

Executive Summary

The Moderator's Committee on Leaf Blowers was organized in December 2015, following a November 2015 Town Meeting motion to refer Warrant Article 10, a ban on leaf blowers, to a Moderator's committee.

The Committee submitted a preliminary report to May 2016 Town Meeting, recommended the filing of two Warrant Articles for the November 2016 Town Meeting (WA23-Change to Noise Control and Leaf Blower By-laws, and WA24-Resolution with Respect to Administration of the Leaf Blower By-law), and submits this Final Report. The Committee has recently accepted proposed amendments to WA23 and WA24, as offered by the Advisory Committee, and these comprise the recommendations of the Committee reported herein.

This Report is distributed in the Combined Reports, but the Appendices and Additional Information because of size are not distributed on paper but are available electronically. The Report, the Appendices and Additional Information are all on the Moderator's Committee on Leaf Blowers page on the Town website – www.brooklinema.gov/1288/Moderators-Committee-on-Leaf-Blowers.

The Committee recommends changes to the By-law Article 8.31 -- Leaf Blowers (WA23), and, accordingly, technical changes to By-law Article 8.15 Noise Control By-law, as follows:

1. Combine all regulations regarding leaf blowers into one By-law, Article 8.31, by moving the relevant sections of the Article 8.15 Noise Control By-law into the amended Article 8.31;
2. Make the property owner, or occupant if the property is leased, or manager in control of the property (e.g. a condo association) responsible for allowing any violation that is committed by an agent or contractor, in addition to holding the agent or contractor responsible for any leaf blower By-law violations;
3. Provide that the first offense for each party (property owner and contractor) result in a warning; and that subsequent offenses receive \$50 - \$150 fines each;
4. Change the Fall start date for permitted use of gasoline powered leaf blowers from September 15th to October 1st, and the end date from November 30th to December 31st;
5. Change the weekend and holiday use end time from 8pm to 6pm;
6. Limit the number of simultaneous leaf blowers in operation, to two, on lots of 7,500 square feet or less;
7. Retain the current 5 acre exemption for Summer use of gasoline powered leaf blowers;
8. Retain the 67dBA noise limit for leaf blowers;
9. Retain an anonymous complaint process;
10. Enable By-law exemptions, at the discretion of the Board of Selectmen;

The Committee also recommended a Resolution (WA24), that the Board of Selectmen consider assigning additional leaf blower By-law compliance and enforcement duties to the Sanitation Division of the Department of Public Works, to include:

1. Taking calls during Town Hall business hours;
2. Investigating and attempting to resolve complaints with the parties involved;
3. Working with the landscape service provider community to build awareness of noise concerns, help further the use of best practices and promote use of protective equipment for operators;

4. Working with the Police Department Community Service Officer designated to support leaf blower complaint resolution;
5. Issuing warnings and citations, as appropriate;
6. Calling on the Police Department for support and/or enforcement, as appropriate;
7. Tracking, monitoring and reporting, periodically, statistics and resolutions;
8. Communicating and educating Town residents as to their responsibilities to reduce leaf blower noise;
9. Recommending regulation changes, as appropriate;

By upgrading an existing position, rather than creating a new one, the Committee felt that this would require only a modest additional expense while making a significant contribution to increasing compliance and reducing noise from leaf blowers.

Data Gathering

During its data gathering phase, the Committee conducted an on-line survey of town residents, through the Town's website, between January and March, 2016. For purposes of receiving public feedback and comment, this survey was considered by the Committee as a complement to the public hearing process. The Committee received over 1,300 responses and over 3,600 comments.

By a wide margin, respondents did not favor a complete gasoline powered leaf blower ban, and did not favor further significant restrictions on leaf blowers.

It was reported by many that noise is their primary concern, and that enforcement of the current By-law is ineffective. Many felt that calling the police was a barrier to reporting noise violations. Also, many commented that excessive use that is currently legal (e.g., excessive cleaning or sweeping of sidewalks), is not addressed by the current By-laws.

The Committee found that complaints to the police average about 120 per recent year. The Committee's analysis of these complaints showed that over 50% of calls made resulted in "nothing found" or "OK", meaning that these calls had no impact on noise reduction. Only about 10 citations have been issued annually. (In 2016, through September 30th, just two citations have been issued.)

