



## **Programs & Services Committee Report**

### **City of Newton** **In City Council**

**Wednesday, February 3, 2016**

Present: Councilors Rice (Chair), Leary (Vice Chair), Kalis, Auchincloss, Baker, Sangiolo and Schwartz

Absent: Councilor Hess-Mahan; Also Present: Councilor Norton

City Staff: Bob DeRubeis (Commissioner, Parks & Recreation), Karyn Dean (Committee Clerk)

#### **Referred to Programs & Services and Finance Committees**

**#45-16**

**Request to authorize transfer of \$60,000 to the Parks and Recreation Department**

HIS HONOR THE MAYOR requesting authorization to transfer the sum of sixty thousand dollars (\$60,000) from the Parks and Recreation Department Full-time Salaries Account to the Parks and Recreation Department Forestry/Tree Services Account for the purpose of funding contracted services in the Forestry Division of the Parks and Recreation Department. [01/25/16 @ 4:06 PM]

**Action: Programs & Services Approved 6-0 (Councilor Schwartz not voting)**

**Note:** Bob DeRubeis, Commissioner of Parks & Recreation addressed the Committee. He explained that the Forestry Division has expended funds of approximately \$216K in the following areas: proactive safety work in parks and playgrounds (\$80K); emergency work (\$48K); debris disposal (\$27K); log truck rental (\$36K); and tree removal (\$25K). In past years, they have typically expended \$40K to \$100K in the February to June timeframe; therefore, they are requesting this \$60K to fund anticipated costs for contracted services in the next few months.

A Committee member noted that contracted services were more expensive than in-house personnel. The Commissioner agreed, noting that five of the six available positions in the Forestry Division have been filled and he hopes to be fully staffed in three to four weeks.

It was asked if the Rumford Avenue facility could be used for debris disposal. The Commissioner explained that certain debris, like large logs, goes out of the City because Rumford Avenue is capped at this point for that type of material. They have handled it in this way for a number of years because the EPA does not allow that type of debris at a facility like Rumford for an extended period of time, so they move it out frequently. When asked if a tub grinder could be used, the Commissioner said that the cost was prohibitive at about \$25K-\$30K per rental. The Department has considered purchasing one but it is a very expensive piece of equipment with very high maintenance costs.

Councilor Kalis moved approval of this item and the Committee voted in favor 6-0.

**#31-15 Proposing an ordinance to limit leaf blower use**

PROGRAMS & SERVICES COMMITTEE proposing an ordinance to limit the use of leafblowers. [01/26/15 @ 2:20 PM]

**Action: Programs & Services Held 7-0**

**Note:** Chair, John Rice, explained that he would like to utilize the two meetings in February to work through any outstanding issues in the leaf blower ordinance and produce an updated draft in time for a special Programs & Services Committee meeting on March 7<sup>th</sup>, following the full Council meeting. The hope is that the rest of the Council will attend to provide input and have any questions answered by Committee members. This will be helpful in getting this item to the full Council for a final vote with as many issues worked out as possible.

Councilor Leary prepared a summary of the leaf blower ordinance in its current draft, as well as proposed amendments and suggestions provided by several stakeholders, along with outstanding provisions to be determined. The summary was provided to the Committee and is attached to this report.

Hours of Operation

Councilor Kalis felt that some accommodation should be made during the fall when Daylight Savings Time ends and it gets dark earlier. He suggested allowing a start time an hour earlier than proposed and ending an hour earlier than proposed. Landscapers have mentioned that it would be difficult to get all their work done in the proposed time frame when daylight is shorter. Councilor Leary felt switching the hours in this way would exacerbate any enforcement issues and would be confusing for everyone. Only the leaf blower use would be restricted in this timeframe and other landscaping work could still be done.

Councilor Schwartz questioned the proposed Sunday, resident only use restriction. It was explained that the landscapers have testified that they do not work on Sundays, and that residents have testified that they would like to be able to tend to their yards on both days of the weekend. Previous discussions relative to religious practices have guided this decision as well so as not to unduly burden any one group and favor any others.

- *Several Committee members preferred to maintain the hours of operation currently in the draft ordinance, however, one or two members were still not sure.*

***No change made to draft ordinance***

Seasonal Ban/Exemptions/Management Plans

Councilor Leary reminded the Committee that several groups, including the professional landscapers, golf courses and colleges/universities, testified that they would like to remove the summer ban completely. The winter ban does not seem to be as troublesome. She felt that keeping the summer ban in place but allowing the larger parcel owners to submit a Management Plan to the City as a way to accommodate some of their specific needs would be a good compromise. They would still have to comply with certain conditions of the ordinance, but be

granted some exemptions, to be determined. Councilor Baker felt the terms of the exemptions should be very specific and particular and not allow for broad exceptions. Only unique needs and circumstances should trigger an exemption. Councilor Baker also suggested that only electric leaf blowers be allowed in exemption circumstances.

