



FAIRFAX COUNTY PARK AUTHORITY



M E M O R A N D U M

TO: Chairman and Members
Park Authority Board

FROM: Kirk W. Kincannon, Executive Director

DATE: April 4, 2019

Agenda

Committee of the Whole
Wednesday, April 10, 2019 – 6:30 p.m.
Boardroom – Herrity Building
Chairman: William G. Bouie
Vice Chair: Ken Quincy

1. Approval - Park Authority Regulation §1.17 Update Regarding Unmanned Aircraft Systems – Action*
2. Approval – Park Authority Regulation §1.14 Motor Vehicles and Traffic (E-bikes) – Action*
3. 2021 Budget and General Fund Requests – Discussion

*Enclosures



If accommodations and/or alternative formats are needed, please call (703) 324-8563. TTY (703) 803-3354

Board Agenda Item
May 8, 2019

ACTION

Approval of Park Authority Regulation 1.14 Update Regarding Electric Powered Bicycle Use in Parks

ISSUE:

Update of Park Authority Regulation 1.14, Motor Vehicles and Traffic, to align with Virginia Code and NOVA Parks regulation policy on the use of electric powered bikes in parks.

RECOMMENDATION:

The Park Authority Executive Director recommends approval of the suggested change to Regulation 1.14 as specified below.

TIMING:

Board action is requested by May 8, 2019, to bring the regulation into compliance in a timely manner.

BACKGROUND:

Between 2015 and 2017 electric powered bicycle (e-bike) sales in the United States increased by ninety percent, outpacing all other bicycle sales. E-bikes have emerged as a viable transportation and recreational option to the car and traditional bicycle. E-bikes also reduce barriers to bike riding by providing inclusive recreation opportunities to people of all ages and health levels. In so doing they promote healthier lifestyles for Fairfax County residents. Currently, Park Authority Regulation 1.14 specifies that motor-assisted bicycles (commonly referred to as “mopeds”) are permitted only in areas where motor vehicles are permitted, therefore excluding e-bike use on park trails.

Commonwealth of Virginia law allows the use of e-bikes wherever regular bicycles are allowed. Virginia Code sections §10.1, §15.2, and §46.2 regulate e-bikes with a power rating less than 1000 watts, and top powered speed of 25 mph as bicycles that can be used on trails and shared use paths. Furthermore, Virginia Code §15.2-5704(17) grants the Park Authority the ability to adopt rules and regulations concerning the use of properties under its control, only as long as those rules and regulations are not in conflict with the laws of the Commonwealth.

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Staff worked closely with NOVA Parks and the Office of the County Attorney to determine the effect of this legislation, develop appropriate guidance for staff, and update the text of Regulation 1.14. A public hearing was duly advertised and held on February 7, 2019. A quorum of Board members was present from both park agencies for the hearing summarized in Attachment 1.

The following change to Regulation 1.14 is suggested. *Italics* indicate language to be added; ~~strikethrough~~ is language to be removed.

- (3) ~~Motor-assisted bicycles (commonly referred to as "mopeds")~~ *Mopeds* are permitted only in areas where motor vehicles are permitted.

E. E-Bikes. Electric power-assisted bicycles (e-bikes) equipped with pedals that allow propulsion by human power are considered bicycles and non-motorized vehicles for the purpose of these regulations and are allowed in the same places that traditional, pedal-powered only bicycles are allowed.

In addition, staff suggests the adoption of the following guidance for the use of e-bikes within county parks:

What to Ride: For the purpose of these guidelines, the Park Authority and NOVA Parks will define e-bikes as an "electric power-assisted bicycle" (e-bike), meaning a wheeled vehicle equipped with (i) pedals that allow propulsion by human power and ii) an electric motor with an input of no more than 750 watts that reduces the pedal effort required of the rider. This applies to both road and mountain style (e/MTB) e-bikes. They are not, and do not function like a wheelchair, motorized bicycle, moped, scooter, motorcycle, or all-terrain-vehicle.

Where to ride: To protect the Park Authority and NOVA Parks' valuable environmental and cultural resources, e-bike riders are strongly encouraged to operate only in areas where traditional (human pedal powered only) bicycles are allowed. Please do not disturb wildlife, livestock, or domesticated animals on park property.

