



CITY OF FORT BRAGG

416 N. FRANKLIN, FORT BRAGG, CA 95437
PHONE 707/961-2823 FAX 707/961-2802

COUNCIL COMMITTEE ITEM SUMMARY REPORT

MEETING DATE: March 28, 2017
TO: Community Development Committee
FROM: Marie Jones
AGENDA ITEM TITLE: **Receive Report and Provide Direction to Staff Regarding Use of Electric Personal Assistive Mobility Devices (Segways) on the Fort Bragg Coastal Trail**

ISSUE:

An Electric Personal Assistive Mobility Device (EPAMD) is a self-balancing, non-tandem, two-wheeled vehicle with a low-powered electric motor. EPAMDs are commonly known as "Segways," the brand name of one of the commercial products. In 2016, a local entrepreneur applied for and received a business license for a guided tour business with tour participants using Segways. Her business plan identified Coastal Trail tours as a primary activity of the business. On March 28, 2016, City Council considered if EPAMDs should be allowed or prohibited on the Coastal Trail in Noyo Headlands Park. At that time, the State Coastal Conservancy provided guidance that the Coastal Trail Deed Restriction, recorded on the property as a condition of the Coastal Conservancy's funding the property acquisition, would not allow the use of EPAMDs. The local entrepreneur encouraged the Coastal Conservancy to further review their interpretation of "passive recreational uses" as referenced in the Deed Restriction. Subsequently, the Coastal Conservancy reviewed their program at a statewide level to determine if passive recreation requirements result in a de-facto prohibition of EPAMDs for non ADA purposes. The Coastal Conservancy attorneys determined that the passive recreation definition does not automatically preclude the ability to have EPAMDs, and further the Coastal Conservancy attorney determined that local urbanized jurisdictions may regulate the use of EPAMDs as they choose on property that includes a Coastal Conservancy passive recreation deed restriction.

The local entrepreneur has again approached the City for authorization to lead Segway tours on the Fort Bragg Coastal Trail at Noyo Headlands Park. Given the change in the interpretation by the Coastal Conservancy, City Council should revisit this topic and provide direction regarding

the operation of Segways and other EPAMDs on the Coastal Trail. Additionally, the request to run tours of Segways on the Coastal Trail raises the broader issue of commercial use of the Coastal Trail and, if commercial use should be allowed, how the City might choose to regulate it.

RECOMMENDED ACTION:

Provide recommendation to City Council regarding:

- (1) Whether EPAMDs should be permitted on the Coastal Trail for non-commercial recreational purposes; and
- (2) Whether EPAMDs should be permitted on the Coastal Trail for commercial purposes such as sight-seeing and if so, if permitting and/or concessionaire requirements should be established.

ALTERNATIVE ACTION(S):

Request further information from Staff and delay a recommendation to a later meeting.

ANALYSIS:

EPAMDs (including Segways) are used for a variety of purposes, which include: 1) as a mobility enhancement device for people with disabilities; 2) as a recreational device (sight-seeing, Segway polo, etc.) for people of normal abilities; and 3) as a commuting/transportation device for people who wish to travel a longer distance in a short timeframe. Segways are also in use by more than 1,000 police departments worldwide. All of these uses are possible on the Fort Bragg Coastal Trail, although sight-seeing tours are the most likely use.

A Segway is a two-wheeled, self-balancing, battery-powered electric vehicle. Computers, sensors, and electric motors in the base keep the device upright. A rider commands a Segway to go forward or backward by shifting their weight forward or backward on the platform. The maximum speed is 12.5 mph. The product is capable of covering 24 miles on a fully charged lithium-ion battery. The hoverboard operates under a similar system, but does not include handle bars.

Legal Issues Associated with Segway Use on the Coastal Trail

Currently, the use of motorized vehicles is prohibited in all parks in Fort Bragg, except for emergency vehicles and motorized strollers and wheelchairs, or if the City issues a permit for temporary access for such use. FBMC Section 9.68.010(A) states:

Motorized vehicles of any kind or nature shall be prohibited from accessing any portion of a park (other than parking lots and/or access roads), except for the following: emergency vehicles; vehicles of the City and its duly authorized representatives or agents; strollers and similar children's carriages; wheelchairs; and vehicles whose

owners have first obtained a permit from the Director of Public Works for temporary access for activities as may be approved by the City.

