financial transaction, and

WHEREAS, the Annual Report of Audit for the year 2018 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the Governing Body, and

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the Governing Body of each municipality shall by Resolution certify to the Local Finance Board of the State of New Jersey that all members of the Governing Body have reviewed, as a minimum, the sections of the annual audit entitled:

General Comments
Recommendations

and,

WHEREAS, the members of the Governing Body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments
Recommendations

As evidenced by the group affidavit form of the Governing Body, and

WHEREAS, such Resolution of Certification shall be adopted by the annual audit, as per the regulations of the Local Finance Board, and

WHEREAS, all members of the Governing Body have received and have familiarized themselves with, at least, the minimum requirements of aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the promulgation’s of the Local Finance Board of the State of New Jersey may subject the members of the local Governing Body to the penalty provisions of R.S. 52-27BB-52 to wit:

R.S. 52:27BB-52 – “A local officer or member of a local Governing Body who, after a date fixed for compliance, fails or refuses to obey an order of the Director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office”.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Interlaken, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this Resolution and the required affidavit to said Board to show evidence of said compliance.

With no further comments from the Governing Body, Council President White made a motion to approve, seconded by Councilwoman Horowitz and unanimously carried.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama
Motion to Approve		X					
Motion to Second						X	
Approved		X	X	X	X	X	X

Opposed							
Abstain/ Recuse							
Absent/ Excused							

8. **RESOLUTIONS 2019-68: AUTHORIZING TAX EXTENSION GRACE PERIOD FOR 3RD QUARTER TAXES, 2019 TAXES DUE AUGUST 26, 2019**

RESOLUTION 2019-68

RESOLUTION AUTHORIZING EXTENSION THE GRACE PERIOD FOR 3RD QUARTER, 2019 TAXES ARE DUE AUGUST 26, 2019.

WHEREAS, N.J.S.A.54:4-66.3 provides that the third installment of current year taxes shall not be subject to interest until the twenty-fifth calendar day after the date that the tax bill was mailed or otherwise delivered, and

WHEREAS, due to State Aid to Schools legislation requiring the recalculation of State Aid for School Districts by the State and the subsequent certification of the tax rate by the Monmouth County Tax Board, Tax bills were not mailed until August 1, 2019, and

WHEREAS, Twenty-five calendar days from the mailing date of the tax bills as required by New Jersey Statute is August 26, 2019,

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Interlaken, County of Monmouth that:

1. The Grace Period for the payment of the third quarter 2019 real estate property taxes that were due August 1, 2019 shall be extended to August 26, 2019.
2. Interest shall be charged back to August 1, 2019 for all payments made after the grace period date of August 26, 2019.

With no further comments from the Governing Body, Council President White made a motion to approve, seconded by Councilman Butler and unanimously carried.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama
Motion to Approve		X					
Motion to Second				X			
Approved		X	X	X	X	X	X
Opposed							
Abstain/ Recuse							
Absent/ Excused							

9. **RESOLUTIONS 2019-69: APPROVING 2020 DOT GRANT APPLICATION FOR IONA STREET**

APPROVING 2020 NJ DEPARTMENT OF TRANSPORTATION GRANT APPLICATION

WHEREAS, the State of New Jersey, Department of Transportation has notified all municipalities of the availability of funding under the Transportation Trust Fund Municipal Aid Program for the Fiscal Year 2020; and

WHEREAS, the Borough of Interlaken is desirous of submitting an application under this program for the following purpose:

- Improvements to Iona Street

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of Interlaken, County of Monmouth, State of New Jersey, formally approves the grant application for the above stated project; and

FURTHER BE IT RESOLVED that the Borough Engineer, Mayor and Municipal Clerk are hereby authorized to submit an electronic grant application identified as MA-2020-Improvements to Iona Street -00605 to the New Jersey Department of Transportation on behalf of the Borough of Interlaken; and

FURTHER BE IT RESOLVED that the Mayor and Municipal Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Interlaken and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

With no further comments from the Governing Body, Councilman Butler made a motion to approve, seconded by Councilwoman Horowitz and unanimously carried.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama
Motion to Approve				X			
Motion to Second			X				
Approved		X	X	X	X	X	X
Opposed							
Abstain/ Recuse							
Absent/ Excused							