Please ride responsibly: E-bike riders are expected to follow the same regulations and rules regarding access to the parks as other visitors. Please observe the established hours of operation and any posted signage.

Riders assume responsibility for the safe and respectful operation of their e-bike. It is expected that all bicycle riders yield to pedestrians and equestrians. In consideration of trail conditions and the safety of others, please maintain speeds under 20 miles per hour.

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Reporting a problem: If you see an e-bike being operated in an unsafe or reckless manner, please call local police or park staff. (In case of emergency, call 9-1-1).

In practice, the Park Authority has complied with the current sections of Virginia Code sections §10.1, §15.2, and §46.2. This update brings the text of Regulation 1.14 into compliance as well.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: February 7, 2019, Public Hearing Summary

STAFF:

Kirk W. Kincannon, Executive Director

Sara Baldwin, Deputy Director/COO

Aimee L. Vosper, Deputy Director/CBD

Judith Pedersen, Public Information Officer

David Bowden, Director, Planning & Development Division

Todd Brown, Director, Park Operations Division

Andrea L. Dorlester, Manager, Park Planning Branch

Samantha Hudson, Park Planning Supervisor, Park Planning Branch

Andy Galusha, Landscape Architect, Park Planning Branch

Attachment 1

E-Bike hearing, February 7, 2019. 7:00 pm.

Sara Baldwin introduced herself as the Deputy Director of the Fairfax County Park Authority (FCPA) and the facilitator for the evening, the meeting will discuss Regulation 1.14 Motor Vehicles in Traffic Specific to E-bikes.

On behalf of NOVA PARKS and the Fairfax County Park Authority she welcomed those attending.

She introduced the Fairfax County Park Authority Board.

Chairman Bill Bouie, Hunter Mill District

Vice Chairman Ken Quincy, Providence District

Mount Vernon District Representative Linwood Gorham

At large Member Dr. Abena Aidoo

Lee District Representative Dr. Cynthia Jacob Carter

Sully District Representative Maggie Godbold

Braddock District Representative Kiel Stone

The NOVAPARKS Board was then introduced.

Chairman Michael Nardolilli of Arlington County

At large Representative Brian Knapp

City of Fairfax Representative Art Little

Treasurer Paul Baldino of the City of Falls Church

City of Falls Church Representative Jeff Tarbert

Loudoun County Representative Daniel Kaseman

FCPA Staff were next introduced,

FCPA Exec Dir Kirk Kincannon

Planning and Development Director Dave Bowden

Park Planner Andy Galusha

Park Planner Samantha Hudson

Timekeeper Chrissy Mead

NOVAPARKS staff were introduced.

Executive Director Paul Gilbert

Park Operations Director Chris Pauley

Park Operations Superintendent Mark Whaley

W&OD Railroad Regional Park Karl Mohle

Sara spoke about where the advertisements were published and announced what the meeting was about for the evening, describing the proposal and went through the agenda for the evening.

Sara then asked for opening remarks.

Michael Nardolilli, of NOVAPARKS, took the mic to express his appreciation for everyone in attendance that evening and encouraged people to visit the Jean R. Packard facility in the future.

Mr. Nardolilli stated that NOVAPARKS is governed by the Park Authorities Act and that it requires regulation not conflict with state law. If state law changes they'll have to update their regulations

He went on to say that between the two agencies, NOVAPARKS and FCPA, there are hundreds of miles of trails. There is a shift in society that trails are not only for fun but for transportation. He extended his appreciation to those cyclists who use the trails and to those attending for giving up their time for the meeting that evening.

Chris Pauley, of NOVAPARKS, then took the floor and began his PowerPoint slide show presentation.

Upon completion of Mr. Pauley's presentation, Sara continued the meeting, calling on those who signed up in advance to speak.

First to speak was Alexis Glen – Board member for the Fairfax Alliance for Better Bicycling.

She expressed joy and convenience in biking and E-bikes should not be restricted as the roadways aren't safe for those on the bikes. She asked that NOVAPARKs allow E-bikes in the parks. Many users are less experienced first time riders and many are accommodating an injury, disability or transporting children without a car. It is safer for them on the trails rather than on the roadway.