The California Vehicle Code (Section 467) permits EPAMDs to operate on sidewalks, bike paths, pathways, trails, bike lanes, streets, roads, or highways, subject to the following restrictions:

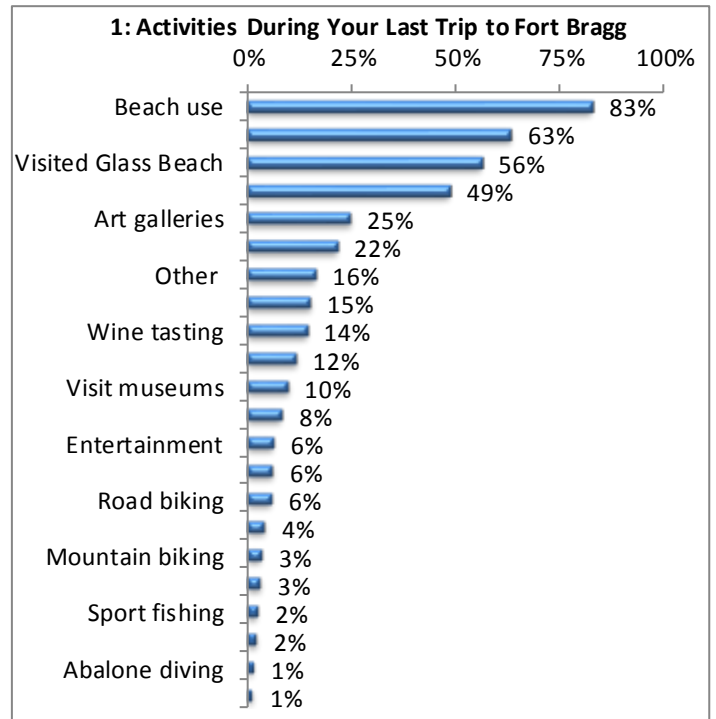
- It cannot be operated at a speed greater than that which is reasonable and prudent given the surroundings;
- It cannot be operated at a speed that endangers the safety of persons or property;
- The person operating the Segway must yield the right-of-way to all pedestrians on foot.

Cal. Vehicle Code Section 21282 also specifically authorizes a city to regulate the time, place, and manner of EPAMDs, including by limiting or prohibiting entirely their operation in certain areas of the city, or in the entire city.

Some of the pros and cons of allowing Segways on the Coastal Trail are discussed in detail below.

Pros of Allowing Segway Use on the Coastal Trail

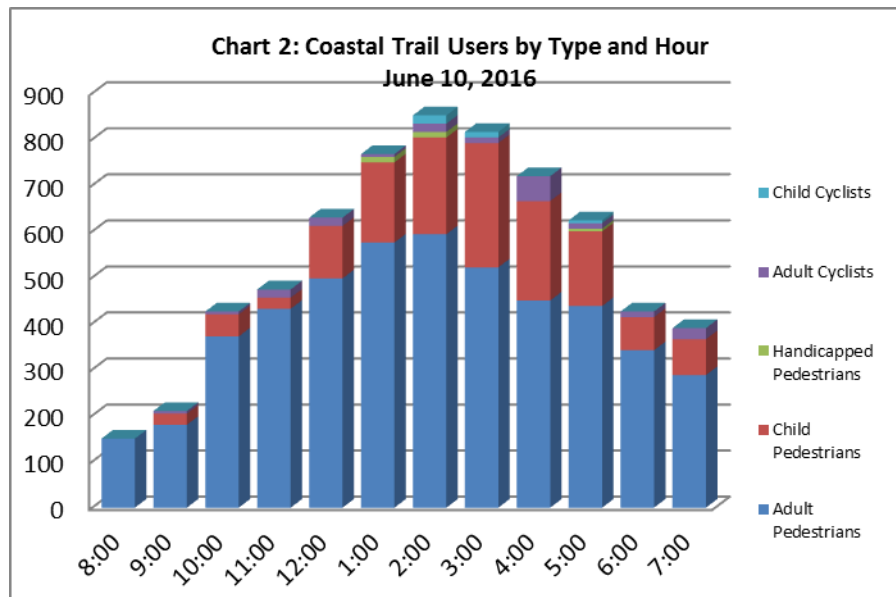
Tourism is a very important component of the Fort Bragg economy. Visitors who come to Fort Bragg seek a variety of recreational experiences according to a recent visitor survey (see chart 1). Most visitors to Fort Bragg visit our beaches, hike, walk or run, and visit Glass Beach. Additional activities, such as Segway tours have the potential to add to the experience of some Fort Bragg visitors. As more things to do are added to the Fort Bragg experience, visitors will tend to stay longer in town and spend more money. Segway tours on the coastal trail could be one more thing in the list of “to do” activities in Fort Bragg. Segway tours are currently offered in the following cities in California: Anaheim, Avalon, Catalina, Bakersfield, Beverly Hills, Big Bear Lake, Calistoga, Coronado, Dana Point, Fort Bragg, Healdsburg, Hollywood, Huntington Beach, La Jolla, Livermore, Long Beach, Los Angeles, Napa Valley, Napa, Newport Beach, Oakland, Pacifica, Redding, Sacramento, San Diego, San Francisco, Santa Barbara, Santa Cruz, Santa Monica, Sausalito, Sonoma and Yountville.