With the backdrop that the town has over 8,300 single/two/three family residences and apartment and condominium buildings, and over 250 landscape service providers active in town, the Committee concluded that compliance through education should be its primary focus.

The Committee felt that a two-pronged strategy for compliance and enforcement was needed to have significant impact on reducing noise: Responsibility by the Property Owner and (primarily) non-police education and enforcement of leaf blower use in Brookline.

Property Owner Responsibility

Under the present By-law, the operator of a leaf blower is liable for any violation. Accordingly, if a property owner contracts with a landscaper, the property owner is not held responsible.

The Committee believes that taking the responsibility by the Property Owner for a violation committed on the owner's property, is key to increasing leaf blower By-law compliance.

The Committee felt that with this shift in responsibility, that a written warning for the first offense would

encourage property owners to advise their contractors of a need to comply with the law and give the property owner and the contractor time before a second offense might be committed, for the contractor to come into compliance.

Non-Police Enforcement

By resolution, the Committee is suggesting that the Board of Selectmen consider assigning responsibility for Leaf Blower By-law enforcement to the Sanitation Division of the Department of Public Works. The division would take on two roles: increase compliance through communication/education, and investigate complaints and enforce the By-law, with assistance from the Police Department. The Committee believes that these efforts would be of modest cost, but could substantially increase By-law compliance and, accordingly, noise reduction.

Other Provisions

Some modest changes are proposed in WA23. These are the increase of “quiet time” in the Fall by extending the Summer prohibition of using gasoline powered leaf blowers until October 1. Also the weekend and holiday operating hours have been reduced, changing the allowed time from 8pm to 6pm.

A limit of two leaf blowers being used simultaneously on lot sizes of 7,500 sq. ft. or less has been included, as requested by a number of residents. The Committee (in live tests of leaf blowing in Larz Anderson Park) found that two blowers make little additional perceptible noise and are more time efficient than a single blower.

The proposed amended By-law would permit an exemption from the By-law, by applying to, and approval by the Board of Selectmen. The Committee felt, for example, that a school on less than 5 acres, which is excluded from the current exemption, might appropriately desire to operate equipment in the summer, to clear playgrounds or playing fields.

Introduction

The November 2015 Special Town Meeting considered Warrant Article 10, which proposed banning operation of all leaf blowers in Brookline. A proposed amendment, accepted by the Petitioners, would have continued an exemption for the Town. Town Meeting voted to refer the subject matter of Article 10 to a Moderator's Committee. Accordingly, the Moderator appointed a seven member committee: John Doggett TMM P13 (elected Chair), Dennis Doughty TMM P3 (elected Secretary), Neil Gordon TMM P1, Benedicte Hallowell TMM P15, Jonathan Margolis TMM P7, Faith Michaels TMM P5, and Maura Toomey TMM P8. The Committee was organized in December 2015, and adopted the following charge:

“To review and evaluate the provisions of the Town's By-laws, Article 8.15 – Noise Control (with respect to Leaf Blowers), and Article 8.31 - Leaf Blowers. The Committee will consider the Selectman's Noise By-Law Committee report, leaf blower abuses, inappropriate uses, best practices, provisions used in other towns, property owners' responsibilities, landscaping service provider responsibilities, Town responsibilities, enforcement issues, and other relevant matters.”

Summary of Meetings and Activities

Through 10/26/2016, the Committee met 17 times, including 2 public hearings and an observed a live test event of leaf blower operations, in Larz Anderson Park. The Committee also received responses from 1,312 residents from an on-line leaf blower survey that the Committee sponsored.

The Committee divided its work into three phases: data gathering; analysis and solutions; and recommendations and report. The Committee's goal was a final report and, if indicated, warrant article(s), for the Fall Town Meeting in November, 2016.

Meeting agendas included:

- Review of the 6/24/2015 Selectman's Noise By-law Committee's report and findings;
- Review of current noise control and leaf blower regulations Articles 8.15 and 8.31;
- Public hearing on the subject matter of Warrant Article 10, current noise and leaf blower by-laws, and related matters;
- Examination of leaf blower complaint data;
- Review of police enforcement activities;
- Review of the results of a 16 question online survey
- Discussion of the leaf blower regulations of more than 20 other municipalities;
- Evaluation of noise levels and leaf clearing efficiency of different machines (both gasoline and electric) in a live trial conducted by the Parks & Recreation Department;
- Learning about technology developments for noise and battery improvements from a leading manufacturer;
- Meeting with various Town officials and employees, to discuss leaf blower operations, enforcement, health issues related to leaf blower operations, and the legal aspects of current and proposed regulations;
- Consideration of a variety of solutions for leaf blower noise mitigation; Drafting of two warrant articles (By-Law amendment and a Resolution related to mitigation and enforcement) for November 2016 Town Meeting consideration.

