

**BOROUGH OF INTERLAKEN
WORKSHOP MINUTES
APRIL 25, 2018
7:00 P.M. BOROUGH HALL**

The workshop meeting of the Borough of Interlaken was called to order at 7:00 p.m., by Council President White. Sunshine Statement was read by Borough Clerk Reibrich. “The notice of the requirements of the Open Public Meetings Act has been satisfied by forwarding notice to the Coaster and Asbury Park Press. A copy of the notice is posted on the Borough bulletin board and is on file in the Borough Clerk’s office.”

Present: Council President White, Council members: Butler,
Franks, Gunn, Horowitz and Watson

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

Absent: Mayor Nohilly

1. **EVENT SUPPORT FOR CHARITIES** – *such as Paint the Town Pink and others*

Council President White opened the discussion regarding support for charity events. There was some discussion at a prior meeting about a “Paint the Town Pink” event that a resident approached Council about which prompted the subject to be scheduled for a workshop discussion.

Borough Attorney Shaklee suggested that the Board think of the subject as not just the singular event, but inclusive of other events that may be requested. If the Board is talking about putting ribbons on Borough poles, one may argue that those are some form of public forum. One might argue that, if a group wanted to do that and was denied, that other groups had it, then there was some kind of content decision being made. That raises some First Amendment implications. That is not to say that you could not choose between them, but you would have to articulate a reasonable basis why you would choose one over the others. That is something to keep in mind. If you are talking about poles, arguably what is in public forum, you are supposed to be content neutral. You have to have a reasonable basis to choose one over the other.

Council President White noted that there is a similar issue regarding First Amendment issues in Asbury Park going on now.

Borough Attorney Shaklee asked the Board not to think of the current event in isolation.

Councilman Gunn noted that it is a door opening question. If the Board says, “Yes”, to this event, it is opening the door to other requests. The Borough would have to have a darn good reason for not letting them in. Borough Attorney Shaklee agreed. The Board would have to have a reasonable basis not to allow it.

Council President White asked, what if a resident requested to put up ribbons on their own to advocate for an organization and they were the ones putting up the ribbons or a banner in front of Borough Hall.

Board Attorney Shaklee stated that if a citizen did it and the municipality did not take it down, the Borough would still have imprimatur on it. It would be the same thing as the Borough putting it up.

Councilman Watson stated that he recently viewed a Land Use Training which spoke to law suits and litigation exactly to this type of situation. Councilman Watson feels the cause is terrific, but believes this creates liability for the Borough, if you have to pick winners or losers down the road.

Board Attorney Shaklee stated that maybe thinking ahead and limiting support only to health causes or that sort of thing. Even then, you may get a group that challenges that.

Councilman Watson stated that there are more towns that do not participate than do. Council President White agreed. The cause for this specific organization is sponsored by the businesses. Towns along Route 71 and also Sylvania Avenue are supporting it. It is done in Neptune City.

Council President White stated that if Council does not want to take on that responsibility or that risk, the Borough can let the resident know that, due to liability, we cannot do it. The Board is not doing it for anyone else that would come forward either.

Borough Attorney Shaklee said the Board decides at the workshop whether there is enough support to put it on a regular meeting in the future.

Councilwoman Horowitz asked if it is a liability issue. Councilwoman Horowitz suggested narrowing the parameters to health issues or such. Causes could be supported and it could decrease the liability issues.

Council President White stated that the "Paint the Town Pink" event is a business type of event. The businesses are the ones putting out the banners. Council President White thinks the resident came to the Borough, because they know there is a visible road and people would see it. Council President White stated that in Spring Lake, there are four posts in front of his business and he puts ribbons on the poles and the organization provides a banner for the window.

Councilman Franks asked, "Who would take the ribbons down?" Councilman Franks asked Board Attorney Shaklee if narrowing it down to where we wouldn't be exposed to other organizations other than charity organizations related to health issues would be a solution.

Council Attorney Shaklee stated that the Board could establish it as a resolution. That would be a reasonable basis. It cannot be guaranteed that if someone that falls somewhat out of that parameter makes an application and is denied will not go to court or that some judge will not see it another way.