The City of Cambridge follows this Management Plan model. It has implemented a seasonal ban, requires Management Plans from large parcel owners, and has a policy of best practices. Councilors Sangiolo and Leary have spoken to representatives there and they have reported good cooperation with the large parcel owners and overall good results with this model.

There is also the issue of exemptions for the City as Bob DeRubeis, Commissioner of Parks & Recreation has testified that his crews use the machines in a variety of ways most of the year. Councilor Baker mentioned that the same type of careful review should apply to the City. Regulating equipment used and granting exemptions as sparingly as possible could help to balance the needs of the City and the needs of the residents. Councilor Leary felt that the City should not be using leaf blowers to remove debris from sidewalks. Perhaps this could be in Best Practices for the City. Councilor Schwartz suggested that it be adopted for any large parcel exemption that blowers cannot be used for clearing hard surfaces like garages and sidewalks.

Councilor Norton felt that it was important to keep in mind the distress and concerns of the residents who have brought this issue to the Council. If the Committee eliminates or loosens to broadly the proposed restrictions in order to satisfy large property owners, there will not be an effective leaf blower ordinance in place and little or no relief will have been achieved. Looking out for small operators by going to a seasonal ban which accommodates when they most need leaf blowers to do their job is one thing, but having just attended a week long climate change symposium at Boston College, it seems a bit off-putting to her that they can't figure out how to limit their use of leaf blowers.

- *The Committee agreed that a seasonal ban should stay in place.*  
**No change made to draft ordinance**
- *The Committee agreed that a policy for exemptions for large parcels and the City, such as a Management Plan, should be considered with very specific criteria in order to minimize as much as possible the use of leaf blowers. Committee members will research the Cambridge plan and model and report back to suggest possible changes.*  
**No change made to draft ordinance**

#### Limiting Number of Leaf Blowers per Lot

The current draft allows for one leaf blower in operation per 10,000 square feet. Several groups suggested lowering that limit to 7,500 square feet. Some Committee members felt that using more than one leaf blower at a time, while quite a bit noisier, would get the job done in a shorter period of time and that might be desirable. Other Committee members commented that while this is a balancing act, allowing more noise is not what they would like to see happen and instead would

like to encourage use of these machines only when absolutely necessary instead of as a means to get things done faster, no matter the noise level. There was also concern that this would be difficult to enforce.

- *Five members of the Committee would like to maintain the 10,000 square feet provision while two members would like to amend it to 7,500 square feet.*

***No change made to draft ordinance***

#### Electric Leaf Blowers

Councilor Auchincloss asked what the discussions have been relative to electric blowers. It was explained by several Committee members that there was a demonstration with an electric blower and while perhaps not as effective and fast, it did do a good job and the technology is quickly improving. The electric machines could handle quite a bit but some landscapers have testified that they would not be powerful enough to tackle heavy wet leaves. Also, the machines were still loud and as they become more powerful, they will get louder still and like their gas-powered counterparts, they do blow around dust and other particulate matter. This leaf blower ordinance, however, and the trend towards more seasonal bans and restrictions, is hopefully sending a message to the industry that there is a need for quieter, less polluting machines. With this in mind, Councilor Baker would support an ordinance that moves towards electric use in three years, as the technology should be much improved by then.

- *While there have been suggestions that the ordinance include a transition to only electric blower use in three years, that has not been definitively decided.*

***No change made to draft ordinance***

#### Decibel Levels

Some groups have expressed an interest in raising the allowed dB level to 77 from 65. The professional landscapers have testified on several occasions that the machines they routinely use are in the 77dB range and the demonstration that was given in October confirmed that via decibel meter readings. They report that the lower dB rated machines do not have enough power to efficiently do the work, especially on heavier, wet leaves. Enforcement of the 65dB level has been difficult because of inconsistency with reading the meters, understanding how to take the readings, and response time by police as they have to go to the police station and retrieve a meter. Often the operator of the leaf blower has stopped or moved on by the time they arrive on scene with a meter. The proposed draft is attempting to take any decibel meter readings out of the equation by requiring a manufacturers label on machines used in the City that clearly state their dB level.