Current Leaf Blower Regulation

Currently, there are two By-laws that regulate leaf blowers and leaf blower use: Article 8.15 – Noise Control¹ and Article 8.31 – Leaf Blowers².

Article 8.15 limits the sound level and operational hours of portable leaf blowers. Portable leaf blowers are limited to 67dBa or below sound level, which must be indicated by a sticker on the device, either from the manufacturer (for machines after model year 2010) or from the Town, through testing by the DPW. Operational hours are restricted to between the hours of 8am to 8pm Monday through Friday, and from 9am to 8pm on Saturdays, Sundays and holidays.

Article 8.31 further limits the operation of gasoline powered leaf blowers, to the periods between March 15th and May 15th, and between September 15th and December 15th, in each year.

1 Town of Brookline General By-laws P356 - <http://www.brooklinema.gov/DocumentCenter/Home/View/353>

2 Town of Brookline General By-laws P465 - <http://www.brooklinema.gov/DocumentCenter/Home/View/353>

Exceptions to this provision are:

- Use of leaf blowers by the Town and its contractors;
- Use by nonresidential property owners with parcels that contain at least five acres of open space;
- Use of leaf blowers in an emergency declared by the DPW Commissioner.

Article 8.31 may be enforced by a police officer, Building Commissioner (or designee), DPW Commissioner (or designee), or Director of Public Health (or designee), and provides for a warning or \$50 fine for the first offense, \$100 for the second offense and \$200 for the third and subsequent offenses.

Public and Official Input

The Committee gathered and received public comment and input from eight sources:

- Public hearings;
- Public attendance at Committee meetings;
- Online leaf blower survey;
- Written submissions;
- Town officials;
- Officials from other towns;
- Live field test of various leaf blowers,
- Stihl, a manufacturer of electric and gas powered leaf blowers.

In its 17 Committee Meetings, including two public hearings, the Committee heard from over 30 members of the public, received eight e-mailed comments, met with nine Town officials, one manufacturer representative, six officials from other towns (interviewed by individual Committee members), and 1,312 residents of Brookline, in an on-line survey sponsored by the Committee

Current Situation

The Committee took stock of the town's current situation concerning the use of leaf blowers, and particularly the Fall and Spring leaf clean-ups, to identify issues that might be addressed by the Committee.

On-line Survey

Background

With the help of the Town's IT Department, the Committee sponsored an on-line survey (see Appendix 1) for town residents, using Survey Monkey and accessed via the home page on the Town's website.

The survey was self-selecting and therefore the results are not held by the Committee to be statistically valid. However, the Committee does believe that the responses received are indicative of residents' opinions.

1,312 residents completed the survey, and of those, 1,025 were completed with street name, allowing for analysis by Precinct, by question (see Appendix 2).

Over 3,600 comments (see Additional Information) were received.

Survey Highlights

The use of leaf blowers for Fall clean-up, and the associated after-the-snows Spring clean-up, did not concern most survey respondents (see Appendix 1, Question 12). There is a general recognition that the extensive Fall leaf drop we experience, needs to be cleaned up using leaf blowers, although a minority disagreed.

Respondents were asked to rate the impact of leaf blowers on them, considering noise, air quality, health and misuse. Most ranked noise as having the most important impact (see Appendix 1, Question 5).

Respondents were asked if they were in favor of a complete year round ban of gasoline powered leaf blowers (see Appendix 1 Question 8) and a majority were opposed to a ban.

Respondents were asked if they were satisfied with the current restrictions on leaf blowers (see Appendix 1 Question 10), and by a small majority, respondents were satisfied.

Respondents were asked if they favored additional restrictions on leaf blowers (see Appendix 1 Question 11), and a significant majority said that they opposed further restrictions.

A significant majority of respondents rated education aimed at mitigating misuse by landscapers and homeowners as moderately or extremely important (see Appendix 1 Question 7).