Councilwoman Horowitz stated that it was her opinion that that is farfetched.

Councilman Watson questioned how much awareness Grassmere Avenue is going to generate. It is a great cause, but you have to weigh out what it is you are opening the door to.

Councilwoman Horowitz doesn't think it would be a lot of hoops to jump through once you accommodate this event. Councilwoman Horowitz's mother had breast cancer. It is a great cause. It would be good for our town to see that the Borough is acknowledging it. Councilwoman Horowitz does not think that anyone is going to argue against supporting a cancer cause.

Board Attorney Shaklee stated that it could be done and then at some point in the future the Board could come up with a resolution/ordinance about the policy. It may include that you would need a permit and has to be for this specific reason.

Borough Clerk/Administrator Reibrich asked the Board to think about what accommodations we would be granting for this request. Accommodations would have to be made for everyone else.

Councilwoman Horowitz questioned why the Borough would be taking it on. Councilwoman Horowitz asked who would be going out to buy the ribbons. The organizations should be supplying their own ribbons.

Council President White offered to take care of the ribbons, if Council felt that they would allow the Borough to support that organization for the month of May.

Councilwoman Horowitz believes that supporting an event is actually participating. If the Borough allows an organization to use our park, we are not supporting, but permitting. We are saying you can use our property, but you have to figure out how you are going to do it and clean it up.

Council President White stated that would be done by resolution and ordinance.

Borough Attorney Shaklee stated that maybe there would be a waiver.

Borough Clerk/Administrator Reibrich is hesitant to offer to do the work for this event. It is a concern that the Borough would do all of the work for this one, then if another organization wants to put orange ribbons up the Borough would have to do the work for them.

Councilwoman Horowitz stated that Council does not want to say, "No.," to the cause but she does not want to say we are committing our resources and we are going to do it for you.

Council President White stated there would have to be a resolution or ordinance which would set the rules.

Councilwoman Horowitz asked what would happen, if someone just went and did it and nobody complained.

Board Attorney Shaklee stated that, if you don't take any enforcement action nothing would happen.

Councilman Watson asked what is stopping residents from just doing it on their own property.

Councilwoman Horowitz stated that it would not have the same impact as a well-traveled road. It would be a nice community thing to do.

Council President White stated that there is a resident in town who is involved with the organization personally.

Councilman Butler stated that he does not have a personal issue with the event, but also does not want to open the door to be backed into a corner by some organization that we don't feel comfortable with. He does not know if it is worth it to have to have a particular ordinance for it and to have to evaluate every charity.

Councilman Gunn asked if what we would be doing along Grassmere Avenue is consequential.

Councilwoman Horowitz does not believe that there will be 300 residents coming in to ask what the pink ribbons are for. They may not notice it or they may say, "Wow. It's supporting cancer month. That is kind of cool."

Council President White stated that it sounds like the issue is not something that is going to be put forward or that Council will spend any time on it.

Councilman Gunn agreed and pointed out that another ordinance is another ordinance. It is work that needs to be done and maintained. Why add another ordinance, unless there is a benefit and it is truly not consequential?

Council President White opened the floor for comments from public, with no public present, the floor was closed.

2. **NEW BUSINESS:** No new business was discussed at this time.
3. **COMMENTS FROM THE PUBLIC:** Council President White opened the floor for public comment.

With no public comment, Council President White closed the floor.

4. **ADJOURNMENT:** Councilman Butler made a motion to adjourn, seconded by Councilman Gunn and unanimously carried.

| | Mayor Nohilly | Council President White | Councilman Franks | Councilman Gunn | Councilwoman Horowitz | Councilman Butler | Councilman Watson |
|-------------------|---------------|-------------------------|-------------------|-----------------|-----------------------|-------------------|-------------------|
| Motion to Approve | | | | | | X | |
| Motion to Second | | | | X | | | |
| Approved | | X | X | X | X | X | X |
| Opposed | | | | | | | |
| Abstain/ Recuse | | | | | | | |
| Absent/ Excused | | | | | | | |

Lori Reibrich, RMC
Borough Clerk/Administrator