

CITY OF WEST LAFAYETTE
COMMON COUNCIL
WORK SESSION AND SPECIAL MEETING
MINUTES
JANUARY 14, 2019

The Common Council of the City of West Lafayette, Indiana, met in Room 115 at the Temporary City Hall – Former Happy Hollow Elementary School on January 14, 2019, at the hour of 6:00 p.m.

President Bunder called the meeting to order and presided.

The Pledge of Allegiance was recited.

Present: Peter Bunder, Nick DeBoer, Steve Dietrich, Jonathan Jones, Gerry Keen, David Sanders, Gerald Thomas, and Norris Wang.

Absent: Larry Leverenz

Also present: Mayor John Dennis, Corporation Counsel Eric Burns, Clerk Sana Booker, IT Director Brad Alexander, Street Commissioner Ben Anderson, Director of Development Erik Carlson, Facilities Director Tim Clark, City Engineer Ed Garrison, Deputy Police Chief Troy Harris.

UNFINISHED BUSINESS:

Ordinance No. 01-19 (Amended) An Ordinance Regulating Personal Electric Or Motor Powered Vehicles And Other Non-Motorized Transportation Devices (Sponsored by Mayor John R. Dennis)

President Bunder read Ordinance No. 01-19 by title only.

President Bunder noted that a document with proposed amendments is available with red text or other highlights to indicate changes. We will also discuss other possible changes. If this becomes an ordinance that we wish to take up tonight, then we will move to citizen comments.

Corporation Counsel Burns stated that this is a Special Meeting, which means that the Council can take votes and all the normal rules would apply, and he suggests doing so at the end. He suggested that before that point, the meeting should be treated as a work session. The work session will be treated a little less formal. The Council will have discussion among each other and they may not always be recognized. The minutes do not have to reflect what is said in a work session in the same rigor as when voting. He explained that many suggested changes were put into the current draft of the ordinance because they seemed to the staff to be non-controversial. Additionally, there is a slideshow presentation with some additional suggestions that require discussion.

The Council began discussion using Counsel Burns' suggestions. Some portions of that discussion are summarized below.

Councilor Keen noted that a change, not yet in the documents, is regarding an email the Council received from Jan Myers that there is a more appropriate definition than *motorized wheelchair* to be included under the definition of *Electric or Motor Powered Vehicle (EMPV)*. Counsel Burns stated that the updated term would be *Durable Medical Equipment for Mobility*. He suggested that the words *including a motorized wheel chair* should also be stated so that general members

of the public will understand the type of equipment being referenced. Having both terms covers everything.

Counsel Burns noted that the term *operator* was changed to *enterprise* because *operator* has a specific meaning under State statute under Bureau of Motor Vehicles regulations. Later in the meeting, Counsel Burns noted that there are several mentions in the ordinance where *operator* will need to be changed, such as references to *operating permit*. Also, the definition of *user* was updated so that it is obvious that the ordinance applies whether you own or rent the mobility device. Permits are not required for private use.

Councilors discussed concerns about putting in a maximum number of scooters allowed in the City in the ordinance. Director of Development Erik Carlson explained that this decision would be left to the Administrative Officer and through the Board of Public Works and Safety based on evidence of changes as they occur, such as parking availability. This ordinance provides the framework for the Board of Works to make those types of changes. Counsel Burns noted that this oversight by the Board provides additional public scrutiny to proposed changes.

Councilor Jones expressed concerns about requiring the company to have a 24-hour customer service telephone number, as if the company is unwilling to have that then we are effectively asking Bird to pick up and not come back to us again. Councilor DeBoer agreed, saying that it could make it more difficult for small start-ups to overcome this and a few other listed restrictions. Councilors discussed requiring the number to be available during hours of operations since the scooters are shut off after a certain time, or if the time should be expanded beyond business hours so that property owners can call about problems at any time. The purpose of the number is to serve both the users and the public. Julia Zuchkov, Economic Development Administrative Aide (Department of Development), noted that other ordinances she researched included the 24-hour requirement, so it will not be something the companies will need to implement just for West Lafayette.

Director Carlson spoke about the requirement of the companies to hold educational events on user safety. Councilors discussed the number of those events actually needed during the year, the type of education, and if the events will also be promotional. Counsel Burns suggested that this is a topic that needs to be revisited.

