

**BOROUGH OF INTERLAKEN  
MINUTES  
JANUARY 15, 2014  
7:30 P.M. AT BOROUGH HALL**

---

The meeting of the Borough of Interlaken was called to order at 6:06p.m., by Mayor Nohilly. It was followed by a salute to the flag and a moment of silence. The following statement was read by Borough Administrator Reibrich. "The notice of the requirements of the Open Public Meetings Act has been satisfied by forwarding annual notice to the Coaster and Asbury Park Press. A copy of the annual notice is posted on the Borough bulletin board and is on file in the Borough Clerk's office."

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

Also Present: Borough Administrator Reibrich, Borough Attorney Richard Shaklee and Borough Engineer Avakian

---

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

Mayor Nohilly opened the floor for public comment. No public comments were made. Mayor Nohilly closed the floor.

**2. APPROVAL OF MINUTES: JANUARY 7, 2014- REORGANIZATION MEETING**

Council voted to approve the minutes.

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

**3. RESOLUTION 2014-36: AUTHORIZING REBID OF THE 2013 ROAD PROGRAM**

**AUTHORIZING LEON S. AVAKIAN INC TO PERFORM ENGINEERING DESIGN AND CONSTRUCTION ADMINISTRATION AS WELL AS TO ADMINISTER REVISED BIDS FOR THE 2013 ROAD IMPROVEMENT PROGRAM FOR THE BOROUGH OF INTERLAKEN IN AN AMOUNT NOT TO EXCEED \$35,000**

**WHEREAS**, on September 4, 2013 the Governing body of the Borough of Interlaken authorized Leon S. Avakian Inc to perform engineering design and construction administration on the 2013 Road Improvement Program and;

**WHEREAS**, on October 9, 2013 the Borough Council of the Borough of Interlaken rejected all bids under the Local Public Contracts Law due to the lowest bid substantially exceeding the fund appropriated for goods and services provided and;

**WHEREAS**, the Governing Body of the Borough of Interlaken has revised the bid specifications and would like to rebid this project.

**NOW, THEREFORE, BE IT RESOLVED** that authorization by the Governing Body of the Borough of Interlaken is hereby granted for Leon S. Avakian, Inc. to perform engineering design and construction administration as well as to administer revised bids for the 2013 Road Improvement Program for the Borough of Interlaken in an amount not to exceed \$35,000.00.

**BE IT FURTHER RESOLVED** that copies of this Resolution shall be forwarded as follows:

1. Lori Reibrich, Municipal Clerk
2. Stephen Gallagher, Chief Financial Officer
3. Peter Avakian, Leon S. Avakian Inc.

Councilman Miller made a motion to approve the resolution, seconded by Councilman Cohen.

Ayes: Councilmen Miller, Cohen, Handerhan

Nays: Council President White, Councilmen Morley and Napoli

Before the Mayor used his executive power to break the tie, Councilman Napoli called a point of order to object, on the record, to Councilman Miller being allowed to vote via technology rather than being present at the meeting.

Borough Attorney Shaklee reiterated his legal opinion to the Council about Councilman Miller voting. Mayor Nohilly deferred to Borough Attorney Shaklee’s professional opinion and guidance in this regard.

The Council had a brief discussion about the vote. Councilman Napoli and Council President White discussed the points of not moving forward with the project as it is. The rebidding process has caused the Council to be able to review the project as a whole. The Council discussed the additions of the sidewalks to the project via an ordinance assessing the homeowners. Council President White fully supported the idea of completing one project in full from the sewers, streets, curbs, aprons and sidewalks.

Councilman Cohen questioned whether or not the project could be approved tonight and the sidewalk ordinance added at a later date. After being told this was not possible, he stated that he completely agrees with the need for a long term plan but, he wants to feel like things are being accomplished.

Councilman Napoli wanted to know if the vote could be reconsidered. Borough Attorney Shaklee recapped the procedural point the Council was at during the vote. He said the vote cannot be reconsidered because the procedure of the vote was not completed. The Mayor needed to break the tie first then a motion for reconsideration could be done. Conversation between votes is very unusual.

Mayor Nohilly voted in the affirmative to move forward with the current project rebidding. He said that new road projects could be looked at in different ways but, he wanted to proceed with this project as recommended last year by the Streets and Roads Committee.