And finally, on the issue of exemptions to the By-law (see Appendix 1 Question 9), a majority of respondents favored no exemptions, whereas others favored exemptions for the Town, large open space areas, and institutions.

On-line Survey Summary

The survey responses, combined with public hearing input, and correspondence, led the Committee to the preliminary conclusion that leaf blower noise is the primary concern of residents, that there is little appetite for a ban or significantly increased restrictions on leaf blowers, and that education has a significant role to play in any solution to the noise problem.

Technical Considerations

Background

The Committee felt it important to experience leaf blowers in action so that it could better assess the trade-offs of noise, versus speed, versus efficiency, of different machines. In addition, the Committee wanted to examine electric battery powered machine technology, as much input was received on this subject from residents.

The Committee, with the help of the Director of Parks and Open Spaces and a representative of the Stihl Company, a manufacturer of both gasoline and electric leaf blowers, devised a series of outside demonstration tests, performed by Parks and Open Spaces staff, which was held in Larz Andersen Park (see Appendix 3).

The Parks and Open Spaces Department set out two 20ft squares of leaves in Larz Anderson park, on which to perform tests and do sound level measurements. Seven leaf blower models and types and a mulching mower were tested, 5 of the leaf blowers were gasoline powered, and of different power/noise levels, and two were electric, one corded and one battery powered.

The tests were designed to answer a number of questions raised by the Committee and the public:

- How noisy are the various machines, in sound level as well as pitch?
- Is it better to have a more powerful, noisier machine doing a faster job, than a less powerful, quieter machine running for longer?
- Is an electric machine quieter than a gasoline powered one?
- Is an electric machine as effective as a gasoline one?
- How much faster are two leaf blowers than one?
- Is the noise level of two machines significantly greater than that of one?
- Which machines perform better clearing leaves from a hedgerow?
- Is mulching leaves better (i.e., quieter and more efficient) than blowing them?

Results

Generally, the more powerful the blower, the more leaves were cleared in a given time period. The most powerful and noisiest machine (Redmax 77dBA) cleared twice the volume of leaves as the least noisiest gasoline machine (Echo 65dBA) and 12 times more than the corded electric (Toro 68 dBA).

Two blowers working at the same time were at least 50% more effective than one blower, but did not produce significantly more perceptible noise. In fact, when one blower was shut off Committee members could barely discern the difference in sound level of one vs. two machines in operation at the same time. Also, the two most powerful (and loudest) machines cleared only about 16% more leaves than the two quietest gasoline machines.

At 56 dBA, the electric battery model was much quieter than all the other models. However, the low power, short battery life (about 30 minutes on full boost) and considerable expense of this unit (each battery costs around \$900) make it not viable for widespread commercial use at this time.

Technical Considerations Summary

Having heard a range of machines at different decibel levels, the Committee felt that the machines that conform to the current noise level restriction of 67dBA optimized an acceptable level of noise and a reasonable level of efficiency.

As two machines operating at the same time took much less time to clear the same area that a single machine, with little or no impact on overall perceived noise, the Committee felt that this was an important finding for consideration of any restrictions on the simultaneous use of multiple machines.

The mulching mower was considered noisy, dusty and messy and so the Committee does not consider this a viable option for effectively removing large volumes of leaves.

Emissions Considerations

Background

Concerns have been raised about leaf blower emissions. These include particulate matter (PM) or dust raised in plumes by gasoline and electric blowers; and for gasoline blowers, all of the emissions associated with the burning of gasoline, including fine PM, carbon dioxide (CO₂) and volatile organic compounds (VOCs). The Committee looked at the data regarding these emissions and also considered the health concerns that go with these emissions, which is discussed in the next section.

For its examination of emissions, the Committee relied upon data from the US Environmental Protection Agency (EPA), Massachusetts Department of Environmental Protection (MassDEP) and a report by Banks and McConnell³ which determines emission levels for all lawn and garden equipment, including leaf blowers.

Carbon Dioxide

As regards the greenhouse gas, CO₂, the data show that all lawn and garden equipment in the US are responsible for at most 0.3% of all US CO₂ emissions. The Banks and McConnell report concluded "*Because of the relatively small contribution of GLGE CO₂ to All Emissions (0.3%), it is not further considered in this report*". From data in the report, the Committee noted that all US leaf blowers account for an estimated 0.03% of all US CO₂ emissions (see Appendix 4). The Committee considers the amount of CO₂ emitted from leaf blowers to be minimal, and in and of itself, does not compel further leaf blower regulation.