#### Transition Period for dB Levels Requirement

Some Committee members proposed allowing the higher dB levels for a transition period since the machines used by landscapers and those contracted by the City are already in the higher range. If the current ordinance were to be routinely enforced, most machines currently in use would not be allowed. After the transition period, all machines would have to be certified at 65dB. It would still

be progress in getting to a quieter place and gives people the opportunity to switch equipment in a way that won't cause a financial hardship. It was suggested the machines last about 3 years and can cost anywhere from \$275-\$550. There have been no data supplied to support what any financial impacts the landscaping contractors or their clients might face with a change to lower dB machines, electric machines or a combination of methods including racking.

Councilor Baker did not think it was good public policy to devise a new ordinance to accommodate the fact that the current one is being violated. Other members felt that raising the level was completely counterintuitive to the purpose of this ordinance and sent a very bad message. The goal is to change behaviors and move towards a quieter mode of operation by looking for alternative solutions. The cost of the leaf blowers is only one part of the capital investment that landscapers make in their business and only one tool. The 65 dB level has been part of the ordinance for years so the opportunity to purchase equipment that is in compliance has been there. The 32,000 households in the community, many of whom do not use landscaping contractors, many of whom have difficulty working from home or enjoying a reasonably peaceful atmosphere while home, need to be considered. Councilor Auchincloss pointed out that Cambridge allows 65dB and their model is successful, including work being done by the City.

Councilor Auchincloss wondered if machines should be certified by a City department and if there should be a registration process for all contractors operating in the City. Committee members said there was some discussion of that but it had not been decided. It could be onerous for contractors and for the City. Machines come with manufacturers labels that state their dB levels that are easily identifiable. This would make enforcement easier and would not rely on dB level meter readings.

The Committee wondered if a reasonable transition period should be determined by the lifespan of a piece of equipment, or by how long it would take to educate the community about the rules, adjust to them and still be competitive. Some Committee members felt that the transition period should apply only to the decibel certification of the equipment. Councilor Schwartz felt the entire ordinance should have a transition period as the companies will need time to adjust on all fronts. Some felt it might be better to start with the transition on just the certification of the machines, and have some room to move to a transition period for the entire ordinance if necessary.

- *The Committee agreed to maintain the 65dB level and not raise it.*  
***No change made to draft ordinance***
- *Four Committee members felt a transition period should be in place for the requirements under Chapter 20, Section 13(h)2.C. "Leaf blowers must bear an affixed manufacturer's label documenting a noise rating of 65dB(A) or less". Six months was suggested as the length of the transition period, but not agreed to definitively and no specific date chosen. The noise ordinance will govern the dB level of leaf blowers when complaints are brought forward*

*during the transition period. Three Committee members felt the entire ordinance should have a transition period.*

- ***Change would be made to draft ordinance, but more direction needed.***
- *There was discussion about a registration and certification process for contractors and leaf blowers with the City, but that was not definitively agreed upon.*  
***No change made to draft ordinance***

#### Debris Amendment

Councilor Hess-Mahan had proposed an amendment to the noise ordinance to prohibit leaves, debris and dirt being blown onto neighboring properties and City streets by leaf blowers. The Law Department had suggested that those regulations would not be within the scope or purpose of the noise ordinance, but could be placed in two other places: Chapter 11 Recycling and Trash; and Chapter 20-51 Depositing of Litter.

- *Councilor Hess-Mahan was not in attendance and had asked for the opportunity to speak to this. It will be discussed at the next meeting.*  
***No change made to draft ordinance***

The Committee would like to have Commissioner DeRubeis come to the next meeting to discuss all these recommendations further and the impact on his department.

The Committee voted to hold both items.

**#31-15(2) Amend Noise Ordinance restrictions for yard maintenance equipment**  
THE PROGRAMS & SERVICES COMMITTEE requesting to amend *Chapter 20-13, Noise Control*, relative to time restrictions on the use of yard, garden or grounds maintenance equipment. [03/19/15 @ 12:14 PM]  
**Action: Programs & Services Held 7-0**

**Note:** See note above as these items were discussed together.

**Respectfully Submitted,**

**John B. Rice, Chair**

## Leaf Blower Summary for Programs & Services Committee

Draft Ordinance: <http://www.newtonma.gov/civicax/filebank/documents/69839>

Why take action on leaf blowers?

Largely 2-stroke engines

- No emissions controls
- Inefficient burning of fuel
- Highly polluting
  - Grades
- Commercial (3–6 hp)
- *Residential (1–3 hp)*
- Physical configuration
  - Handheld
  - Backpack (commercial)
- Air jet velocity=150-280 mph

Although specific clinical studies are lacking, leaf blower noise is recognized as a source of adverse health effects. American Lung Association: Use hand-powered or electric lawn care equipment rather than gasoline-powered. Two-stroke engines like lawnmowers and leaf or snow blowers often have no pollution control devices

Leaf Blowers are loud often exceeding the noise level of 65 decibels. In fact, most leaf blowers are louder than 85dB and some are up to 1000x noisier.