Borough Engineer Avakian stated that a long term plan would be a great benefit and looks forward to working with the committee to design the road project for 2014.

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

4. RESOLUTION 2014-37: PAYMENT OF BILLS

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

---

DATE SPAN	TOTAL
12/31/13-01/13/14	\$438,000.45

**Resolution 2014-37:**

**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 January 15, 2014 is in the amount of Four Hundred Thirty-Eight Thousand and forty 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.

Council voted to approve the payment of the bills.

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

5. REPORTS/CORRESPONDENCE

- ADMINISTRATION/FINANCE - No Report
- PUBLIC SAFETY – No Report
- STREETS & ROADS – No Report
- RECREATION ADVISORY COMMITTEE – Councilman Miller lead a discussion regarding the date for the Town-Wide Garage Sale this year. Council set the date as Saturday, April 26<sup>th</sup>, so that it coincides with the last bulk pick up of the month in April. Council also tabled a discussion regarding the Annual Easter Egg Hunt to the next meeting.
- SHADE TREE COMMISSION – No Report.
- PLANNING BOARD - Business Administrator Reibrich reported that the Planning Board will have its Reorganization meeting on January 21, 2014.
- BOARD OF EDUCATION – Councilman Morley stated that the Board of Education met on January 15, just before the Council meeting. Councilman Morley reported that Linda Abrams

was chosen to replace Kim Hoyle's vacated board seat. Mindy Horowitz was the other candidate that was being considered for the opening.

- **BOROUGH ADMINISTRATOR** – Borough Administrator Reibrich said that she was in receipt of letters from Liz and Freddie Brown, 718 Bendermere Avenue, thanking the efforts of the Allenhurst Fire Department and the Deal Police for their response to a small house fire on Christmas Eve. Special thanks were extended to Captain Eagan for his diligent efforts in the safe return of their dog that got loose during the fire.

## **6. COMMENTS FROM THE PUBLIC**

Mayor Nohilly opened the floor for public comment.

Catherine Wolf, 410 Buttermere Avenue, stated that there is water flowing from 605/607 Grassmere Avenue that is causing icing conditions in the street and wanted to know what action is being taken by the Borough to remedy the situation.

Borough Administrator Reibrich stated that the Code Enforcement Officer, Sal Massaro, was asked to contact the homeowner regarding the icing conditions. The Deal Police Department put up cones to redirect traffic around the ice.

Borough Administrator Reibrich stated that some time ago it was discovered that this property had their sump pump line running into the sanitary sewer line. The homeowner removed the line and redirected the pump to flow on to the property. The water is now running off the property causing the issue, but the homeowner is willing to do anything the Borough requires to remedy the situation. Business Administrator Reibrich stated that Code Officer will be in contact with the homeowner.

Council discussed the situation briefly. Councilman Napoli suggested to Council that a sump pump line may need to be installed in the street and suggested that Council request the Borough Engineer, Peter Avakian, to give council a cost for such a project.

Mr. Tilton, Shade Tree Commission member, 505 Bendermere Avenue, asked the Council for a status of the Tree Ordinance. Mr. Tilton stated that the Shade Tree is interested in moving forward.

Mr. Gary Layton, 606 Bendermere Avenue, stated that years ago he was directed to connect his sump pump into the storm drain and asked if that was correct. Mayor Nohilly stated that sump pumps should, by permit, be directed into storm drains and into the street. Sump pumps should not be directed into the sanitary system.

Mr. Layton stated that he sent an email regarding a leaning tree on the SW corner of Westra Street and Bendermere Avenue stating that it was a potential hazard. Mr. Layton asked, if the homeowner had been contacted.

Mayor Nohilly stated that the prior Council in 2013 unanimously wanted to move forward with a tree preservation ordinance. It was of unanimous concern.

Mayor Nohilly stated that the Council was reviewing Ocean Township's Ordinance that Councilman Napoli brought to the table to make it shorter and more concise. Councilman Napoli along with the other Shade Tree Committee members, Councilman Miller and Councilman Morely, were working on a draft to be brought back to Council.

Councilman Napoli stated that the Committee had a draft.

