



The Corporation of the City of Courtenay

Staff Report

To: Council
From: City Manager (CAO)
Subject: BCAA's Evolve - Proposed Electric Bike Share Program

File No.: 5400-01
Date: April 24, 2024

PURPOSE:

To provide Council with options regarding the next steps in managing BCAA's Evolve request to partner with the City for the delivery of an Electric Bike Share Program within the City's jurisdictional boundary.

BACKGROUND:

At the December 6, 2023 Council meeting, Council resolved:

THAT Council direct staff to prepare a report on the feasibility of the proposed regional electric bike share program as outlined by Evolve in their delegation to Council on December 6th, 2023.

BCAA's request includes the use of City right-of-way for a Proposed Regional Electric Bike Share Program, which includes a mixture of private and public right-of-way locations for e-Bike storage. The proposal includes twenty-six (26) locations, scattered across the Comox Valley, including fifteen (15) locations within the City of Courtenay's jurisdiction of which, thirteen (13) are proposed on City-owned right-of-way and the remaining two (2) on Comox Valley Regional District (CVRD) property.

Shared Micromobility Definition (from the National Association of City Transportation Officials, NACTO)

Shared-use fleets of small, fully or partially-human powered vehicles such as bikes and e-bikes. These vehicles are generally rented through a mobile app or kiosk, are picked up and dropped off in the public right-of-way, and are meant for short point-to-point trips.



Figure 1: E-Bike Kiosk



Figure 2: E-Bike Location in Public Right-of-Way – City Hall

This would be the first program in the Comox Valley that has emerged from a Service Provider (SP) that uses public right-of-way for their business model. There are two significant guides that speak to this type of arrangement between service providers, like BCAA, and municipalities. The contents of which speak to the content of any agreement made between the two.

Existing Guidelines:

1. "Shared Mobility Guidelines", TransLink, 2019
2. "Guidelines for Regulating Shared Micromobility," NACTO, 2019

DISCUSSION:

The collaboration between the Comox Valley Regional District (CVRD) and the City of Courtenay, in partnership with BCAA's Evolve, for the implementation of an Electric Bike Share Program signifies a pivotal step towards promoting sustainable transportation in the region. With a Memorandum of Understanding (MOU) being established among all parties involved, including the Town of Comox, the focus lies on ensuring clear roles, responsibilities, and expectations are outlined for seamless program operation. While the MOU provides a framework for intentions and general scope of the relationship, additional contractual considerations are crucial to solidify the partnership's success. This includes addressing e-Bike storage in public right-of-way, defining license rates, compliance standards, maintenance obligations, and data sharing requirements. By strategically evaluating operational, bylaw, and data sharing implications, the City can pave the way for a successful and mutually beneficial e-Bike Share Program that maximizes benefits for all stakeholders.

General Contract or Licence Provisions – Between the City And Service Provider

Both TransLink and NACTO Guideline are synthesised below to illustrate the type and kind of information the City should consider before licencing and permitting a partnership agreement for an e-Bike Share Program.

In order to manage short and long-term licences for use of City Infrastructure, a Contract or Licence and Service agreement between the City and the service provider would set out obligations, expectations and services requirements, addressing the following in accordance with the City's established standards and practice:

- a. Licence rates
- b. Public service rates
- c. Compliance with laws and regulations
- d. Indemnification
- e. Maintenance and repair obligations
- f. Term
- g. Use age requirements
- h. Communication expectations regarding City bylaws to users
- i. Abandoned bikes – notice, storage, retrieval, service expectations and fees
- j. Termination provisions and conditions including notice requirements
- k. Permitted use (e.g. limited to bikes and e-bikes)
- l. Assignment/subleasing
- m. Data sharing requirements (if not outlined in the regional MOU)
- n. Costs for non-compliance or as outlined in a service schedule
- o. Risk mitigation obligations, and;
- p. Any other condition as required by the City, to be agreed to by the service provider

