

MODERATOR'S COMMITTEE ON LEAF BLOWERS
July 14, 2016 Minutes

The Moderator's Committee on Leaf Blowers held a meeting on June 14, 2016, 8am – 10am, in Room 408 of Town Hall. 8am-10am 408 Town Hall. Present were Committee members John Doggett, Dennis Doughty, Neil Gordon, Jon Margolis, Faith Michaels, and Benedicte Hallowell (at 8:15); Police Officers Lt. Phil Harrington, Casey Hatchett, and Peter Muise; and Associate Town Counsel Jonathan Simpson.

The Committee reviewed the minutes from the June 21, 2016 meeting and approved them as written by a vote of 5-0.

The meeting was divided into two sessions, one on enforcement concerns and one on legal issues.

ENFORCEMENT

Lt. Harrington informed the Committee that the Police Department is currently the only agency in the town which enforces leaf blower complaints. They are treated as a Level 1 response (like a medical emergency and armed robbery) and Officers are timed on their overall response. The Police Department would like to see other agencies involved. In addition, the Police Department is not opposed to a registration scheme of some sort but does not think that registration should be a police function.

Lt. Harrington also proposed that the notion of “standing” should be considered. By this he meant that leaf blower complaints would be viewed more seriously if they were reported by someone in a position to be adversely affected by the noise or other factors.

Officer Hatchett stated that the vast majority of the existing complaints (which she acknowledged might suffer from various selection biases) are for what she referred to as “hot spots” and that targeted enforcement and outreach in each of those cases might help. She also pointed out that under the current mechanism, a typical complainant waits until he or she is truly aggravated to make the call, which means that often by the time an officer responds there is no ongoing violation. In that case, no citation is issued.

There was a discussion around a specific landscaper who has been repeatedly and flagrantly violating the rules. Lt. Harrington agreed to contact this landscaper proactively.

Lt. Harrington did not think the idea of picking distinct days per neighborhood when leaf blowers / landscapers are allowed would be workable in practice.

There was a discussion around enforcement options, e.g., could other departments issue citations. John Doggett pointed out that the trend in other communities is towards “civilian enforcement,” such as via building or health inspectors. It was speculated that citizens might be less reluctant to call the DPW or Health Department than the Police Department when reporting nuisances such as leaf blower violations.

Lt. Harrington commented that with respect to other aspects of the Noise Control Bylaw, the mechanism is that when a tenant gets a violation the landlord gets a notice of the form “the next time your tenant gets a violation, so will you.” Perhaps a similar model can work for property owners with respect to violations by landscapers.

LEGAL

Mr. Simpson informed the committee that it has significant discretion to do “just about anything, except change the fine structure, as you are constrained to a maximum of \$300 ‘per incident.’” Examples of things that could be allowed include:

- Issue citations to landscaping company and/or homeowner. This would benefit from clearer language describing a “person” in the Bylaws, but there is no legal barrier to doing so.
- Institute registration requirements. Licensing is a permitting power that descends from state statute; registration is not necessarily that case. A registration scheme with “teeth” could be quite far-ranging and could include things like “if you want to use a leaf blower you have to register as a company.”

The Committee discussed several alternatives that would comply with this advice, including “three strikes” provisions, which Department(s) might be required to process registrations, and how citations would be issued. Much time was spent on the idea that property owners could be held responsible for violations, not the person operating, in much the same way that the snow removal Bylaw already works.

The Committee decided to hold its next meeting on July 20th with a focus on continuing to discuss recommendations and to decide whether a Warrant Article for September is practical. The Committee selected August 9 and August 31 as future dates for meetings.