

Minutes of the Noise Bylaw Committee  
Selectmen's Conference Room  
April 16, 2015 7:00 PM

At 7:10 PM Selectman Ben Franco, serving as chair, called the meeting to order.

Mr. Franco thanked members of the committee for coming to the meeting and briefly reminded attendees what the Selectmen charged the committee with doing and how tonight's meeting related to the Selectmen's charge.

Mr. Franco informed the committee that Town Counsel's Office will hold an Open Meeting Law training on May 6<sup>th</sup>. Mr. Franco reminded the committee that everyone must undergo Open Meeting Law training this spring if they have not done so previously. Members who still need the training should call Town Counsel's Office to sign up for the May 6<sup>th</sup> training.

Mr. Franco asked if committee members were comfortable adopting the draft minutes of the last meeting that were circulated. There were several proposed edits to the minutes. By a 6-0 vote the minutes of the March 19 meeting were adopted, as amended.

Mr. Franco then turned the meeting over the Police Chief O'Leary for a presentation about enforcement of the Nuisance Control and Leaf Blower Bylaws.

Chief O'Leary offered some general comments about how the Police Department approaches its enforcement responsibilities for the Nuisance Control and Leaf Blower Bylaws. Chief O'Leary commented that most Nuisance Control enforcement occurs at night and that enforcement of both the nuisance control and leaf blower ordinances have historically been complaint driven. When a pattern of violations is observed, however, proactive enforcement does occur. For the Nuisance Control Bylaw, proactive enforcement occurs by requiring patrols to check "problem locations" early in their shift. For the leaf blower law, in 2014 the police began sending letters to contractors to educate them about the Bylaw and started to write tickets (rather than issue warnings) for violations.

Noise Control (Article 8.15 of the Bylaws):

The Chief reported no enforcement issues with this Bylaw. There have been a few instances where the police have received complaints about loud construction or early trash pickups, but speaking to the "offenders" and coming up with modified plans or pickup routes have eliminated the issues. The Chief reports that he does not have any issues with the Bylaw's lack of clarity or with the enforcement tools it affords him.

Nuisance Control (Article 8.29 of the Bylaws):

The Chief spent the majority of his time talking about the Nuisance Control Bylaw and his department's efforts to address loud parties. The Police engage in proactive education

about this bylaw to the most impacted population – college students living in Town. The department is visible on student move-in day and passes out pamphlets to students and their parents informing them about the Bylaw. The police also engage with the administrations of local colleges and universities.

There has been one enforcement issue associated with the Nuisance Control Bylaw. This issue was very technical in nature and was addressed through the use of modified verbiage when issuing a ticket. The issue has been corrected and has ceased to be a problem.

The Chief reported that the police do not use a noise meter when enforcing the nuisance bylaw and, did not see any enforcement issue with this Bylaw. In fact, the number of loud parties has decreased over the past several years do, in the Chief's opinion, to good enforcement and education.

#### Leaf Blower (Article 8.31 of the Bylaws):

The Chief acknowledged that enforcement of the Leaf Blower Bylaw has been challenging for his department. Beginning in July/August 2014 the Police Department began issuing citations for violations of the Bylaw. (Previously, they had issued mostly warnings.)

Currently, the Police Department is the only department that enforces the Bylaw. This leads to some enforcement issues because there are times when officers are busy doing other types of enforcement, and therefore, are unable to respond to complaints. Another problem cited by the Chief is situations when the police do respond, but the "offender" is not present when the police arrive. To mitigate these problems, the police try to do proactive enforcement when they observe a violation taking place.

Under questioning, the Chief told the Committee that no policy exists about issuing warnings prior to citations.

Dennis DeWitt, a member of the public, commented that he is very concerned about the issue of leaf blowers. He has called the police several times about violations but often the police do not come in time to cite the offender. He thinks the police need to start writing tickets for offences and take this Bylaw seriously.

The Chief responded that his department would be stepping up enforcement in May when use of a leaf blower becomes forbidden until the fall. His plan is again to do proactive aggressive enforcement.

Committee member Richard Nangle expressed concern about the pervasiveness of violations of the leaf blower law and that his observation is that it seems to be the same people violating the law repeatedly. In his mind, this is a quality of life issue.

The Chief responded by talking about the department's education efforts around the Bylaw and again expressed frustration about the ongoing problem of officers arriving after the source of the complaint stops.

The leaf blower education program the police operate is to annually send letters to landscape contractors that operate in Town making them aware of the Leaf Blower Bylaw and telling them when the DPW will be available to test equipment (and issue sticker ensuring confirming the equipment is compliant). The mailing also includes a copy of the Bylaw.