City Operations Consideration**1. System Operations**

By following the contract or licence process, the City can ensure a large degree of accountability by the SPs and ensure they are held accountable for their day-to-day operations and have an appropriate level of risk management. There are a number of concerns that have been raised by the general public and stakeholders the City should be aware of:

- Use and provision of proper helmets and how they are maintained for health reasons.
- How the SP plans to ensure a balance of devices across the system (i.e. frequency throughout the day, who is responsible, what is the threshold, user incentives, timeline to complete)
- How to deal with 'dead' bikes that are not parked appropriately (who picks them up? Who pays for the service?)
- Visible ID with the SP phone number should be considered, to identify compliance, incentives and penalties.
- How does the SP comply with safety inspections to ensure public safety? What triggers are used for replacement or repair, and are their back-ups used to ensure fleet numbers?

Bylaw Implication

Section 5.7 (Vehicle Usage) as proposed in the Parks and Open Spaces Regulation Bylaw, currently in the bylaw reading stage, outlines the following regulations regarding the use of e-bikes in City parks and trails:

- a) The following regulations shall apply in respect of e-bikes and bicycles:
 - i. riding e-bikes and bicycles is prohibited in closed parks or closed parking areas;
 - ii. e-bike and bicycle usage below the natural boundary or high tide mark is prohibited;
 - iii. usage of e-bikes on trails within parks is strictly prohibited; and
 - iv. damaging natural features, park facilities, or improvements through e-bike or bicycle usage is strictly prohibited;
- b) No person under the age of 16 years is allowed to operate an e-bike in a park;
- c) Any motor vehicle parked in violation of this bylaw may be removed and impounded and the motor vehicle owner is responsible for the cost of removal and impoundment before the vehicle will be returned;

To ensure service users are aware of e-bike regulations within the City of Courtenay, the Contract or Licence between the City and SP can include requirements that would seek to ensure user awareness of local regulation to increase the likelihood of bylaw compliance. In addition to outlining communication requirements in the contract or licence, the City will be installing signs in City parks and on trails outlining e-bike restrictions. Additionally, contract or licence requirements for operation within the City of Courtenay would need to limit customer use to those 16 years of age or older.

Regional Service MOU/Agreement Considerations**1. Data Sharing**

Data underpins all requirements for understanding how successful the program is, and how useful, flexible, and sustainable it can be, and is recommended between the SP and the program partners to measure success.

The data that SPs use should be shared with the CVRD as a condition of the MOU and be able to be verified by a 3rd party if required. There are recommended standards that we should follow and require for all data.

Most of the technical aspects of data validation and format come from the NACTO guideline, which is also suggested in Translink's guideline. Suffice to say the City should consider following all the technical data sharing aspects as suggested.

In the event the agreement between the CVRD and the SP does not include requirements for data sharing, this expectation would be included in the contract or licence requirements between the City and the SP.

Should data sharing be included in the CVRD service model, depending on the data identified, the City may contemplate the collection or sharing of additional information to assist in service planning and evaluation.

2. Payment and Price Structure

While the business plan of BCAA for the e-Bike Share Program will determine user fees, it is recommended that the program have the following abilities for inclusion, and barrier-free operation:

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- The payment system must offer options for low income persons
- Include cash and non-credit applications
- Consider leveraging existing technology (mobile phones)
- Explore rewards to link trips with transit and other SPs
- Demonstrate how they offer security and consumer precautions and tracking of fees
- Rate subsidies and subsidy mechanism to be the responsibility of and funded by the service

2. Right-of-way

There are ways to manage the road ROW that need to be addressed and identified, such as the:

- a) Type of model used for parking needs (geofenced, physical, or hybrid),
- b) Use of marking to identify parking areas with signs or paint,
- c) Particular underused areas of the ROW that with could be used (curbs, buffer zones, vehicle stalls, parklets)
- d) Accessibility considerations

3. System planning and design

The contract or licence process should plan for an initial deployment and clearly and appropriately outline scaled up operations over time. The plan should be tied to performance metric that indicate how the service contributes to sustainability goals of the Transportation Master Plan and OCP.