E-bikes encourage people to try out biking for the first time, bringing them to parks. Safety will come down to education and culture and not the type of bikes ridden.

She presented experiences regarding E-bikes and found that she is slower on the E-bikes and is passed more often. She has also experienced increased bike riding days and mileage.

She supports the proposal and thanked NOVAPARKS for allowing access.

Steve Jones was the next speaker and said he was speaking on behalf of equestrians. He is a mountain biker and is concerned with multi-use trails. Some trails are not very wide and have tight turns making visibility difficult. There have been examples of standard bike and horse conflict on the trails. That is indicative of a bad bike rider. Some trails shouldn't be considered multiuse if they are not wide enough. He is concerned about safety.

Todd Ketch spoke next. He is the owner of Pedego Bikes. He supports the proposals for E-bikes on the trails. This is an amazing opportunity for people of all ages and abilities to pick up riding and continuing riding and for alternative transportation. He will help customers visiting his business on safety and the best bikes for them.

Susan Arango spoke noting that she had no idea that E-bikes were not currently allowed on Fairfax County trails. She is a passionate biker and spoke to the benefits of the electric assist on difficult terrain. It has been instrumental encouraging her biking and discovering more of Fairfax County. She would like the proposal to be passed.

The next speaker was Paul Wagner. He is very excited about E-bikes; however, he is concerned about them on certain trails. He said that once you grant access to a certain class of riders, it is hard to rescind that access. He is concerned about the loophole of pedals. Currently the proposal indicates that the bike requires pedals, however not necessarily for propulsion, so it would be a situation in which some

riders would depend solely on the electric portion of biking and not the pedaling portion. This would allow people to speed more easily on the trails. He is also concerned about the speed limits and riders going too fast.

Cary Petrovich spoke of his history of biking and working with Kirk Kincannon at Lake Accotink. Biking is his passion. He brought his E-bikes to the hearing for those who were curious about them. He feels that the E-bike has helped him keep up with his friends on the trail. He has knee issues and the E-bike has allowed him to continue biking. E-bikes are safe for all ages. E-bikes are power assisted and are not damaging the trails. He is happy to answer any questions. E-bikes have been in Europe many years and they are coming to the U.S.

Ann Mader spoke on behalf of MORE/The Bike Lane. She thanked the Park Board for doing all the research on E-bikes. She owns a bike shop in Reston. She has heard stories daily about how e-bikes have helped many continue to bike. Her husband commutes on E-bikes. Her daughter developed a love of biking through E-bikes. Her customers are responsible and respectful. She would like a push for user education on the trail as well as speed limit signs.

Henry Dunbar was the last speaker. He lives in Arlington County near the W&OD trail. He said that E-bikes were everywhere in Europe and he rode across Italy on a recent trip. He agrees that it's a behavioral issue, not an equipment issue. Aggressive riding is the problem, not the electricity. He stated that it's not only E-bikes are coming but also electric scooters and assisted skate boards. They are here. He sees them daily on the trail. Please consider those in the policy as well. E-bikes give more access to the parks.

Sara thanked the speakers who signed up. She opened the floor for general comments which included:

- Expressions of support. Many detailed their stories on how E-bikes encouraged their riding.
- Electric skateboards on the trail are a concern. Please have a look at this issue as well.
- NOVAPARKS and FCPA were thanked for their work with E-bikes.
- The need for infrastructure to report accidents on the trails. It would make it easier for rescue crews to find downed riders. Sara said that FCPA has worked on a project in conjunction with the police department to put signage on the trails and if someone goes down on the trails they can use the mile markers on the signs to give to police to find them on the trail using GPS.
- Another person stated that there is technology out there now that people can use if they fall. It will automatically send a signal for help without needing a physical or conscious interaction.

Sara then closed for the evening and thanked those who attended. The formal comment period will run through March 11. She pointed out that the email address to send in comments is on the agenda.

The meeting was adjourned at 8:10.

