

# DRAFT MINUTES

## City of Flagstaff BICYCLE ADVISORY COMMITTEE



**Thursday, May 2, 2019 | 4:30 pm**

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Flagstaff City Hall, Council Chambers  
211 West Aspen Avenue, Flagstaff, Arizona

### **CALL TO ORDER**

The meeting was called to order at 4:34 pm. On roll call, the following Committee members were present:

Mark Haughwout, chair  
Kim Austin  
Daniel Crim  
Jeff Goulden  
Estella Hollander  
Susan Hueftle  
Matthew Mitchell

### Members absent:

None

### The following City and agency staff was present:

Jeff Bauman, Traffic Engineer  
Martin Ince, Multimodal Transportation Planner  
Christina Parry, Senior Assistant City Attorney  
Sterling Solomon, City Attorney  
Marianne Sullivan, Senior Assistant City Attorney

### Public present:

Joey Bono  
Bryan Curley  
Anne Heinen  
Sasha Heinen  
Tyler Linner

**I. PRELIMINARY GENERAL BUSINESS**

**1. Announcements**

Mr. Mitchell asked about the status of the Fourth Street FUTS Trail, and about the design of the proposed bridge.

Ms. Hueftle said that she found statistics which support the health benefits and lower costs of bicycling compared to driving.

Chair Haughwout announced that the state hands-free device law was passed. Tickets will be issued starting in 2020. Any local laws are superseded.

**2. Public Comment**

Ms. Heinen (Sasha) asked if the Committee was going to discuss the Active Transportation Master Plan. She encouraged the Committee to manage its schedule better to leave time to discuss the master plan.

**3. Approval of Minutes**

Mr. Mitchell made, and Mr. Haughwout seconded, a motion to approve the minutes from the regular meeting of April 4, 2019. The motion was approved unanimously (7-0).

**II. OLD BUSINESS**

**1. E-bike and e-scooter amendments to City Code**

Marianne Sullivan, senior assistant city attorney, provided copies of proposed revisions to City Code regarding the truthful name requirement and the operating under the influence provision.

She explained that Title 13 of Arizona Revised Statutes applies to criminal acts, while Title 28 is for vehicles. As a result, the existing provisions for truthful name do not apply to civil traffic violations. The language otherwise copies state law, but adds a requirement for date-of-birth. She said that it is important for the police to be able to verify the identity of those detained through available databases.

The Committee asked about individuals who are not from this country. Ms. Sullivan explained the process.

There was discussion about the applicability of this proposed requirement. The Committee wondered if there was already another provision in state or local law to address the identification issue. The also wondered if the requirement would apply

more generally or if it was just for bicyclists. The Committee discussed if the requirement should have broader appeal rather than singling out bicyclists.

Ms. Sullivan said that the requirement was needed to enforce the traffic code for bicycles, and that it would only be used for those who refused to provide identification.

The Committee expressed concerns that the requirement was not necessary, that its impacts would fall most heavily on the poor and people of color, and that it would criminalize something that previously had not been criminal activity. A comment was made that the City wants to encourage bicyclists, but this discourages them.

The Committee asked if the provision could be applied only to electric bicycles and not all bicyclists. Ms. Sullivan said that it could, but the ultimate decision would be made by the Council. There was discussion that all bikes should be treated the same.

A question was asked about the consequences of providing someone else's name and date of birth, which could be identify fraud.

The Committee expressed concerns that the requirement could be used against people who are undocumented, and that it could lead to an escalation of a situation or compounding of charges.

The Committee asked if there are other circumstances where bicyclists could be targeted. For example, if the police detained a young person without a helmet because they thought he was under 18, but it turns out he is 19, could the requirement be used to run other background checks on him.

A comment was made that the helmet ordinance provides an opportunity for the police to make contact with kids on bikes. The point is not necessarily to give a ticket, but to make contact and provide education.

Ms. Sullivan provided information about a new provision that would make it unlawful to operate an electric bicycle or scooter under the influence of drugs or alcohol. She said that the language was modeled on the state law; however the state law for driving under the influence does not apply to bicyclists. She said the penalties are less severe than the state DUI laws for vehicles, but that jail time was still recommended. She also said that the Committee can recommend less severe penalties.

She explained that there is a safety concern, given that the devices can be propelled with little or no action from the rider. It is hoped that the law will also have a deterrent effect. She clarified that the law would only be applicable to electric and motorized bikes and electric scooters.

The Committee commented that it was often difficult to tell a regular bike from an electric bike. There are not a lot of safety studies regarding electric bikes, but some early information has begun to come in.

The Committee commented that new laws should be based on sound data. Data for Flagstaff seems to indicate that only a small number of bicycle crashes involve alcohol. Cars are much more of a threat when operated by someone who is impaired. Pedestrians are more of a danger to themselves, so why not apply to the under-the-influence laws to them.

Ms. Sullivan clarified that public intoxication for pedestrians is not a crime. Although there is no data for electric bikes, it is still a legitimate concern in that others are put in danger.

The Committee commented that a bicyclist could be cited for reckless disregard or even assault if you hit someone. The Committee asked if we need laws to keep people from harming themselves, and repeated the concern the unnecessary laws can disproportionately affect the poor and people of color.

The Committee took a straw poll that resulted in a 4 to 3 vote against a law to make it unlawful to operate an electric bicycle or scooter under the influence.

The Committee also discussed the proposed penalties, and agreed that the penalties should be less severe.

The committee discussed various options for reducing the proposed penalties, for example making it a civil offense instead of criminal, directing funds from the fines towards bicycle education, and having a range of fines. There is a concern about the consequences of a conviction, which might affect future job applications or a commercial drivers license.

The Committee asked about how many other communities have OUI provisions for electric bikes and scooters. Ms. Parry responded that it is very common, but that it was also common to exempt regular bicycles.

Ms. Sullivan said that the City is trying to be proactive to reasonably regulate electric bicycles and scooters, and that we do not have to wait for something bad to happen.

In a second straw poll, the Committee voted 4-3 in favor of a requirement to provide truthful name and date-of-birth. The results were the same for name only and not date-of-birth. The Committee also voted 5-2 in favor of the requirement if it were applicable to all civil violations and not just bicyclists.

The Committee said they want to make sure that their views are presented to the Council.

**2. Active transportation master plan/FUTS master plan**

This item was not discussed.

**III. NEW BUSINESS**

**1. 2019 Bike to Work and School Week**

Ms. Austin provided a brief overview of events for the week.

**IV. CONCLUDING GENERAL BUSINESS**

**1. Reports**

There were no Reports.

**2. Concluding Announcements**

There were no Concluding Announcements.

**V. ADJOURNMENT**

The meeting was adjourned at 6:47 pm