Cons of Allowing Segway Use on the Coastal Trail

Segway use on the coastal trail would not be without its challenges, including potential conflicts with other users and safety concerns. Both are explored below.

Potential Conflicts with Other Coastal Trail Users. The trail is currently used by a wide variety of users. In 2015, City staff completed counts on the coastal trail to identify total number of users, type of use and time of use (see chart below).



The trail counts were completed at the trail entrances at Elm Street, the Pudding Creek Trestle and the Cypress Street parking lot. The level of trail use declines significantly the further one travels from each parking lot. The trail is currently used primarily by pedestrians (97%) with relatively few cyclists (3%). This is likely because both trail segments are currently “there and back” experiences. When the middle section of the Coastal Trail is installed, cyclist use is anticipated to increase significantly (possibly up to 10% of users) as the new trail will provide connectivity for commuting and recreational cyclists.

There is some concern that Segway use will detract from the quiet enjoyment of the site by the many users and visitors through one or more of the following: hazardous or speedy driving, interference by large groups of people on Segways taking up too much of the trail width, and/or the sound of the electrical motors. If Council chooses to allow Segways, some of these potential conflicts could be addressed through the adoption of regulations, such as:

1. Segway groups could be limited to single file flow with a maximum number of participants per group (6 to 8);
2. Segways could be limited to a very slow speed (less than 10 miles per hour);
3. Segway use hours could be limited to before noon and after 5:00 PM during peak use periods (summer) to minimize conflicts with other users; and/or
4. Segway use could be limited to certain segments of the trail which receive less use, such as the south trail.

Some people have also expressed concerns about injury risk associated with Segway use. The individual most likely to be injured in a Segway accident is the Segway user. According to a study completed by Mary Pat McKay, MD, MPH, of George Washington University, injuries typically result from falling off the vehicle after hitting an inanimate obstruction. The most common injuries include facial trauma, brain injury and fractures, and about 30% of hospital admissions of Segway accidents involve serious injury. New users are most likely to be injured, especially those who don't wear a helmet.

Potential Liability. California law (Cal. Gov. Code Section 831.4) protects public landowners from lawsuits filed by citizens using public roads and trails for recreational purposes. That immunity does not apply if the landowner was paid or given consideration for granting permission to enter the property for recreational purposes. The general manager of the Redwood Empire Municipal Insurance Fund (the City's pooled insurance) has indicated that if the City allows a Segway concession it should require an encroachment permit and the Segway tour operator to provide indemnification and to maintain in effect a \$2 million commercial general liability policy with an endorsement adding the City as an "additional insured."

Furthermore, nothing in the law limits the liability of an independent concessionaire, whether or not that person has a contractual relationship with the public entity to use the property, for injuries or damages suffered as a result of operation of a hazardous recreational activity on public property.

Concessions

If the City chooses to establish an avenue for a concession for the operation of commercial Segway tours, a concession contract can establish limitations such as: hours of operation, place of operation, number of tours per day or week, number of people permitted on a tour, whether a guide is required or not, required safety equipment, speed limits, etc. A concession contract can also include a fee requirement.

Regulation of Segways in Other Communities

Several communities, including Healdsburg, Coronado, and San Francisco have adopted regulations addressing the use of EPAMDs on public paths. Examples of regulations include:

- The City of Healdsburg prohibits the use and operation of EPAMDs on sidewalks, walkways, and pathways located within the downtown business district. The ordinance (Healdsburg Municipal Code Chapter 12.16) notes that "The City Council finds that the use and operation of EPAMDs on all sidewalks, walkways and pathways in the downtown business district jeopardizes public health and safety because such use and operation puts pedestrians at risk of being injured or being forced off public sidewalks, walkways and pathways to avoid injury." The prohibition does not apply if the EPAMD is being used as part of an activity or event for which a permit allowing such devices has been issued by the City.
- The City of Coronado prohibits the use of EPAMD businesses within the City limits unless a "business operations permit" has been issued for the business (Coronado Municipal Code Chapter 20.42). The Code establishes regulations requiring that customers wear helmets; establishing age limits; prohibiting use, lease or rent of an EPAMD to a customer under the influence of alcohol, drugs or controlled substances. The businesses are also required to provide on-site education and safety training to customers; require tours to travel in single-file process; maintain in effect commercial

general liability insurance coverage; etc. The Code also prohibits the use and operation of EPAMDs along Orange Avenue, a beachfront thoroughfare (Chapter 56.90).

- The City of San Francisco has enacted a ban on the use of Segways on bike trails or any other places intended for foot- or bicycle traffic.

Fort Bragg's Options

- (1) The City could continue to ban the use of EPAMDs entirely in City parks.
- (2) The City could prepare amendments to Chapter 9.68, which could include regulations governing the use of EPAMDs in City Parks. If the Council is interested in pursuing this option, it may want to remand the matter to a Council standing committee to obtain more public input and to develop specific recommendations for an ordinance.