VOCs

MassDEP monitors emissions of VOCs in Massachusetts and regularly publishes data on sources of these pollutants. Using this data, the Committee determined that lawn and garden equipment accounted for 1.0% of VOCs emitted in MA (see Appendix 5). Again, leaf blowers would be responsible for only 0.1% of VOCs emitted in MA.

Dust - Particulate Matter

MassDEP monitors particulate matter (dust) that is 2.5 microns or less in size (PM_{2.5}), (PM_{2.5} has been associated with disease) and publishes data concerning the sources of PM_{2.5} on a regular basis. Using this data the Committee determined that lawn and garden equipment accounted for 0.9% of VOCs emitted in MA (see Appendix 6) and that leaf blowers are responsible for 0.09% of VOCs emitted in MA.

Dust plumes, that can be seen generated by leaf blowing, generally have particles greater than 10 microns in size (PM₁₀) and these fall to the ground fairly quickly (see Appendix 7). The Committee considered a study by Fitz, et al, University of California⁴, which examined leaf blowing dust plumes, and which were measured as being dissipated in the background level of dust within 5 to 10 minutes, and not traveling more than a 20-30ft from the source.

Air Quality

3 "National Emissions from Lawn and Garden Equipment" Dr. Jamie Banks, Quiet Communities and Robert McConnell EPA - www.epa.gov/sites/production/files/2015-09/documents/banks.pdf

4 "Particulate matter emissions factors and emissions inventory from leaf blowers in use in the San Joaquin valley" Dennis Fitz et al, University of California Riverside - www.valleyair.org/newsd/leafblowers/leafblower.pdf

For the last 15 years Brookline's overall air quality, as measured by MassDEP to the US Environmental Protection Agency (EPA) standard, has been rated as "Good," which is the highest rating on the EPA air quality scale ranging from "Good" to "Hazardous" (see Appendix 8).

Emissions Considerations Summary

The Committee concluded that leaf blowers contribute a minimal amount of emissions, as compared with all other sources of the same emission, and add no significant burden to CO², VOC and PM_{2.5} emissions that are already in the environment, in significant ways, from other sources. The fact that Brookline's air overall air quality is rated "Good" by MassDEP, and has been improving for the last 15 years, confirmed to the Committee that emissions from leaf blowers were not a compelling problem requiring further leaf blower regulation.

As to dust plumes raised during operations, these are temporary in nature, dissipating in 5-10 minutes, and can be avoided by waiting, or by crossing the road, or the operator stopping temporarily. Overall air quality indicates that there are no long term compelling problems due to these plumes requiring further leaf blower regulation.

Health Considerations

Background

Concerns were raised by residents about health and the use of leaf blowers. In order to address health issues, the Committee consulted with and heard from Dr. Alan Balsam, the Director of Health, and Dr. Anthony Schlaff, Chair of the Town's Advisory Council on Public Health (ACPH).

Health Department and ACPH Observations

Dr. Balsam pointed out that the responsibility of the Health Department is to assess what risks are serious risks and what mitigation (if any) is reasonable. The Health Department held a public hearing in October 2015 (see Appendix 9) regarding the health issues associated with leaf blower use, and concluded that although leaf blowers do kick up particulates, and are noisy, there is no compelling public health threat from their use.

For the general population, the Health Department supports noise-based controls (for nuisance control), enforcement of the existing laws, and would support limits on the numbers of leaf blowers used simultaneously in a given area. In addition, the Department was concerned about the use of leaf blowers for debris sweeping of sidewalks and parking lots as opposed to their recommended use in clearing yards. The Health Department believes that a total ban on leaf blowers is unnecessary.

Health Considerations Summary

The Committee felt that given the low levels of emissions, and the opinions of the Town's Health Director and the Advisory Council on Public Health, that there is no compelling health reason to further restrict the use of leaf blowers.

DPW Considerations

Background

The DPW maintains 600 acres, close to 120 sites, and 450 miles of public roadways, and is consequently a major user of leaf blowers. While the look and appearance of a clean and tidy Town is a DPW goal, safety is a significant factor requiring the removal of leaves and debris around town.