Councilor Dietrich expressed concern about the difference between sidewalks and trails, as in some locations in the City that is a fungible matter where one can turn into the other. Counsel Burns responded that we have tried to address that by defining it by the width of 8 feet. Director Carlson noted that there is also the cycle track on State Street, so we need to do some wordsmithing on this section of the ordinance. Councilor Sanders asked if it needs to say anything beyond the fact that the scooters may use the paths as bicycles. Counsel Burns responded that it started out that way, and we may have overthought it since then, so we will continue to work on it.

Following comments from Councilor DeBoer, Counsel Burns assured the Council that any additions or changes to fines would still come to the Council rather than being solely up to the Administrative Officer or the Board of Works.

Councilor DeBoer expressed concerns about the implementation of the requirement for the user to agree to certain conditions. He suggested changing the word *device* to *system* in that instance so that users do not have to agree to the terms before each time they ride on the device. Councilor Dietrich suggested adding a required period of time for when the user would need to accept the terms of service again.

Council Burns, discussion Section 39.06 for Mobility Device parking, stated that a change was made after discussion with Deputy Police Chief Harris to indicate that it is the desire of the City that we will help private property owners take care of problems and remove unauthorized devices. This ties in with the earlier discussion about the 24-hour customer service line, but the reality is that Police dispatch will receive calls as well. Although we hope that the first phone call will be to the company, this allows the City to resolve issues when needed and then charge the company a fine. Councilors discussed changing the wording so that areas such as school property, which is neither private nor City property, is also protected.

Regarding the requirement to receive monthly reports of data, the group talked about the company knowing the location of the scooters and the users. Councilor Sanders expressed concern about the scooters being privacy-invasion devices and that the companies may sell that information. He believes there should be a provision for the protection of that data. Director Carlson explained that the reason the City wants these data reports is that we can study transportation patterns. Ms. Zuchkov added that we have included data about banned users because we want to know the reasons, such as specific parking issues, that people are getting banned. We are not seeking information specific to the user who is banned. Councilor DeBoer asked if it can be reworded to be clearer that we are not looking at the user information. Councilor Jones asked if the information we collect will become public information that a competing company would be able to request, and Counsel Burns responded that it is public information once we receive it.

The group discussed clarifying when the City may remove scooters without notice to the company to make it clear when immediate action is needed due to it posing a hazard versus only being illegally parked.

The group discussed issues with designated parking spots, with Councilor Dietrich noting concerns about how we will handle multiple companies sharing spaces and possible over-saturation of total scooters in the City. Similar concerns were discussed about how to limit and keep track of the total number of scooters within the City when the devices will be ridden and parked in West Lafayette, Lafayette, Purdue campus, and Tippecanoe County.

Councilors discussed the language against permitting users from pushing, pulling, or hauling items, wanting to ensure that people will still be able to wear backpacks or have other personal items while on the device.

Counsel Burns suggested that everything discussed be put together in a format that can be viewed at the next meeting as there is still drafted language and open items. Items that are non-controversial will be presented as a proposed amendment, separate from items that may need more discussion. Regarding the timeline of passing the ordinance, Director Carlson noted that if the Council waits until March to take final action, other companies may bring in their devices as the weather improves and before we have our rules in place.

President Bunder invited public comment on the ordinance.

Jan Myers (1909 Indian Trail Drive) stated that the term *motorized wheelchair* is outdated because it means a wheelchair with a bicycle motor attached. That is the reason for the change to *durable medical equipment*. She has also never heard of a bicycle referred to as a *mobility device*. What she sits on is a mobility device. Since she heard the Council repeatedly refer to the devices as following the same rules as bicycles, she stated that we are not talking about an ordinance that is about mobility devices. She stated that she will send more information on that topic to the Council because there is a lack of understanding of the terminology thrown around here. She

has heard of scooters being referred to as the first or last mile, or transportation devices. She asked where the term *mobility device* came from, and noted that there are other inconsistencies in the terms used in the ordinance, including a reference to *scooter* at one point. There are scooters that are mobility devices, which are for individuals that have limited distance to walk.

