



Programs & Services Committee Report

City of Newton **In City Council**

Wednesday, February 17, 2016

Present: Councilors Rice (Chair), Leary (Vice Chair), Baker, Auchincloss and Hess-Mahan

Absent: Councilors Schwartz, Sangiolo and Kalis

Also Present: Councilor Norton

City Staff: Marie Lawlor (Assistant City Solicitor), Karyn Dean (Committee Clerk)

#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 5-0

#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 5-0

Note: Chair of the Committee, Councilor Rice, explained that he would like to use this meeting to work on finalizing some outstanding issues in order to create a draft to present at the special Committee meeting on March 7th. His and Councilor Leary's hope is that every Councilor will attend in order to offer feedback and suggestions and to have any questions answered as to the process the Committee has undertaken and why particular choices were made. That input would be considered when creating a final draft to bring to the full Council.

Councilor Leary said she would also like to explain why they think this ordinance will improve residents' quality of life and why they believe the provisions are a compromise; spell out the seasonal, day and time provisions; explain the enforcement components which include a registration process and the requirement that equipment have a manufacturer's label which indicates that it operates at 65 decibels instead of relying on a decibel meter reading; present the formulation of best practices that must be followed to address other issues; and explain the process for hardship waivers with very specific circumstances in order to qualify.

Councilor Norton suggested providing some examples of what other communities have done. Councilor Auchincloss suggested highlighting the feedback from the Parks & Recreation and Police Departments as they are the departments that use the equipment and enforce the ordinance, respectively.

Electric Equipment

Councilor Baker wondered if they could consider moving to electric equipment in three years. Councilor Leary felt that while the technology is improving she's not sure they should put a timeline on it. She would like to keep it simpler at this point in time and it could be re-visited in the future as the technology changes and hopefully improves. The Chair took a straw vote on this issue and the Committee decided against adding the provision at this time.

Transition Period

Some Committee members felt a transition period should be put in place for requiring leaf blowers to be certified at 65 decibels. Ms. Lawlor reminded the Committee that the noise ordinance was revised in 2008 and lowered the decibel level for leaf blowers from 80 to 65 with a 4-year stepped transition period (2 years at 75; 2 years at 70). People have known since 2008 that 65db would be the allowed level for leaf blowers. Considering this, the Committee felt that no other transition periods should be necessary for equipment.

Registration

It was proposed that contractors should register with the City and be given the ordinance and the best practices so they understand what is expected and legal in the City of Newton. They would need to sign the registration to certify that they received the materials and understood them which would help with future enforcement. A contractor who was registered couldn't say they didn't know or understand the law or rules. The *Newton Leaves* organization talked to the Committee about being partners with the City in terms of educating landscapers with best practices and trainings which is an important component of this effort. Perhaps they could assist in contacting many contractors so that they know they need to register. It was unclear how all operators could be reached but hopefully most will be and the word could be spread via their colleagues, certain email lists, the website and the newspaper.

It was suggested the City Clerk's office could undertake the registration process as they are accustomed to business and dog registrations. David Olson should be consulted. It was also suggested that the City would provide a 6-month grace period for contractors to register and then require registration annually, thereafter. There will be a small registration fee, to be determined. Councilor Auchincloss was unsure registration was a necessary step. He felt the landscaping contractors would find it in their own best interest to report on their own bad actors and that might be more effective than police action. Councilor Norton felt that the registration process would show that the City was serious about enforcing the ordinance. The fines for non-registration would mirror the noise ordinance fines.

A straw vote showed majority support of the Committee for a registration requirement with a 6-month grace period from the effective date with annual registration thereafter on September 1st. David Olson will be consulted to determine if the Clerk's Office is the appropriate department to handle registration.

Exemptions/Waivers for Large Parcels

Councilor Leary explained that the management/operations plan model from Cambridge for large parcels was straightforward. Cambridge also had good examples of best practices. She suggested a modified version could work for Newton on parcels larger than 5 acres. A large parcel looking for a waiver of the leaf blower ordinance would have to submit the plan for approval. It was suggested that since the Mayor's office authorizes noise ordinance waivers, they would be the logical authority to authorize leaf blower waivers as well and consult with the Ward councilors on the applications as they do with the noise waivers. The reasons for a hardship waiver should be extremely specific and unique for which no other method or machine could handle the task. Ms. Lawlor noted that the current noise ordinance waiver provision which is based on hardship could be sufficient. The Committee agreed that the current noise ordinance waiver provision would be sufficient for leaf blower purposes and no change needs to be made to the draft ordinance.

Best Practices

The best practices, to be developed, would not be part of the ordinance but would be provided to contractors as they register with the City and be posted on the website and advertised in other ways. It is best to keep these out of the ordinance as they might change and are meant as educational material.

Debris Provision

Councilor Hess-Mahan had previously requested a provision to prohibit use of leaf blowers to blow yard waste, leaves and dirt onto public streets or onto others properties. He felt a resident should not have to go to court and spend money to prevent someone from dumping those sorts of materials on their property and he knows of someone who had to do that. This would not be a change in the noise ordinance, but would be in Chapter 20-51 as an amendment to the litter section, but related to leaf blowers. The Chair took a straw vote of the Committee and the provision was supported to add the underlined words, as follows:

Sec. 20-51. Depositing of litter.

No person shall in any manner place or deposit or cause to be placed or deposited on any street or sidewalk, or on any park, playground or other public grounds, or upon any other premises, without the consent of the owner thereof, any noxious substance or liquid or any discarded articles or materials or any dirt, leaves, grass clippings, trimmings from trees or shrubs, wood chips or other yard waste or any rubbish or litter of any kind except in containers set out for collection in accordance with the provisions of Chapter 11 of the Revised Ordinances.

It was asked if civil fines were attached to the Depositing of Litter provision. Councilor Hess-Mahan checked the ordinance and fines were not associated with this section. The Committee voted to include the following civil fines, which are the same fines for the noise ordinance, because it seemed that they should always have been included:

Sec. 20-51 Depositing of litter.

- () First offense in calendar year..... Warning*
- () Second offense in calendar year \$100.00*
- () Third offense in calendar year \$200.00*
- () Fourth or subsequent offense in calendar year \$300.00*

Respectfully Submitted,

John B. Rice, Chair