

Fw: Disability Pride Resolution

Barbara Coler <bcoler@townoffairfax.org>

Wed 7/17/2024 3:09 PM

To:Christine Foster <cfoster@townoffairfax.org>

Barbara Coler, Mayor
Town of Fairfax

The opinions expressed in this email are those of this individual Council Member and are not representative of the entire Council or Town of Fairfax unless otherwise stated.

From: Cindy Ross <cindyross.aud@gmail.com>

Sent: Wednesday, July 17, 2024 2:55 PM

To: Barbara Coler <bcoler@townoffairfax.org>; Chance Cutrano <ccutrano@townoffairfax.org>; Bruce Ackerman <backerman@townoffairfax.org>; Lisel Blash <LBlash@townoffairfax.org>; Stephanie Hellman <shellman@townoffairfax.org>

Subject: Disability Pride Resolution

To the Fairfax Town Council.

I am unsure whether I can attend the meeting this evening and wanted to comment regarding Item 19, Adopt a Disability Pride Resolution. While it is admirable that the Town is adopting a resolution, and referencing the Americans With Disability Act, I want to point out that the ADA acknowledges that some people with "fragrance sensitivity" are considered to have a "disability", and requires employers to make accommodations, including:

- Removing offending fragrances
- Relocating the employee from the area where the fragrances are located
- Reducing the employee's exposure to the fragrances

While I realize the Town is not my employer (nor is the Coin Washing Well Laundromat), it sure would be nice if I wasn't repeatedly exposed to fragrances that cause me (disabling) health problems and interfere with my quality of life in my own home, in my own neighborhood.

The Resolution you're adopting also includes references to fighting against ableism, bias and discrimination. To that end, I ask that you acknowledge me and other people with MCS, take us seriously, stop ignoring, dismissing, disrespecting and "pooh-poohing" us, and take steps to make me/us safe and welcome in Fairfax.

Thank you.
Cindy Ross

Item 6, 07/17/2024 Town Council Meeting "Special Event Permits"

R Hamer <hamer2010@live.com>

Tue 7/16/2024 8:50 PM

To: Barbara Coler <bcoler@townoffairfax.org>; Lisel Blash <LBlash@townoffairfax.org>; Chance Cutrano <ccutrano@townoffairfax.org>; Stephanie Hellman <shellman@townoffairfax.org>; Bruce Ackerman <backerman@townoffairfax.org>; Jeff Beiswenger <jbeiswenger@townoffairfax.org>; Heather Abrams <habrams@townoffairfax.org>
Cc: Christine Foster <cfoster@townoffairfax.org>; Linda Neal <lneal@townoffairfax.org>



1 attachments (899 KB)

BreezeSummerConcertSeriesBar.jpg;

Dear Mayor, Council and Staff,

If ever there were resolutions before the council granting special privilege, this one is right up there.

Why do we need this? Past and ongoing sites hosting special events include Fair-Anselm Plaza, Fairfax Market/Split Rock and Marin Museum of Bicycling. These hosted events seemed to be doing just fine as it was.

I cannot think of another commercial property that would really benefit from this resolution. Think hard. Except...

This resolution appears to be specifically targeted as a remedy for the "Studio Breeze Summer Concert Series" at School Street Plaza. On May 20, 2024, the Town sent a code enforcement letter to the owners of these operations. What happened? The three Studio Breeze concerts already scheduled for dates after receipt of the code enforcement letter happened anyway. The location's parking lot was a pandemonium during these events; the showplace exits were blocked with stage risers, heavy wire shelving, trash bins, motor vehicles, port-o-lets and any other ad-hoc means so attendees had to pass a single entrance where admission tickets were processed; and could not get in or out any other way.

If this sounds familiar, it was exactly what happened at The Station Nightclub Fire (2003) where 100 people died. Prior to the 2019 Conditional Use Permit application of School Street Plaza, the Plaza was considered the Fairfax version of the Oakland Ghost Ship (2016) where 36 people died. The parallels between the School Street Plaza and the Oakland Ghost Ship are foreboding. The Ghost Ship tragedy was not due to illegal residential use – it was due to an unpermitted EVENT conducted on the premises. Ghost Ship would have never been approved for a special event permit because the building was non-compliant to code for most of its actual uses. Just like here.