Councilman Napoli stated that there was also an ordinance pertaining to dangerous and felled trees. He said that the Council previously reviewed this ordinance also and the only point that could not be agreed upon was the issue of trees that fall into the lake.

Councilman Napoli stated that the committee wanted to bring both ordinances back to the Board at a January meeting but there is not a consensus at the committee level. Councilman Napoli stated they would like to take it back to Council at a workshop meeting. Mayor Nohilly stated that eventually the matter should come back to Council to review.

Mr. Layton stated that he called the Borough and was told that the Borough could not do anything because the tree was on private property.

Mayor Nohilly stated that there is no process at this time to force the homeowner to do anything about a hazardous tree. In the past, if the tree was truly a hazard, the homeowner was contacted and the homeowner usually complied with the request.

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

**7. RESOLUTION 2014-38: AUTHORIZING EXECUTIVE SESSION**

*Contract Negotiations: TOSA  
No Formal Action Will Be Taken Upon Return to Open Session*

**EXECUTIVE SESSION**

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 and P.L. 2001, C. 404, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Borough Council of the Borough of Interlaken wishes to go into a closed Executive Session and is of the opinion that such circumstances presently exist which should not be discussed in public, and

WHEREAS the Open Public Meetings Act pursuant to N.J.S.A. 47:1A-1 and N.J.S.A. 10:4-12 permits the Borough Council to discuss this certain matter(s) in private, and in this case for the purpose of the Borough Council to discuss:

**CONTRACT NEGOTIATIONS: TOSA**

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Interlaken that it will go into an Executive Session for the purpose of the Borough Council to discuss the above mentioned subject; and

BE IT FURTHER RESOLVED that formal action will not be taken upon return to open public session subsequent to the executive session. Public comment will be allowed after the executive session.

BE IT FURTHER RESOLVED that the results of such discussion may be revealed at such time as the matter(s) are resolved and/or a contract(s) is signed and/or the negotiations are concluded and/or the new personnel are hired and/or within 30 days of the date of this closed session discussion. Interested parties may contact the Borough Clerk/Administrator anytime during normal business hours for periodic updates as to the availability in this regard.

Council President White made a MOTION TO AUTHORIZING EXECUTIVE SESSION, seconded by Councilman Morley.

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

**8. RETURN TO OPEN SESSION**

Council President Miller made a MOTION TO RETURN TO OPEN SESSION, seconded by Councilman Miller.

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

9. **COMMENTS FROM THE PUBLIC** - Mayor Nohilly opened the floor for public comment. With no public present, Mayor Nohilly closed the floor.

**10. COMMENTS FROM MEMBERS OF COUNCIL**

Councilman Napoli stated that he wants the record to state that he was in unanimous approval for the Buttermere Avenue project but that he raised strenuous objection to the project during the committee meeting. It is reflected in the minutes. Councilman Napoli stated that he agreed in the beginning that the roads need paving, but placed “a (\*inaudible\*) urgency of approving this project without further study.”

Councilman Napoli posed questions to Mayor Nohilly regarding the Mayor’s acceptance of Councilman Miller’s remote access attendance to the meeting.

Councilman Napoli stated that he respectfully disagrees with Borough Attorney’s opinion regarding Councilman Miller’s remote attendance of the meeting.

Councilman Napoli questioned the Mayor about whether he would consider establishing a policy that any member of the Council or the Public could participate at the meeting in the same way Councilman Miller does.

Mayor Nohilly stated that Councilman Napoli and Councilman Miller presented him with the request after they had already contacted Borough Attorney Shakelee for his opinion on the matter. Mayor Nohilly stated his response to the request was that he needed to confer with Borough Attorney Shaklee.

There was a brief discussion between Borough Attorney Shaklee and Councilman Napoli regarding remote public participation and the participation of Council members.

Councilman Napoli asked that it be put on record that he believes that Borough Attorney Shaklee is

Councilman Napoli stated for the record that he feels Borough Attorney Shaklee is misreading the statue and applying it incorrectly. Councilman Napoli feels that the statue was designed to stop illegal meetings. Councilman Napoli referenced The Sunshine Act which defined a “meeting” and put forth requirements regarding meeting notice and rules regarding invitees.

**11. ADJOURNMENT**

Council President White made a MOTION TO RETURN TO ADJOURN, seconded by Councilman Cohen.

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

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