

Cyndie Martel

From: Bob Mittelstaedt <ramittelstaedt1010@gmail.com>
Sent: Wednesday, July 10, 2024 10:25 AM
To: Cyndie Martel; CouncilAll
Subject: [EXTERNAL] July 11 Council Meeting, Agenda Item 7 g (response to Grand Jury report on e-bikes)

The Town's proposed response to the Civil Grand Jury report is on the July 11 Consent Calendar. Given the significant safety risks raised by children under 16 riding throttle devices to and from Ross School and on the streets of Ross, this item should be removed from the Consent Calendar and separately discussed and acted on. And the proposed response should be modified in the important respects outlined below. The broader issue of what to do about the illegal throttle devices at Ross School should be agendaized for a future meeting.

GRAND JURY REPORT

On the positive side, the staff report agrees with all the Grand Jury findings. This includes that children under 16 on throttle e-bikes present a significant risk to themselves and others, and that local action is needed because the State hasn't done enough.

But the staff report stops short of endorsing the grand jury's main recommendation -- that Ross and the other Marin municipalities enact their own ordinances requiring riders of throttle e-bikes (class 2) to be at least 16 years of age and wear helmets. The reasons in the staff report would benefit from further discussion and explanation.

As a volunteer for Safe Routes to Schools, I counted two-wheelers at 16 local middle and high schools. Throttle devices are the most popular electric two-wheelers for middle schoolers. Most of them exceed the motor size and speed capability of class 2 e-bikes even though they are labeled class 2 e-bikes. The most popular illegal brand is Super73.

Chief Pata, along with his counterparts at Central Marin, Fairfax and Mill Valley, agree that Super73 and other throttle devices with motors larger than 750 watts or the capability to provide assistance above 20 mph are illegal. The question is how to enforce that law. We think that a minimum age requirement for all throttle devices labeled as class 2 e-bikes will be an effective additional arrow in the law enforcement quiver.

Ross is not immune to this problem. Its school allows several Super73s to be ridden to and from school, and parked in the bike area. It also allows multiple electric scooters which, by law, cannot be ridden with a driver's license or permit, and cannot carry passengers. Cal. Vehicle Code 21235(d) and (e).

Damon Connolly and Mary Sackett have been working hard to obtain authority for local Marin municipalities to require a minimum age of 16 for all devices labeled as class 2 e-bikes (which would as a practical matter include the illegal ones like Super73s.). This is AB 1778 which has passed the Assembly and will be acted on by the Senate by its August 31 deadline.

The bill is motivated by the Marin Public Health data from 911 ambulance trips. The accident rate for 10-15 year olds -- the age group that rides Super73s -- is 500% higher than any other age group. Given the 30-35 mph speed of these devices, the injuries sustained are not just knee-scrapes; they tend to involve serious head injuries and worse, according to Marin Health trauma surgeons.

All of this leads to the Grand Jury recommendation that Ross and each other Marin municipality (and the County for unincorporated areas) adopt the minimum age requirement for throttle e-bikes.

Instead of agreeing to implement this recommendation, the staff report says that "further analysis is needed" due to a need to "understand what a **county** ordinance would entail." But the **county** ordinance would be for unincorporated areas, so it would not supplant the need for a local Ross ordinance. And pursuant to AB 1778 the

ordinances would simply say that riders of devices labeled as class 2 e-bikes must be at least 16 years of age. There is nothing complicated about that.

The staff report also refers to a need to analyze "funding and resources for children and parents who violate the ordinance." I don't understand what this means. Parents have been on notice since at least Chief Pata's May 3 letter that Super73s are illegal (and dangerous), that their children will no longer be allowed to ride them, and that after a two-week grace period the law against them will be enforced. I don't see why Ross should make available any "funding and resources" for children and parents who violate the existing law, let alone why that should hold up complying with the grand jury's recommendations.

If "funding and resources" refer to parents losing their investment in illegal throttle devices, they have recourse against the manufacturers and retailers. So that's no reason to hold up enforcement or a new ordinance.

[As a technical matter, the relevant Penal Code requires that a "further analysis" response set forth a timetable, which the draft resolution does not do.]

We recommend changing the response to R1 to state: "This recommendation will be implemented conditional on the passage of AB 1778." An alternative would be to state: "Further analysis is required, specifically whether and when AB 1778 will be enacted and provide authority for Ross to adopt the recommended ordinance." The other reasons in the staff report should be deleted as unnecessary or incorrect.

R2-3. The grand jury's other main recommendation is for the County and each municipality to form a joint task force to coordinate adopting uniform regulations for e-bike use. It contemplates participation by representatives from Marin schools, law enforcement, public health officials and bicycle advocates.

The staff report, however, says that the e-bike committee recently formed by the Marin County Police Chiefs' Association complies with that recommendation and that it "would be too large if it were to include representatives" from schools, public health and bicycle advocates. We don't think this complies with the letter or spirit of the recommendation. It does not appear that the Police Chiefs' Association or its e-bike committee even holds public meetings. Last night, Novato's City Council voted to implement this recommendation without any reference or limitation to the Police Chiefs' Association.

ENFORCEMENT

Finally, and more broadly, we applaud Chief Pata for his leadership role and responsiveness in working with us on these issues. His May 3 letter to school parents was a major breakthrough. As set forth in that letter, we are convinced that the most effective means of enforcing the existing law and any new minimum age ordinance is a school/law enforcement partnership with a registration program that screens out illegal devices. We encourage Ross School to implement this program.

The ultimate metric is how many Super73s and other illegal devices are present at Ross School and on Ross streets. Unfortunately, the answer as of the close of school in June was "too many." Too many Super73s. Too many electric scooters. **We encourage the Council to agendize this broader issue for a presentation by Chief Pata and school officials on the plan for addressing this issue, before the accident rate for middle schoolers in Marin catches up with the Ross School.**

<https://www.ebikeaccess.org>