DPW Observations

The DPW believes retaining the exemption from the leaf blower By-laws is necessary, and justified by their “public good” argument. The cleaning work done by the DPW is for the benefit of all town residents and the safety aspects are particularly important in clearing game fields, for example, so that residents, and children in particular, can use the Town's outdoor areas safely. Tests have been done by the Department, comparing rakes to leaf blowers (see Appendix 10). The Department estimates that if it had to conform to the By-law without an exemption, the additional time taken to perform the cleaning tasks would cost \$500,000 or more, annually.

The DPW is cognizant of its responsibility to adhere to the spirit of the By-law whenever possible, and takes complaints concerning their leaf blower operations seriously.

Exemptions Issue

The Town exemption from the leaf blower By-law is a concern to many residents. At least 40% of the on-line survey respondents believed the Town should not have an exemption. In discussing Article 10 of Fall Town Meeting in 2015, the Advisory Committee voted 12 in favor of retaining the exemption, 8 against.

In the on-line comments, the main reason cited for opposition to Town exemption was that an exemption was inherently unfair, that “what is sauce for the goose, is sauce for the gander.”

DPW Considerations Summary

The Committee agrees with the DPW that there is a “public good” argument and there should be an ongoing exemption for the Town. However, the Committee also believes the Town should continue efforts to reduce leaf blower use, and improve its “best practices.”

By-law Enforcement

Background

Enforcement of the By-law is currently the responsibility of the Police Department. Calls are given “Level 1” priority (same priority as a medical emergency). Most calls are initiated by the public, but police officers also initiate enforcement.

Police Report Analysis 2014

In 2014, there were 121 leaf blower related calls received by the police (See Appendix 11).

69	Nothing showing/gone on arrival or “OK”
38	Advised company/individual of complaint, or warned
14	Citations written
121	Total

Police Report Analysis 2015

In 2015, there were 117 leaf blower related calls received by the police (See Appendix 11).

60	Nothing showing/gone on arrival or "OK"
46	Advised company/individual of complaint or warned
11	Citations written
117	Total

Police Report Analysis 2016YTD

In 2016, there are 70 leaf blower related calls received by the police (See Appendix 11).

47	Nothing showing/gone on arrival or "OK"
21	Advised company/individual of complaint or warned
2	Citations written
70	Total

In 2014-2015, 21 calls were found to relate to use exempt from the By-law due to either Town operations, or contractor operations working for the Town.

Location of Calls

As the maps in Appendix 12 show, in 2015, about 60% of calls were north of Route 9. There are about ten "hot spots," accounting for 50-60% of all calls made. The four largest "hot spots" are Beacon St-Borland St area, Brookline Ave-Village Way area, Pleasant St-Dwight St area and the Woodland Rd-Hammond St. area.

In 2015-16, police sectors 1,8 and 9 (for Sector map see Appendix 13) accounted for over 50% of calls. In 2014-15, Police Sectors 5 and 8 had almost half the calls.

Department Observations

The Police Department informed the Committee that the Department was not opposed to a leaf blower (or contractor) registration scheme, but did not want it to be a police function. Also, the Department considered that a notion of "standing" for complaint callers be considered, such as a complaint to be reported by someone in a position to be directly adversely affected by the noise or other factors. The Department considered that targeting "hot spots," particularly with outreach to those involved, would perhaps greatly improve the overall situation. The Department also did not think that picking a distinct day, per neighborhood, for leaf blowers to be active, would be workable in practice. The concern was voiced that a concentration of landscaper trucks in one area could cause parking and traffic problems.

Enforcement Summary

The Committee noted that over 50% of complaint calls, on average, resulted in no noise reduction, as there either was nothing to be seen or no violation. It appears that enforcement by interdiction is ineffective. The Committee felt that the Police Department was taking seriously the enforcement of the current By-laws, but that the numbers of complaints and citations seemed low compared to the volume of complaints voiced in the public hearing, correspondence, and the on-line survey. Many comments from the public voiced concern about calling or using the police to enforce the leaf blower By-law as they

felt the police have more important things to do.

All of these factors led the Committee to begin consideration of alternative enforcement processes.

Solutions

The Committee felt it important to survey the experience of other cities and towns as to their experiences and solutions to the leaf blower noise problem.

Other Cities and Towns

Background

The Committee found about 61 communities in the US that have enacted local ordinances to restrict leaf blower usage: 37 in California, 12 in New York State, and 3 in Massachusetts; the remaining 9 are in Illinois, Florida, Oregon, Maryland and New Jersey.