This is also a recipe for a tragedy. School Street Plaza has at least six incomplete expired building permits, a prior Conditional Use Permit where numerous conditions have failed to be met after four full years, several construction projects requiring a building permit where a building permit was never issued. This "pilot period" would be concurrent for the final days of a blighted facility slated for demolition and redevelopment as part of our Housing Element.

The 2020 Conditional Use Permit (CUP) issue for School Street Plaza has conditions including one that subject tenants agree to other's use of the property approved by Limited Commercial (CL) zoning. Special events by live entertainment with paid admission were never allowable

under CL zoning. Which is it to be? The terms of the CUP or these proposed terms of this Special Event Permit (SEP)?

The Temporary Use Permit in 2020 issued for the exact same venue space was for assemblies of meditative acoustic music. What actually happened? 100dB+ Electronic Dance Music (EDM) aka “trance tracks”.

The parking? Parking overflows to the point vehicles double park and spontaneously “create” parking spaces in redzone locations. Emergency vehicle like ambulances or fire equipment could never maneuver in. There’s no staff performing vehicle management...

The fire extinguishers haven’t been inspected since 2021. Wait, yes, the card is punched for 2024... both 2024 AND 2022. Surely a licensed provider would do something like that.

ADA?

Liability insurance WITH comprehensive endorsements for a concert venue?

I could go on – at least 17 ongoing violations at this venue, by this operator ...

...and it is the LESSOR not the LESSEE on the attached “PROPERTY OWNER AUTHORIZATION FORM” authorizing new uses on any lease. This foible would bring on the necessity of hiring the Town Attorney to review each application just to analyze the leases. See ITEM #5, at \$245-\$275 per hour in additional processing costs.

The prior Concert Series events were advertised for “all ages” yet there is alcohol served with signs reading “NO ALCOHOL SOLD AT THIS EVENT (BUT YOU CAN DONATE TO SUPPORT THE BAR AND STAFF!)” along with a “suggested donation” alcoholic beverage menu.

This resolution is half-baked and will surely be exploited through loopholes abounding. This resolution should not be considered by the town. Best to just strike this item from the agenda.

Rick Hamer
Fairfax resident

Planning Commission Vacancy - July 17th - Interviews and Appointment -

Cindy Swift <c.swift@comcast.net>

Wed 7/17/2024 1:34 PM

To:Fairfax Town Council <fairfaxtowncouncil@townoffairfax.org>

Town Council:

I'm sending this in email in the event that I cannot make tonight's Special Meeting to Conduct Interviews and Consider Appointments. to the Planning Commission.

I support the appointment of Surane Gunasekara who was interviewed at the June 5th meeting for the following reasons:

He has lived and worked in Fairfax for several years and as such knows the town well.

His education and experience have been in sustainable environmental design.

He has exhibited a strong sense of neighborhood and community and I believe he will be a good addition to the Planning Commission.

Cindy Swift

July 17 meeting; Agenda Item 14 (grand jury ebike report); Consent Calendar

Bob Mittelstaedt <ramittelstaedt1010@gmail.com>

Mon 7/15/2024 11:43 AM

To: Fairfax Town Council <fairfaxtowncouncil@townoffairfax.org>

Cc: Jonathan Frieman <jonathan.frieman@gmail.com>

On behalf of E-Bike Access (Marin's non-profit devoted to promoting access for safe and legal e-bikes), I submit these comments on the draft response to the Grand Jury report.

As an initial matter, we request that this item be removed from the Consent Calendar as other Marin municipalities have done so that it can be discussed more fully and voted on separately.

On the merits, we request that the draft response to the first recommendation be changed. Instead of saying that a minimum age ordinance for throttle e-bikes "is not warranted," Fairfax should say that "it will be implemented when AB 1778 is enacted." All efforts to date to stop illegal motorcycles labeled as class 2 e-bikes have been unsuccessful, as anyone can observe on our streets every day and at White's Hill Middle School. A minimum age ordinance is the best way to protect our children, and to lower the disproportionately high accident rate for middle schoolers for whom throttle devices are the ride-of-choice.