### **Draft ordinance includes:**

#### Hours of operation:

Monday-Friday 8:00am to 5:30pm

Saturday 9:30am to 5:30pm

Sundays and Legal Holidays Resident use only 9:30am to 5:30pm

#### Seasonal ban on operation of leaf blowers:

May 15<sup>th</sup> to September 15<sup>th</sup> and December 15<sup>th</sup> to March 1<sup>st</sup>

#### Other restrictions:

One leaf blower per 10,000 square feet.

Mayor may grant exemptions from leaf blower ordinance during emergencies.

Leaf blowers must be manufactured after January 1, 2005 for EPA Class 4 engines and after January 1, 2008 for EPA Class 5 engines;

Leaf blowers must bear an affixed manufacturer's label indicating the model number.

**Best practices include:**

General Courtesy  
Sound Reduction  
Reduction of Dust/Particulate Matter  
Environmental Use  
Operator training

**See Cambridge's model:**

<https://www.cambridgema.gov/theworks/ourservices/leafblowing/commercialoperators/commercialoperationsbestpractices>

**Large Parcels:**

Cambridge has operational plans that are managed by the City in order to mitigate the effects on the neighbors of large parcels; private and public schools, parks, and golf courses, that model could be followed in Newton.

*Discussion for Committee: Should we explore a specific exemption for large parcels, such as a golf courses and large institutions like B.C.? Can this be done while still protecting the health and quality of life for Newton residents?*

**Review of Comments****Commissioner DeRubeis, Parks & Recreation**

- Partial ban will have an impact on maintenance, forestry and beautification.
- The City uses blowers on pave surfaces to clear village centers of trash/debris. Blowers used as early as 4am. Four staff clean 18 linear miles of sidewalk by backpack blowers.

*Discussion for the Committee: Should the City of Newton consider transitioning to greener technologies such as electric equipment which are less noisy and do not emit toxic emissions? Should the City be using blowers on hard surfaces at all?*

**Steven Buchbinder representing Brae Burn Golf course**

- Amendments include:
  - Eliminating the summer seasonal ban
  - A start time of 7am on weekdays (instead of 8am)
  - A Saturday start time of 9am. (instead of 9:30am)
  - One leaf blower per 7,500 square feet (instead of 10,000 square feet).
  - Increasing the allowable decibel level for the noise ordinance to 77 dB (from current 65 dB) and keep the dB level at 65 during the summer months
  - Property owners notified of violations



- Mr. Buchbinder remarked that a lack of recognition of current laws and poor communication exacerbate the problems with leaf blower use. Education and outreach can help alleviate leaf blower complaints.
- Proposal that all landscapers/contractors using leaf blower equipment register with the City for an annual fee of \$100.00; upon registration a sticker visible on windshield is issued. The registration process would include a best practices training on the use of leaf blowers and members of the ad hoc working group are prepared to have a seminar at which best practices would be discussed. Exemption for large property owners would require a comprehensive operations plan with the City similar to what is used in Cambridge; this allows more flexibility that addresses needs of these larger institutions.

*Discussion for the Committee: Should we raise the decibel level to 77 dB? What would be the reason for doing so? Equipment louder than 65dB is routinely used, this step would legalize it. Should large property owners be exempt from seasonal/time restrictions if a comprehensive operations plan is on file with the City?*

#### **Faith Michaels –Faithful Flowers landscape Design**

- Newton Leaves: represents the interests of professional landscapers and large landowners including Boston College, golf courses and the Newton Cemetery Corporation.
- Oppose any outright bans on leaf blower equipment because it restricts the ability to properly maintain public and private properties.
- Problem with a summertime ban; still a need to clean/remove;
  - Grass clippings and tree droppings
  - Tennis courts, parking lots, gutters and turf fields.
  - Leaf blowers offer the convenience of a quick clean up.
- Argues that machines of 67dB's or less are not powerful enough for heavy leaves in the spring and fall, and the electric blowers are not an adequate replacement for the gas powered machines.
- Newton Leaves would implement best practices for commercial landscapers (could also be pertinent to residential use) and offer training sessions and information, including a pamphlet in multiple languages about the city's regulations and recommended best practices.
- They would make available a list of registered and insured contractors who engage in best practices.
- Newton police liaison would be involved in best practices enforcement registration of contractors and inspection of equipment.