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ACTION

Approval of Park Authority Regulation 1.17 Update Regarding Unmanned Aircraft Systems

ISSUE:

Update of Park Authority Regulation 1.17, Remote-Control Devices and Powered Models or Toys, to comply with Virginia Code § 15.2-926.3.

RECOMMENDATION:

The Park Authority Executive Director recommends approval of the suggested change to Regulation 1.17 as specified below.

TIMING:

Board action is requested by May 8, 2019, to bring the regulation into compliance in a timely manner.

BACKGROUND:

Park Authority Regulation 1.17 specifies that no person shall operate certain types of remote control devices and model rockets in a park except in areas designated by and with the express permission of the Park Authority.

In May 2018, Governor Northam signed House Bill 638 into law. In part, the bill modified Virginia Code § 15.2-926.3 to read:

No political subdivision may regulate the use of a privately owned, unmanned aircraft system as defined in § 19.2-60.1 within its boundaries. Nothing in this section shall permit a person to go or enter upon land owned by a political subdivision solely because he is in possession of an unmanned aircraft system if he would not otherwise be permitted entry upon such land.

Prior to July 1, 2018, § 15.2-926.3 was applicable to localities rather than political subdivisions. While the Fairfax County Park Authority does not meet the legal definition of "locality" it is a political subdivision of Fairfax County.

As the Board is aware, staff worked closely with the Office of the County Attorney to determine the effect of this legislative change, develop appropriate guidance for staff,

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and update the text of Regulation 1.17. A public hearing was duly advertised and held on September 6, 2018. A quorum of Board members was present. Attachment 1 is a summary of the hearing.

The following change to Regulation 1.17 is suggested. *Italics* indicates language to be added; ~~strike through~~ is language to be removed.

No person shall operate hobby rockets, ~~remote control gliders or powered remote-control or tethered planes,~~ boats, cars or other like devices in a park except in areas designated by and with the express permission of the Park Authority. *This regulation does not apply to the use of any privately-owned, unmanned aircraft system as defined in Virginia Code § 19.2-60.1.*

In practice, the Park Authority has complied with the change to § 15.2-926.3 since it became effective on July 1, 2018. This update brings the text of Regulation 1.17 into compliance as well.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: September 6, 2018 Public Hearing Summary

STAFF:

Kirk W. Kincannon, Executive Director

Sara Baldwin, Deputy Director/COO

Aimee L. Vosper, Deputy Director/CBD

Judith Pedersen, Public Information Officer

David Bowden, Director, Planning & Development Division

Andrea L. Dorlester, Manager, Park Planning Branch

Samantha Hudson, Park Planning Supervisor, Park Planning Branch

Ryan J. Stewart, Senior Planner, Park Planning Branch

**Proposed Update to Park Regulation §1.17 – Remote Controlled Devices, Powered Models, or Toys
Fairfax County Park Authority (FCPA) and Northern Virginia Regional Park Authority (NOVAParks)**

Public Meeting

September 6, 2018 at Twin Lakes Golf Course, Fairfax, VA

A public meeting was held on the evening of Thursday, September 6, 2018 in consideration of an update to *Park Regulation §1.17* to conform with changes to the Virginia Code. The public was invited to share their comments and questions. The meeting was attended by members of the FCPA Board: Mr. William Bouie, Mr. Ken Quincy, Mr. Michael Thompson, Dr. Abena Aidoo, Ms. Maggie Godbold, Mr. Linwood Gorham, and Mr. Kiel Stone; staff members of FCPA and NOVAParks; Fairfax County staff; and members of the public.

Introductions: Ms. Judy Pedersen, Public Information Officer, FCPA, welcomed the attendees, provided a general background of the Park Regulations, and outlined the evening's agenda. Mr. William Bouie, Chairman of the FCPA Board, presented opening remarks (see Attachment).

Staff Presentation: Mr. Ryan Stewart, Senior Planner, FCPA, presented on the agency's work with unmanned aircraft to date and the need for a change to *Park Regulation §1.17, Remote Controlled Devices, Powered Models, or Toys*. The [slides](#) are available for review.

Public Comment Period: Ms. Pedersen facilitated the public comment period. Two speakers provided feedback for the record. Both were unmanned aircraft pilots and supported increased access to the parks for this purpose.