We have great respect for Chief Tabaranza and the work of his police department. As stated in his May 3 letter to school parents, he recognizes that children in Fairfax are illegally riding motorcycles with class 2 e-bike labels. He referred in particular to "one popular brand," which Fairfax later identified as Super73, stating: "Super 73s and similar throttle devices are not e-bikes; they are motorcycles."

As to enforcement, the Chief's May 3 letter announced:

"For the next two weeks we will be enacting an educational and grace period for illegal e-bikes and will not be issuing citations. This grace period will enable everyone to arrange for alternate transportation to and from school or to acquire a bicycle or legal e-bike. We will also be working with our schools to educate them on which e-bikes are legal and which are not. It is our hope that all schools in our jurisdictions will enact an e-bike registration process next fall to ensure all of our students are riding legal and safe e-bikes."

Unfortunately, it is evident that more is needed to achieve the goal. A minimum age ordinance will help a lot. With Chief Tabaranza's initial opposition, we realize that we have not been clear enough in identifying the ordinance's value and why the Chief's two concerns do not outweigh the child safety reasons for the ordinance. As the Board of Supervisors wrote in sponsoring and supporting the minimum age ordinances:

"Class 2 e-bikes operated with a throttle . . . have significantly higher rates of serious injuries for riders; especially for riders under 16 who may not be well-versed in the rules of the road."

As to the Chief's first point, we understand that it is difficult "to surmise the age of the operator" in some circumstances and "enforcement stops" solely based on age are a "concern." But this ordinance will have tremendous benefits **even if no traffic stop based on age is ever made**. The benefits include:

- Making clear to parents that they should not buy throttle devices for underaged children.
- Giving schools a clear way to ban throttle devices for underaged middle schoolers.
- Discouraging retailers from selling throttle devices for use by underaged riders, in light of liability risks.

And no one has proposed a better way to address the ongoing problem.

As to the Chief's second point, there is widespread agreement that throttle e-bikes are more dangerous than pedal-assist e-bikes. That is why

- The Board of Supervisors and Damon Connolly's AB 1778 focus on throttle ones.
- The Assembly passed the bill, unanimously, and unanimous Senate approval and Governor Newsom's signature is expected next month.
- The leading medical associations support it, including American College of Surgeons California Chapters, the San Francisco Marin Medical Society, the California Medical Association and the Marin Healthcare District Board of Directors.
- Dr. Matt Willis (Marin's public health director) says "it would go a long way to protect kids from the kind of injuries Amelia experienced" referring to the 15 year old whose throttle class 2 e-bike crash led to life-threatening brain injuries and gave rise to AB 1778.

As the Grand Jury explained: Throttle "e-bikes can achieve rapid acceleration without pedaling, unlike class 1 and class 3 e-bikes." Pedaling results in a slower, more gradual and more stable acceleration. On a throttle e-bike, the rider can maintain top speed for much longer, because no pedaling is required, just a little thumb pressure on a throttle lever. And the risk of injury is "compounded by the fact that . . . , for many models of class 2 e-bikes, a simple adjustment can override" the 20 mph limit." Indeed, using the Super73 app to shift into the "unlimited" mode and go 30-35 mph (in **10 or so seconds**) is as easy as changing the volume on an iPhone.

All of this increases the safety risk of throttle e-bikes. This is borne out by Safe Routes to Schools surveys and Marin HHS accident data. Together, they show that two-thirds of the e-bikes at Marin middle schools have throttles, and two-thirds of those were overpowered and illegal, with Super73 as the most prevalent brand. The percentages at White's Hill Middle School are even higher, with at least 13 Super73s and six other illegal electric throttle devices. And Marin middle schoolers aged 10-15, with throttle e-bikes as their ride of choice, have an accident rate that is 500% higher than other age groups.

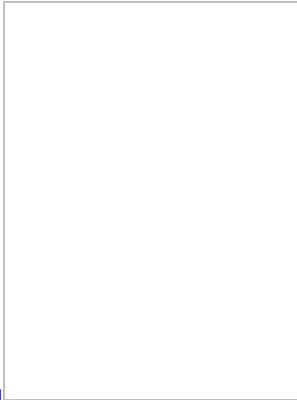
But even if throttle and pedal-assist e-bikes were equally dangerous, it would be no reason to refuse to exercise the authority provided under AB 1778 which is focused on throttle e-bikes. It's better to address part of the problem than none of it.