10. **RESOLUTIONS 2019-70: BILL LIST**

**BOROUGH OF INTERLAKEN
BILL LIST REPORT FOR
BOROUGH COUNCIL APPROVAL**

DATE SPAN	TOTAL
07/22/19-8/19/19	\$173,316.26

Resolution 2019-70:

WHEREAS, law requires listing of all bills approved for payment; and

WHEREAS, certification of available funds from the Chief Municipal Finance Officer has been made; and

WHEREAS, the total bill list for the regular meeting dated August 21, 2019 is in the amount of One Hundred Seventy-Three Thousand Three Hundred Sixteen Dollars and Twenty-Six Cents; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council, of the Borough of Interlaken, that the CFO is hereby authorized to pay said bill list.

With no further comments from the Governing Body, Council President White made a motion to approve, seconded by Councilman Butler and unanimously carried.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama
Motion to Approve		X					
Motion to Second				X			
Approved		X	X	X	X	X	X
Opposed							
Abstain/ Recuse							
Absent/ Excused							

7. **REPORTS/CORRESPONDENCE:**

- **Administration/Finance:** No report.
- **Public Safety:** Council President White asked Council to take note, with the awareness of the complaints from residents regarding speeding, that there were 117 motor vehicle stops reported between July 1 and July 31. 24 summonses were issued for speeding. Council President White stated that the police are out there enforcing the limit.

Mayor Nohilly stated that Chief Neuman would be giving an update in September to give the official findings of a randomized traffic study that has been performed within the Borough.

- **Streets & Roads:** No report.
- **Shade Tree Commission:** No report.
- **Planning Board:** Councilman Butler reported that there was one application before the Board this month. The Board also discussed the plan for the plantings around the Township of Ocean Sewerage Authority (TOSA) Pump House building.

Borough Clerk/Administrator Reibrich stated that TOSA was looking to begin the project on September 15th. The silt fencing is being installed and the project may start earlier.

- **Board of Education:** No report.
- **Borough Administrator:** Borough Clerk/Administrator Reibrich stated that New Jersey American Water should begin the line striping next week or just after Labor Day. A sink hole on Grassmere Avenue is being repaired, as well. Cap grading and seeding will be done on affected residents' property. Borough Clerk/Administrator Reibrich noted that she will be on vacation the week following the meeting.

8. **NEW BUSINESS:** None

9. **COMMENTS FROM THE PUBLIC:** Mayor Nohilly opened the floor for public comment.

Marcie Horowitz, 510 Windermere Avenue thanked Council for their intense, spirited discussion regarding the tree ordinance.

Bill Dalton, 419 Grassmere Avenue, stated that he was stunned that Council did not take action to protect the trees and asked that Council members and residents to think beyond their own property. These trees effect the entire Borough and the residents beyond the property lines.

Mr. Dalton also stated that there was a power outage in July where 16 residences were out of power for three days. The repairman told him that the system was antiquated. Mr. Dalton questioned why he had not received response from the Borough to the letter submitted and signed by six of these 16 residents regarding the matter. Mr. Dalton also stated that he believed that a permit submitted for a generator was mishandled. Mayor Nohilly stated that there would be immediate follow up.

Mike Mulhaul, 101 Grassmere Avenue, asked about the timing of postings of meeting minutes. Borough Clerk/Administrator Reibrich stated that meeting minutes are normally approved by Council at the following month's meeting. Meeting minutes are posted on the website upon approval by Council.

Stan Kolodjeski, 201 Buttermere Avenue, asked questions regarding Board of Education statistics of the number of students attending schools.

With no additional public comment, the floor was closed.

10. **ADJOURNMENT:** With no further comments, Council President White made a motion to adjourn, seconded by Councilman Fama and unanimously carried.

	Mayor Nohilly	Council President White	Councilwoman Horowitz	Councilman Butler	Councilman Watson	Councilwoman Maloney	Councilman Fama
Motion to Approve							
Motion to Second							
Approved		X	X	X	X	X	X
Opposed							
Abstain/ Recuse							
Absent/ Excused							

Lori Reibrich, RMC
Borough Clerk/Administrator