Michael Piering of Landscape Collaborative said he had never received that letter and was unaware that the DPW offered testing and issued stickers.

Members of the committee observed that this indicated the Police Department's mailing list was incomplete. The Chief agreed.

Mr. Franco asked how surrounding communities that also restrict the use of leaf blowers have dealt with the issue of enforcement and public education.

Mr. Piering pointed to Cambridge. Cambridge requires landscape contractors operating in the city to register before they may operate in the City. At the point of registration the companies are:

- informed about the leaf blower regulations
- required to prove that their equipment is compliant and personnel have been trained
- mandated to provide a list of the properties at which they have been contracted to provide services

The companies are charged a small registration fee. The committee expressed an interest in making this type of registration system part of its recommendations.

Mr. Piering commented that there is a perception that only landscape contractors are violating the leaf blower bylaw. In fact, homeowners are likely more frequent violators (according to Mr. Piering). Contractors have made a large investment in equipment that does not violate the dBA limit and do their best to be compliant with the times of year and days they are allowed to use leaf blowers.

Brian Logee, owner of a landscape business, agreed with Mr. Piering and observed that homeowners are largely not aware that they too are subject to the restrictions set out in the Leaf Blower Bylaw. He believes there is a perception that only contractors cannot use leaf blowers during certain times of year.

Separately, Mr. Logee believes the exemption of electric leaf blowers is a problem. He thinks much of the perceived enforcement problem is the result of electric leaf blowers being used. People are unable to distinguish between electric and gas powered leaf blowers when they hear them and, therefore, just assume it is a gas powered leaf blower being used. Mr. Logee also believes many complaints are the result of devices being

operated that are not covered by the bylaw. For example, lawnmowers or weedwackers. He believes better education of homeowners is necessary and that thought should be given to extending the bylaw to cover electric leaf blowers along with gas powered devices.

Saralynn Allaire, a Brookline resident, commented that in her experience, leaf blowers run incessantly in her neighborhood. She also commented that the Town is exempted from the bylaw. Ms. Allaire remembered that the DPW was going to try to buy equipment that complied with the dBA cap in the bylaw going forward.

Neil Gordon, a member of the committee, commented that perhaps a review of DPW's training and recent equipment acquisitions might be in order.

Irene Scarf, a committee member, suggested that the town print notices that citizens could anonymously put in their neighbors mail boxes reminding them of the restrictions on leaf blowers. This would alleviate the burden on the police to respond and assist with homeowner education. The idea did not have support with the committee.

Chief O'Leary observed that the majority of complaints stem from larger properties and contractors. There are complaints about homeowners, but those are a minority of the calls the police receive. He believes that education is important and will reduce the number of enforcement calls his department receives. He also commented that he finds enforcement based on hours and time of the year that machinery may be operated more effective and easier to enforce than limitations based on decibel level. This observation is based on enforcing the three bylaws discussed at the meeting.

Ms. Schraf commented that an effective education technique might be placing advertisements in advance of the times when leaf blowers can be used and cannot be used. Possible locations for advertising might be the side of Town vehicles (like the garbage trucks) or as an insert in tax bills that are mailed out (similar to the Brookline Community Foundation scholarship program).

Mr. Franco observed that sandwich board advertising (similar to the advertising employed for elections) might also be effective. Mr. Franco also observed that there is a section in the DPW's annual mailer specific to the leaf blower rules.

There was support for sandwich board like advertising and including an insert in tax bills among committee members.

Daniel Fishman, a committee member, asked if printing a pamphlet might also be an effective education tool.

Mr., Piering said Cambridge also does this. Cambridge prints materials in English and Spanish.

The committee thought this was a good idea and should be pursued. Chief O'Leary agreed.

At the close of the meeting the committee briefly discussed the possibility of making recommendations similar to:

- A registration system similar to what Cambridge currently has
- Enhanced education about the bylaws
  - Creation of a pamphlet (possibly in more than one language)
  - Advertising
  - Use of social media to raise awareness about the bylaws
  - Creating an insert into tax bills

The committee briefly discussed when it would next meet. Mr. Franco was charged with speaking to Town Counsel about her availability at the end of April and beginning of May.

The committee voted to close the meeting at 8:47 PM.

**Members Present:**

Ben Franco  
Neil Gordon  
Daniel Fishman  
Irene Scharf  
Judy Meyers  
Richard Nangle

**Members Not Present:**

Maura Toomey  
Beth Shuman

**Members of the Public Present:**

Saralynn Allaire  
Dennis DeWitt  
Brian Logee  
Michael Piering  
Faith Michaels

**Materials Reviewed:**

Enforcement data regarding the Nuisance Control Bylaw  
Enforcement data regarding the Leaf Blower Bylaw