Questions: Ms. Pedersen moderated a question period. She and staff members Mr. Stewart and Mr. Christopher Sigler, Office of the County Attorney, and FCPA Board members, were available to answer questions from the public. Concerns raised by the audience included ensuring public safety and privacy, whether permits would be required, whether athletic fields were authorized for drone use if not otherwise reserved, and finding acceptable locations to operate unmanned aircraft within the parks. Staff continues to work with the County Attorney's office to refine its guidance.

Attachment

Comments from William Bouie, Chairman, Fairfax County Park Authority Board

September 6, 2018

Good evening and thank you for joining us tonight as we explore the use of drones in parks and amend our relevant policies to comport with state law. As Chairman of the Park Authority Board it is my responsibility and my fellow board members to ensure for the safe use of our parklands and protection of resources. Drones offer several challenges and concerns.

Let me make a couple of points about where we are on the issue and where we are going.

First, the Park Authority strongly opposed the legislation that essentially stripped our agency of the ability to control the use of unmanned aircraft in and over parkland. Our concerns are based substantially on safety and privacy issues, preservation of our natural and cultural resources, and the potential to disrupt more traditional use of our 23,000 plus acres of parks, open space, fields, and trails.

This did not catch us off-guard. We knew drones were coming and had spent considerable time studying the issues and planning for permitted uses and curated programming that we felt would be the appropriate approach. In fact, we believe drones may be useful in helping us cost effectively manage our park system.

Unfortunately, the legislature found that business concerns and less restrictive management were more attractive. As you may be aware, Virginia is a Dillon Rule state and local government is strictly limited to those powers delegated to it by the state legislature. Local laws and rules must align with Virginia Code, and that is the purpose of tonight's hearing – to amend our regulations and align with state laws. Ryan, who has diligently led the effort to manage drone usage in parks will explain some of the particulars in just a moment.

At this time, we are working to operationalize drone use – as the legislature envisions it -- in parks with safety as the primary concern. We understand that this Board and the Board of Supervisors cannot really regulate them or their uses beyond those conditions and limitations set by the FAA. The Park Authority has established operational guidelines that apply across the board to all park users. Online we have outlined those places where drone use is allowed and those places where the activity is not permitted as determined by the Federal government. And we have *requested* drone users apply commonsense and courtesy, in a similar fashion to those constraints suggested *voluntarily* on smokers in our parks.

We are also actively tracking complaints and concerns from the public and our staff. We believe incompatible uses or safety issues will become apparent and it is our intention to use this information to potentially go back to the legislature next year seeking reasonable relief. Again, our primary responsibility is to ensure the safety and privacy of all park users and park neighbors, the ability to enjoy our parks and the protection of our resources and open space.

As technology changes, we need to be mindful of new challenges such as model aircraft and drones or e-bikes and find ways to manage use. Having said all that, we are open minded and interested in your comments and perspectives. Thank you.

Proposed: FY 2021 General Fund Budget Asks

Priority No	Division	Amount	Description/Comments
1	Director's Office	\$15,000	Public Engagement Software: Technology to enhance feedback mechanisms to engage the community and inform decision making for planning, development and management of park resources.
1	Park Ops	\$1,000,000	Forestry funding: Funding this request would improve the ability to respond to, inspect and complete tree complaints promptly and will improve customer service.
2	Park Ops	\$325,000	Facility Capital Improvements- supports recreational facilities capital needs for system replacements to sustain service and revenue generation for the agency.
3	Park Ops	\$705,000	Capital Equipment- Funding to replace all failing and potentially unsafe equipment well beyond its useful life.
4	Park Ops	\$75,000	Park Maintenance- Funding for seasonal staff to improve parks conditions which are the cause of hundreds of complaints and concerns each year. Will also handle park inspections, safety issues, and customer complaints. Cover weekend and weekday afternoon/evening coverage to improve park inspections, safety, and customer service.
5	Park Ops	\$308,480	Trail Maintenance: This request is to support renewal, maintenance and storm-related repairs to trails.
6	Park Ops	\$250,000	Contract Mowing: Supports operating funds needed to contract out all general park mowing for all sites managed by Park Operations except for those sites or facilities that require infrequent or specialized mowing (trails, meadows, athletic fields, etc.). The additional funding will also support an expected price increase in the cost to contract for existing mowing work. Contracting all mowing will provide staff time to address critical maintenance of facilities such as trails, playgrounds, athletic courts, and general park maintenance.
1	PSD	\$1,000,000	Social Equity Initiative for Scholarships: The Park Authority is currently providing over \$1 million in scholarships for classes through the Revenue & Operating Fund (ROF). Without county support, the ROF may no longer be able to sustain the level of class scholarships currently provided and will not be able to offer RECenter access due to increasing costs to operate the park system.
2	PSD	\$190,000	Summer Concert Series: \$190k in funding to assist in providing free concert series for each magisterial district for the Summer Entertainment Series. Currently, the