Note, also, that children under 16 will still be able to ride traditional bicycles and the class 1 pedal-assist e-bikes. Those e-bikes are powerful enough for an elder like me to get up the steepest street, fire road or trail in Marin. It's more than enough for any child.

Agendize the Issue of School Registration Programs.

We agree with Chief Tabaranza that schools should "enact an e-bike registration process . . . to ensure all of our students are riding legal and safe e-bikes." As noted, a minimum age ordinance will assist in that process and simplify it. We are concerned, however, that without the leadership of Mayor Coler and the Town Council, the registration process may not get off the ground.

For that reason, we urge this Council to agendize the issue for an upcoming meeting with presentations by school, law enforcement, public health and e-bike experts. It would be helpful to learn about enforcement efforts and results, and the status of registration programs, etc.



<https://www.ebikeaccess.org>

Fwd: Removing Consent Item 14 (e-bike grand jury)

Barbara Coler <bcoler@townoffairfax.org>

Wed 7/17/2024 9:30 AM

To: Rico Tabaranza <rtabaranza@fairfaxpd.org>; Christine Foster <cfoster@townoffairfax.org>

Sent from my iPhone

Begin forwarded message:

From: Bob Mittelstaedt <ramittelstaedt1010@gmail.com>
Date: July 17, 2024 at 9:23:23 AM PDT
To: Barbara Coler <bcoler@townoffairfax.org>, Lisel Blash <LBlash@townoffairfax.org>
Subject: Removing Consent Item 14 (e-bike grand jury)

My earlier email comment asked that this item be removed for separate discussion.

I will be at the Larkspur City Council meeting at 6:15 and hoping that its discussion of the same item is concluded in time for me to come to Fairfax.

The main point for discussion, I submit, should be the following:

Chief Tabaranza agrees with the finding that "the operation of class 2 e-bikes by operators under the age of 16 poses a significant risk to the safety of e-bike operators." He also agrees, as set forth in his May 3 letter to school parents,, that many throttle devices with class 2 e-bike labels are actually illegal motorcycles. As Fairfax has said, "Super 73s and similar throttle devices are not e-bikes; they are motorcycles."

So the question is if the Chief does not favor the minimum age ordinance, what enforcement methods have been and are going to be used to get the Super 73s off the streets of Fairfax and out of our schools.

My count of bikes at White's Hill Middle School showed that over half the electric devices were Super 73s, and most of the others were other illegal brands. They included a Talaria, which is a 4,000 watt (way above the 750 watt limit for ebikes) 47 mph (way above the 20 mph limit) motorcycle.

Before she retired, Marci Trahan assured me that a school registration plan would be in place for the Fall semester. It would be good to confirm that that is still the plan.

Thanks. I'm available at 415 717 1874 if either of you would like to talk before the meeting.



<https://www.ebikeaccess.org>

comments to add to the 7/17/24 Town Council meeting

DEBORAH BENSON <debbens@comcast.net>

Tue 7/16/2024 5:36 PM

To:Town Clerk's Office <townclerk@townoffairfax.org>

Hello Christine,

Please send my comments to the members of the Council and add them to the comments for the meeting tomorrow.

Council Members

Regarding item #6 on the agenda I am concerned that there is very little - actually no - information as to which downtown businesses are intending to hold possibly 5 3 day events a year of an undisclosed nature to the public at this point .

There has been no disclosure to the public of possibly major changes in traffic, noise, parking and the very nature of our downtown.

We are seeing no specifics on which private parking lots might be involved, which businesses would benefit from this, how close some of these mixed use areas would be to residential and the effect on those residences.

Also of concern is that this is being presented as a 'pilot program'. The street eateries taking public space for private use were proposed as a pilot to help businesses during COVID. They easily became permanent.

Was the skate park a pilot program as well? It has become permanent.

At this time when the members of the Town Council has been pushing their own personal agendas down the very throats of their constituents without solid public engagement I find it somewhat astounding that the Council is considering yet another slam dunk vote for someone's personal agenda without public input.

Please table this and include and inform the residents of Fairfax before taking a vote. You were elected to represent the residents, not yourselves.

Thank you.

Deborah Benson
Cascade Drive
Fairfax