The guidelines indicate how to gather details of the fleet and the requirements of such, like:

- Compliance with the Motor Assisted Cycle Regulation (BC) 151/2002,
- Speed regulator
- Tethering mechanism
- Speedometer

There are lengthy, integrated, and specific requirements for the SP to clearly identify parking compliance, needs (locations), and responsiveness to system-wide compliance and needs, all of which are detailed in the guidelines.

POLICY ANALYSIS:**Legal**

The Licence and Services Agreement between the parties should be used to maximize involvement with BCAA and minimize the legal risk to the participating parties. Staff are reviewing the Licence and Services Agreement with legal to ensure that the indemnity language adequately transfers risk away from the City to BCAA for the program.

Licence and Service Agreement, LSA

The City's existing Road Use permitting process is not yet robust enough for Micromobility service operators, therefore, a Licence to Occupy (LOO) through a "Licence and Service Agreement" (LSA) between the Service Provider (BCAA) and the City, is required as to provide a legal basis for the use of the public road right-of-way.

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The proposed agreement clearly outlines the terms and conditions under which the City provides an exclusive licence to BCAA to use "Licenced Areas", described within the agreement that identify the public rights-of-way that will be used to contain e-Bikes for the purposes of operating a bike share program.

Memorandum of Understanding, MOU

The establishment of an e-Bike Share program includes the adjacent Town of Comox, which necessitates a Memorandum of Understanding between all three parties. This ensures the e-Bike Share Program operates with the same expectations between all parties.

The proposed MOU outlines the intentions with respect to roles and responsibilities of the parties working together and sets out the general scope of the relationship. The MOU is not legally binding in itself, but it is used to set forth general principals and intensions of an agreement.

The MOU for the e-Bike Share Program will have three participating parties: the Comox Valley Regional District (CVRD), the City of Courtenay (City) and Town of Comox (Town) which identifies:

- The CVRD will be the administrator of the program with BCAA Evolve as the identified Service Provider,
- the term of the agreement,
- financial considerations, and;
- indemnity of all parties between themselves and from the Service Provider.

The City may, at a future date, may wish to expand the permitting system to regulate and manage service providers. In this case several managerial aspects of the process will have to be updated.

This would require:

- Updates to the Traffic Regulation Bylaw,
- Update the Fees and Charges Bylaw, and
- Creation of appropriate permit forms.

FINANCIAL IMPLICATIONS:

BCAA Evolve has indicated that some of the proposed locations or will require 'light duty' remediation to a general standard so the e-Bikes can stand upright properly. This will range from minor to modest remediation of landscape and or hard surface areas for the placement of the Evolve assets and their associated appurtenances; e.g. bike racks, informational signage, etc.

The preliminary cost estimate for the remediation works is estimated at approximately ~\$5000.00.

The proposed locations or 'Licenced Areas' represent a cumulate total of approximately ~26 square metres of public space. In alignment with best practice, the Community Charter and the City's fees and charges bylaw, licences areas are subject to an annual user fee of \$5.00 per square metre, resulting in a nominal net cost recovery amount.

The City has received a request from Evolve E-Bike share to waive all fees associated with their operation In the City. The City of Courtenay, in accordance with Section 25 of the Community Charter is not permitted to

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aid business, as such the SP would be responsible for all associated costs. Any service subsidy rate consideration would be under the jurisdiction of the CVRD.

ADMINISTRATIVE IMPLICATIONS:

With a new service being offered to the public comes administrative duties, that may at time extent to an activate response from operational staff. Given that the use of e-Bikes is not limited to private spaces, users may, at times, create a need to operational staff to respond to emergent conditions; e.g., an e-bike is abandoned on a road/sidewalk blocking vehicular or pedestrian access. The future use the data identified in the LSA for analysis, including trip data and reports on characteristics of the operation.