			Park Foundation has the responsibility for raising the funds needed to support the artists at the SES. A large percentage of the funds raised by the Park Foundation is diverted to audio technology needs of each summer concert series compromising the ability of the SES to solicit and pay the more sought after artists. To support additional needed funding for the SES, the Park Authority is requesting funding of \$190k to support audio visual needs for the full series complement of 190 shows.
3	PSD	\$301,000	ADA Program Accessibility Support: This includes inclusion coaches for summer camps and RecPAC and year round classes, sign interpreters and contract services for providing accessibility to FCPA programs and services (e.g. nurses, etc.). This includes customers and employees agency-wide.
4	PSD	\$172,500	Time Clock System: System to capture time and attendance data and increase efficiency of time scheduling and tracking.
1	PDD	\$92,767	Planner II position to support the increased volume of land development review work the park planning branch is expected to do as a result of outside agency activities.
2	PDD	\$76,221	Energy Analyst: An additional merit position, at a cost of \$76,221, is also needed to implement the next phases of the FCPA's Energy Management Plan to focus on project development and completion, technical expertise, and promoting energy management to the public.
3	PDD	\$200,000	Tririga Replacement: Annual maintenance fees for the new asset management system.
3	PDD	\$100,000	Energy Management Operating support: There is a need for some replacement parts, repairs, emergencies, updating technology, commissioning, and community outreach on Energy Management for projects previously completed.
1	RMD	\$92,767	County-wide archaeology support: Funding to support the addition of an archaeologist to meet the increasing demand for efficiency required by the County's 'booster shot" program for the streamlining of the development plan review process.
2	RMD	\$42,500	Natural Resources Management Maintenance: This funding request will maintain inventoried high-priority and restored ecosystems. High-priority ecosystems are currently healthy sites and restored ecosystems are those that were recently restored capital improvement projects. Maintenance-level natural resources management is low frequency and intensity, and is necessary to prevent ecosystem degradation or to ensure a restored ecosystem performs as designed. Typical tasks

			include monitoring an ecosystem every three to five years and spot-spraying for invasive vegetation or bush hogging as needed.
3	RMD	\$50,000	SNAP funding for Fairfax County Farmers Markets (FM): At four of the nine Fairfax County Farmers Markets, eligible customers may use their Supplemental Nutrition Assistance Program (SNAP, formerly food stamps) benefits to purchase food products in the farmers markets. These customers can be enticed to spread their market dollars with the addition of matching funds for the purchase of fresh produce. Operating the SNAP program involves considerable staff time. Funding a 900 hour part time staff will enable the FM system to effectively manage the program and expand the program to additional markets.
4	RMD	\$50,000	Resident Curator Program Management: To grow and advance the success of the Resident Curator Program the Heritage Conservation Branch requests funds to prepare the infrastructure of additional county-wide historic properties. The Resident Curator Program is the county's model administered by the Park Authority to encourage qualified applicants to rehabilitate historic, underutilized and vacant buildings.
5	RMD	\$100,267	Community Science and Stewardship Program: Support for the addition of an Ecologist III to meet growing customer needs for citizen science projects and programs that inform county decision-making, developing and maintaining a volunteer workforce for ecological restoration activities, developing and maintaining strategic partnerships to manage natural areas, and furthering natural resource-based interpretation within the agency.
TOTAL		5,131,502	