*Discussion for the Committee: Is it reasonable to substitute alternative equipment, as well as manual brooms and rakes instead of relying on leaf blowers for every job?*

*Discussion for the Committee: Would it be suitable to include Councilor's Hess Mahan amendments within best practices?*

**Jeanne Leveque-Boston College**

- Leaf blowers used year round at B.C., and are used for removal of salt, debris, sand and light snow. They are also used for clean ups in parking garages, stadiums and parking lots.
- Large property owners of 2 acres or more eligible to file operation plan with the mayor's office or designee. It would NOT allow an exemption from maximum noise levels.

**Jamie Banks, Executive Director of Quiet Communities**

- If the City of Newton could consider a transition to greener methods it could be very beneficial as it has been in other places. A clean, quiet environment would be wonderful and costs may go down as well. More and more customers desire quiet landscapers and it could be a very competitive business model for those who want to differentiate themselves.

*Discussion for the Committee; should we move towards a phase out of all gasoline leaf blowers by January 1 2018 and allow only electric equipment as per Councilor Baker's amendment?*

**Sean McLaughlin, General Manager of the Brae Burn Country Club**

- Primary leaf blower use on greens
- Blowers are use for 3-4 days in August
- Avoid use on weekends as much as possible, and restrict use to the afternoon

*Discussion for the Committee: Would electric blowers be appropriate for maintaining greens on golf courses? An operation plan filed with the City could allow use of blowers if Committee recommends a summer time seasonal bans.*

**Greg Reibman NNCC**

- Proposed regulations go too far
- Maintains sweeping not practical on hard surfaces.
- Suggests that the City give best practices and self policing efforts a chance and address the abusers first. Recommends 1 leaf blower per 7,500 Sq ft.

**Eco Quiet Lawncare George Carrette; Gasoline free, organic and electric lawn care.**

- All of the ion battery equipment is under 65dB.
- The electric leaf blowers are more powerful and quieter than gasoline powered leaf blowers.
- Rapidly improving technology making electric equipment both more practical and cheaper to use.
- Upfront investment in the technology garners long-term savings.
- Mulching lawnmower excellent alternative and can complete a half acre in about an hour and a half. Clients then use the mulch for their garden beds and avoid having to haul leaves off the property. The customers save money by not having to pay for mulch.

**Kenneth Glusman**

- Maintains that only a complete ban is effective due to difficulty with enforcement- however, as an alternative supports the following;
- Supports the use of electric equipment only.
- Limit one leaf blower per 10,000 sq ft lot. In addition require the blowers to operate 100 ft. apart
- Do not allow leaf blowers to be used on hard public surfaces. Blowing on the streets and sidewalks should be prohibited.
- Keep decibel level to 65.
- The property owner gets a written notice when the contractor is out of compliance with leaf blower ordinance.
- Any landscaper in violation of the leaf blower ordinance 3 times in a 12 month period would be barred from performing landscaping services in Newton for one year.
- Skeptical of large price increases predicted by contractors if leaf blower use is restricted or seasonally banned. Cites evidence from communities (CA) where leaf blower use has been restricted, no large increases in costs have been the result.
- The amendments suggested by Mr. Buchbinder would solve the enforcement problem because there would be almost nothing to enforce. If you are looking to cut down on complaints, I can assure you than a 77 dB rule is not what you want.
- We need active enforcement. Educate on the alternatives to blowers and actively encourage a transition away from leaf blowers. Manual rakes and brooms can be efficient. Businesses can and will adapt.
- Contractors-Newton Leaves –Offer mulching leaves instead of leaf blower use and educate clients that leaf mulch improves lawns and keeps costs down by keeping tipping fees down and require less fertilizer.
- Banning/reducing leaf blower use yields tremendous and very valuable quality of life improvements. This is one reason the City banned the burning of leaves.

**Proposed Amendments**

<http://www.newtonma.gov/civicax/filebank/documents/70541/12-09-15%20Amendments%20Memo%20Packet.pdf>

<http://www.newtonma.gov/civicax/filebank/documents/70517/12-09-15%20Programs%20&%20Services%20Agenda.pdf>

**Law Dept Memo of 10/30/15**

Please note that although the Committee requested language to prohibit leaves, debris and dirt being blown onto neighboring properties and city streets, such regulation is not within the scope or purpose of the noise ordinance. Two other sections of the Ordinances may be generally applicable, however: Chapter 11 Recycling and Trash regulates proper disposal of leaf and yard waste; and §20-51 Depositing of Litter prohibits depositing discarded materials, rubbish, or litter of any kind on streets and public places and other premises without consent of the owner, except in containers set out for collection in accordance with Chapter 11.