Almost all 34 communities that have enacted complete bans on leaf blowers, gasoline and electric, or just gasoline, are located in CA.

The Committee closely examined 21 communities, 12 of which were in NY, 3 in MA, 3 in CA and 2 in IL (see Appendix 12).

Findings

The reviewed communities limit the noise level of leaf blowers to between 65-80 dBA, with 70dBA being the most common.

Outside of CA, which does not have seasonal bans, the dates for gasoline powered leaf blower bans in 18 communities do not vary much and hours of operation restrictions vary slightly, but are generally consistent.

Four communities have restrictions as to the number of leaf blowers per lot based on square footage, and three communities register landscape service companies: Cambridge MA; Sleepy Hollow NY; and Tarrytown NY. Cambridge (pop. 100,000+) and Sleepy hollow (pop. 10,000+) have about 50 registered companies each.

In terms of exemptions, a number of communities have lists, exempt large lots, or residents. Only one, Palo Alto, does not exempt city or town operations.

In terms of enforcement, most cities and towns use the police, but an increasing number, six, that the Committee identified, are using code enforcement officers, using the police for enforcement only outside of business hours.

Enforcement in many communities is a challenge. For example, the police in Palo Alto relinquished enforcement responsibility in 2014 and only recently this year did the city appoint a code enforcement officer to address resident leaf blower noise complaints. Santa Monica CA, about the same population size as Brookline, has about 1,200 complaints annually. Both communities have a complete ban on gasoline leaf blowers.

The Committee found only one community, Burlingame CA, which allows leaf blowers to be

used one day a week (and weekends) in a given section of the city for each day of the week.

In Massachusetts, the Boston Globe reported (March 29th 2015) that “. . . control efforts have failed in other communities. Attempts to limit the blowers in Cohasset, Framingham, Marblehead, Newton, Salem, Swampscott, and Wellesley, for example, have been shot down, though Newton is reconsidering the idea.” and “A proposal for a seasonal ban was set to go before Lincoln voters at Town Meeting this spring, but a study group decided there wasn’t enough support among residents and held off.”

Other Cities and Towns Summary

As a result of this external survey, the Committee felt that further examination of the dates and times of our gasoline powered leaf blower ban should be reviewed; that exemption lists were not used by most towns and should be used judiciously; that although not frequently used, that restrictions on blowers by lot size needs further examination; and that the code enforcement officer approach needs further examination.

Solutions Considered and Rejected

Leaf Blower Ban

Leaf blower bans are almost exclusively in California where the climate, and, accordingly, the leaf drop, is vastly different from that experienced in Brookline. Also, 360 (28%) respondents to the on-line survey were in favor of a ban whereas the majority, 764 (59%) were not (see Appendix 1, Question 8).

The Committee considered a leaf blower ban and rejected this as a solution.

“One Day a Week” Operation

The Committee felt the one place that this did work, Burlingame, being in California where the climate, the seasons and tree-drop activity is completely different, was not applicable to our situation in Brookline. In addition, the input from the DPW and the police department who both considered this idea as unworkable were major considerations.

The Committee considered a “one day a week” leaf blower operation not practical.

Landscape Service Provider Registration

The Committee had a number of discussions on this idea, which was reviewed in detail with Selectman Franco, who chaired the Selectman's Noise By-law Committee. Also, two of our Committee members served on the Selectman's Noise By-law Committee. The Committee's main recommendation was to implement a registration system for landscape providers.

During the course of its meetings, the Committee compiled a list of landscape service providers observed doing business in the Town. There are well over 250 accounted for. (This list has been provided to the police department to help them in their enforcement and communication efforts.)

There were many concerns expressed by the Committee about registering this number of

providers, as the resources required to do the registration and manage the list would be significant. The Committee sought Town Council's advice on legal aspects of registration for example, as to whether the Town could remove a company from the list, effectively barring it from working in the Town, if that company committed multiple violations. Depriving individuals or companies of their livelihood was not a topic the Committee relished exploring. There was some question as to whether this is in effect a license, which would then be subject to a licensing hearing, adding potentially a significant burden on the Selectmen to process 250+ applications each year.

In discussions with the Cambridge officials whose licensing board runs their registration system, it was unclear whether any benefits – less noise or noise complaints – accrued to the residents of that city as a result. Also, Cambridge had only 50 companies registered (which suggests that many operate without registration).

