

**BOROUGH OF INTERLAKEN
MINUTES
NOVEMBER 13, 2019
7:30 P.M. AT BOROUGH HALL**

The regular meeting of the Borough of Interlaken was called to order XXDX 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 members: Butler and Watson

Absent: Councilwoman Horowitz, Councilwoman Maloney and Councilman Fama

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 for public comment.

Jodi Heinz, 512 Bridlemere Avenue, stated that she is a tennis player and does not want the court to be used for pickleball. Though Ms. Heinz does not feel the pickleball lining is not a bother, it is already difficult to schedule a court. Setting up pickleball will take away from the tennis courts. Ms. Heinz would also like to see a change in the way the tennis courts are reserved. Other towns have a priority for residents. The current sign on the whiteboard method to reserve the court is frustrating. Ms. Heinz’s name has been erased on several occasions. Ms. Heinz lives close to the courts but drives to other towns to play because her friends’ reservations are more reliable.

Mayor Nohilly stated that he has heard the sign up at the court is an issue and Council will look into the matter. The Facility Use request is from residents who are fans of pickleball and want to introduce it to the Borough.

Council President White noted that the Facility Use request on the agenda is for one day only.

With no public comment, the floor was closed.

2. APPROVAL OF MINUTES: OCTOBER 16, 2019 WORKSHOP & REGULAR MEETINGS

With no further comments, 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 |
| Opposed | | | | | | | |
| Abstain/ Recuse | | | | | | | |
| Absent/ Excused | | | | | X | X | |

3. ORDINANCE 2019-6: BOND ORDINANCE

**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.

X

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: | September 18, 2019 |

With no further comments, 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 |
| Opposed | | | | | | | |
| Abstain/ Recuse | | | | | | | |
| Absent/ Excused | | | | | X | X | |

MAYOR SETS THE PUBLIC HEARING FOR DECEMBER 18, 2019

4. 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** 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 single** 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 cannot 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 may only be removed for compelling reasons based on the totality of the circumstances. The Code Enforcement Officer or his/her designee shall use best efforts to reach a determination that fairly takes into account the objectives of this ordinance and the concerns of the applicant. In evaluating a tree removal permit application, the Code Enforcement Officer or his/her designee may consider, without limitation, the following factors:**
 1. **The health of the tree;**
 2. **Impact of tree removal on ecological systems;**
 3. **Impact of tree removal on wildlife;**
 4. **Topography of the area and drainage impact;**
 5. **Impact of tree removal on noise, light or air quality;**
 6. **Density of tree area;**
 7. **Overall effect of tree removal on the physical and aesthetic value of the property;**
 8. **Whether the continued presence of the tree or trees is likely to cause danger to a person or property.**

~~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 **or diagram** 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 **and when replacement trees as required under sections 22-2.5 (5) or 22-2.5 (6) have been planted.**

~~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 **or his/her designee, an employee of the Department of Public Works**, and any other **two** designees 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. 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 THREE. All ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby replaced to the extent of such inconsistencies.

SECTION FOUR. 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 |
|---|-------------------|
| 1ST READING BY TITLE: | November 13, 2019 |
| 2ND READING BY TITLE: | |

With no further comments, Councilman Fama 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 |
| Opposed | | | | | | | |
| Abstain/ Recuse | | | | | | | |
| Absent/ Excused | | | | | X | X | |

5. **NOTIFICATION OF APPOINTMENT** – Mayor Nohilly announced the appointment of Mervin Franks to the unexpired term of Planning Board Alternate #1 vacated by Marianne Gatsch to 12/31/2019. The appointment had previously been discussed with the Planning Board Chairman, Tom Papp.

6. **RESOLUTION 2019-76: RESOLUTION APPROVING FACILITY USE – TENNIS COURTS**

RESOLUTION APPROVING PARK USE APPLICATION

WHEREAS, Ms. Kim Smith has submitted an application to utilize the Borough of Interlaken Tennis Courts located at 725 Bridlemere Avenue, on November 23, 2019 from 9 a.m. to 12 p.m. with a rain date of November 24, 2019 from 11:30 a.m. to 2:30 p.m.; and

WHEREAS, pursuant to the Borough of Interlaken Code, Chapter XIV, Chapter 1.5, all residents, associations, entities and other persons desirous of using and/or enjoying the park areas, recreational areas and Borough facilities for the purpose of conducting, maintaining and/or operating an organized activity, shall obtain express prior written consent of the Borough Council.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Interlaken, County of Monmouth that it does hereby authorize the Borough Administrator to execute the Park Use Agreement on behalf of the Borough of Interlaken, granting permission to Ms. Kim Smith to utilize the tennis courts on dates and times listed on the application attached.

BE IT FURTHER RESOLVED, that the applicant must provide the Borough Administrator with a certificate of insurance naming the Borough of Interlaken as additional insured prior to execution of the Park Use Agreement.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to:

1. Lori Reibrich, Borough Administrator
2. Chief Ronen Neuman, Deal Police
3. Norman Cottrell, DPW Foreman
4. Kim Smith, Applicant

Council questioned the markings required on the courts. Chalk will be used.

With no further comments, 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 |
| Opposed | | | | | | | |
| Abstain/ Recuse | | | | | | | |
| Absent/ Excused | | | | | X | X | |

4. **RESOLUTION 2019-77: BILL LIST**

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

| DATE SPAN | TOTAL |
|-------------------|--------------|
| 10/25/19-11/12/19 | \$192,071.85 |

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 November 13, 2019 is in the amount of One Hundred Ninety-Two Thousand and Seventy-One Dollars and Eighty-Five 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, 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 |
| Opposed | | | | | | | |
| Abstain/ Recuse | | | | | | | |
| Absent/ Excused | | | | | X | X | |

7. **REPORTS/CORRESPONDENCE:**

- **Administration/Finance:** No report.
- **Public Safety:** No report.
- **Streets & Roads:** Councilman Butler noted that the spring projects are on track.
- **Shade Tree Commission:** Councilman Fama stated that the five-year management plan was submitted. The new Forestry Director asked for some changes to be made and that has been resubmitted for approval. There have been some dead and dying trees that have been removed to using the remainder of the funds for the year. Ms. Heinz ask that the Borough DPW be thanked for using 5500 of their own funds to remove 12 dead trees along Bridlemere Avenue because the trees caused a hazard. There are new tree requests for 18 new trees.
- **Planning Board:** Councilman Butler stated that the Planning Board meeting will be held next week.
- **Board of Education:** No report.
- **Recreation Advisory Committee:** No report.

- **Borough Administrator:** Borough Clerk/Administrator Reibrich stated that the current count for the Winter Social is 97. The RSVP deadline on the invite was November 7, but sign ups will be accepted up until a week before the event. Tell your friends. Luminary orders have been coming in. the current count is 57 kits with 22 sponsored kits to be used around Borough Hall.

Borough Clerk/Administrator Reibrich noted that November’s meeting date was moved due to the League of Municipalities Conference. Borough Clerk/Administrator Reibrich will be attending on Wednesday and Thursday.

Borough Clerk/Administrator Reibrich stated that the volunteer luncheon will be held December 13, 2019.

8. **NEW BUSINESS:** None

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

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 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 |
| Opposed | | | | | | | |
| Abstain/ Recuse | | | | | | | |
| Absent/ Excused | | | | | X | X | |

Lori Reibrich, RMC
Borough Clerk/Administrator