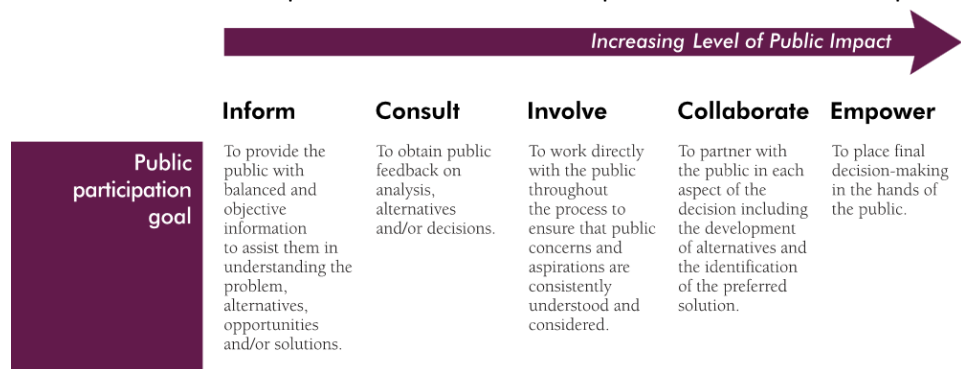
STRATEGIC PRIORITIES REFERENCE:

This initiative addresses the following strategic priorities:

- Streets and Transportation - Update cycling network plan and implementation strategy
- Streets and Transportation - Review City's approach to parking standards downtown: Parking restrictions and ticketing
- Streets and Transportation - Plan and implement bike parking and secure storage
- Parks and Recreation - Optimize active public spaces to respond to density increases and increased park use
- Social Infrastructure - Identify roles for the City in the delivery of social infrastructure outlined in the OCP; Implementation plan for delivery of social infrastructure

PUBLIC ENGAGEMENT:

Staff would inform the public based on the IAP2 Spectrum of Public Participation:



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OPTIONS:

1. THAT Council authorize staff to enter into a tri-part Memorandum of Agreement with the Comox Valley Regional District and the Town of Comox for the provision of an e-Bike Share Program; and,

THAT Council delegate authority to the Director of Operations to determine the form and content of a Contract and/or Licence and Service Agreement between the City of Courtenay and BCAA Evolve to facilitate the provision of the e-bike share program in the City of Courtenay; and,

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THAT staff be directed to advise BCAA Evolve Bike Share that the request to waive all costs and fees for the e-bike share program is denied, and a full-cost recovery model will be applied; and,

THAT Council delegate authority to the Director of Operations to authorize any required agreements or other legal documents necessary to provide BCAA Evolve access and permission to use public land for the purposes of providing an e-bike ride share program.

2. THAT Council authorize staff to enter into a tri-part Memorandum of Agreement with the Comox Valley Regional District and the Town of Comox for the provision of an e-Bike Share Program; and,

THAT Council delegate authority to the Director of Operations to determine the form and content of a Contract and/or Licence and Service Agreement between the City of Courtenay and BCAA Evolve to facilitate the provision of the e-bike share program in the City of Courtenay; and,

THAT Council approve BCAA Evolve's request to waive all costs and fees for the e-bike share program and authorize staff to provide in-kind funding up to a maximum amount of five thousand dollars for the provisions associated with the deployment of the prescribed e-bike share program; and,

THAT Council delegate authority to the Director of Operations to authorize any required agreements or other legal documents necessary to provide BCAA Evolve access and permission to use public land for the purposes of providing an e-bike ride share program.

3. THAT Council direct staff to not proceed with the proposed Memorandum of Agreement or the Licence and Services Agreement at this time.
4. THAT Council provide alternative direction to staff.

ATTACHMENTS:

1. CVRD MicroMobility Memorandum of Agreement – Draft
2. BCAA Evolve Map Overview: City of Courtenay Public Property Locations
3. Letter of Support from the Downtown Courtenay Business Improvement Association (DCBIA)
4. BCAA Evolve: Letter of Request – Associated Fees

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