At the end of the day, the Committee did not believe that registration would in any way directly reduce noise from leaf blowers in the town. In the worst case scenario it would be a large bureaucracy costing all involved, with little to no reduction in noise.

The Committee thus rejected the idea of a Landscape Service Provider Registration System.

Approved Equipment List

The Committee considered an Approved Equipment List instead of a blanket 67 dBA limit as the Committee observed, during its tests, that some machines rated greater than 67dBA actually were, due to pitch, less annoying than ones at or below that level. One city in California has such a list whereby if the equipment is on the list, regardless of its labeled noise level sticker it is permissible to use it.

The Committee felt that to maintain the list and even getting agreement as to what machines would get on the list would be difficult to manage. The Committee observed that the one list on the CA City's website was almost completely out of date – the machines listed were no longer available.

The Committee concluded that an Approved Equipment list is not workable.

Solutions Considered and Agreed

Property Owner Responsibility

The Committee discussed the responsibility of the landscape provider or operator who is regarded, by the community and the police, as being responsible for any violation of the By-laws.

Currently the property/home owner considers the landscape provider or contractor responsible for complying with the noise and leaf blower By-laws.

The Committee firmly believes that the property owner should also be responsible for actions of their agents or contractors regarding what happens on their property. The Committee also believes that to have the property/owner involved in ensuring that their contractor adheres to the law will greatly increase compliance and, accordingly, reduce

noise.

Increasing compliance also reduces the pressure on the enforcement agencies, which currently is the police.

Expanding the responsibility of any By-law violation to the property owner (or condominium association, etc.) on their property from the agent or contractor to the owner, involves that owner in a conversation with their agent or contractor to obey the law, since the property owner would be liable for fines that result from failure to observe the law.

The Committee believes that this should significantly increase compliance and reduce violations of the leaf blower By-laws. In addition, it lays the groundwork for another proposed change, a shift to non-police enforcement and education compliance efforts, which the Committee expects will ultimately leaf blower compliance, and noise, in the community.

The Committee proposes legislation to make the property owner liable for the violations of the leaf blower By-law by his/her agents or contractor as well as the agent or contractor themselves. The Committee proposes to have a mandatory first violation warning which will be followed by fines of \$50 each for the second offense, \$100 each for the third offense and \$150 fines each for successive offenses, in any one calendar year.

Civilian (i.e., non-police) Enforcement

The Committee believes that the primary enforcement of the Leaf Blower By-law should become the responsibility of a civilian employee within DPW, not the Police.

The Committee sees the civilian enforcement specialist as a key point person in communicating with property owners and the landscape service providers. Reporting periodically as part of the Department's "dashboard" also will provide an important window on the progress on noise and complaint reduction.

The Committee, through a Town Meeting Resolution, proposes that the Town change from a Police enforcement approach to civilian responsibility for leaf blower By-law compliance, education of the By-law and best practices for property owners and landscape service providers. An example of a best practices brochure has been produced in three languages, English, Spanish and Portuguese (see Appendix 13).

Other Changes

There are several lesser changes that the Committee believes will reduce the impact of leaf blower noise,

These are:

- Change the Fall start and end period by two weeks, by moving the permitted use date of gas blowers from September 15th to October 1st and moving the end date of permitted use from December 15th to December 31st
- Change the weekend and holiday permitted end hour from currently 8pm, to 6pm

The change of start and end date for Fall gasoline powered leaf blower operation enables

there to be more “quiet” time for residents during (hopefully) nice outdoor weather in September. Usually, leaves have not started falling, so this is not a burden on landscapers or home owners. To extend the end date to December 31st provides for more winter cleanup time (weather permitting) which would potentially reduce the need for leaf blowing in the Spring.

Twelve out of 17 towns that have seasonal bans were using Sept 30th/Oct 1st as the end of their seasonal ban.

The Committee is proposing that the weekend and holiday times of permitted operation be set to end at 6pm rather than the current 8pm.

Mechanisms

The Committee has produced two Warrant Articles for Town Meeting to consider: a Warrant Article which proposes to consolidate all proposed changes from A8.15 to the new leaf blower By-law A8.31, and a Resolution for the Selectmen to consider shifting primary responsibility for leaf blower By-law compliance to DPW.