Stewart Frescas (421 Brown Street, Lafayette) stated that he is a member of the West Lafayette Bicycle/Pedestrian Committee. He stated that he is gratified by the approach here in trying to cover all the basis. Sidewalks are for pedestrians, wheelchairs, and other mobility devices – they are not for motor vehicles. Bicycle organizations in Tippecanoe County have been implored to educate fellow users of the streets, so he does not think there is anything wrong with having educational programs to get people to use these scooters responsibly. Speaking of the speed limits, he noted that the Bird scooters are governed at 15mph, but other scooters are able to go up to 28mph. He asked if the speed limit is for them as well. He asked if gas-powered scooters will also be included. He asked if the green strip between the sidewalk and the street is the City's or if it is private property. He asked if the scooters can be parked in car parking spots, because that was happening in downtown Lafayette. He stated that the Bird company has tried to intimidate journalists, which is relevant because there is value in the scooters if they have been seized by the towing companies. The scooter companies want to suppress the knowledge that these scooters are valuable and can be sold to recover costs.

Street Commissioner Ben Anderson (112 Mohawk Lane) stated that there is something in place concerning hours of operation for the time of day, and he asked if we have considered also having setting operations based on time of year. We have a hard time keeping things wide enough during a snow event.

Melissa Wobshall (1001 Sunset Court) stated that she is thankful that something is included in the ordinance that requires the devices to have a sound device, such as a bell. However, since you cannot rely on people to ring those, she wondered about having a requirement like the hybrid cars to have a constant whining sound.

Frank Speak, Government Partnerships Manager for Spin, stated that Spin was just acquired by Ford Motor Company as part of their Smart Mobility Family. He has just graduated from Purdue University, so he is familiar with this community, and two of the three founders of Spin are also from Purdue. He stated that in hearing the deliberations tonight, he thinks the Council is asking the right questions. His company is committed to working with communities and seeing that every regulation is tailored to their needs. He stated that unlike some of the other vendors, who unfortunately rogue-launched in the community, Spin promises to not operate where they do not have permission. He believes the Council is sending the right message to the disruptors in the transportation industry by creating these regulations and framework for them to operate in. He stated that he would love to work with the Council to make sure that West Lafayette develops the right regulations for safety, organizations, and equitable distribution. Councilor Dietrich asked if there is anything that the Council is asking that seem unattainable or unreasonable from the enterprise viewpoint. Mr. Speak responded no, and that some of the items mentioned are already followed by his company. He stated that one way to solve the issue of a lot of scooters being consolidated into one small area is to have an operating manager in the community that can submit rebalancing requests. Councilor Wang asked Mr. Speak for his thoughts about the requirements for educational sessions. Mr. Speak responded that six sessions does seem a little bit high, but it would not prevent his company from coming into West Lafayette, especially with the unique makeup of this community being connected with the University and Lafayette. Councilor Sanders asked Mr. Speak about the data that is collected by Spin about the users. Mr. Speak stated that this is his second month with Spin, and he is not aware of the company selling that data. They do provide information to the cities that want to study the traffic patterns to see

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where people are coming and going. Councilor Jones stated that he is not familiar with Spin, and asked how similar it is to Bird services. Mr. Speak responded that it is a comparable service, including the fee structure, but the difference is that Spin does not operate without a permit.

Counsel Burns stated that the Clerk has reminded him that because the Council tabled this ordinance to this meeting, the Council now needs to take action to table it to the next meeting.

Councilor DeBoer moved to table Ordinance No. 01-19 (Amended) to a time certain, being the January 31, 2019, Pre-Council Meeting, and that the vote be by roll call. The motion was seconded by Councilor Keen.

Councilor Thomas and Director Carlson expressed appreciation to Ms. Zuchkov for the work she did in researching this topic and getting all of the local entities together to discuss it.

Councilor Sanders stated that the title does say Transportation Devices, so he agrees [with Ms. Myers] that there is no reason that we cannot change the terminology since *mobility* does suggest that it is allowing people who are not otherwise able to be mobile. He also has not been able to find the issue of scooters making a constant noise being discussed anywhere else. Ms. Myers commented that we could be the first.

There was no further discussion.

ADJOURNMENT

There being no further business at this time, Councilor Dietrich moved for adjournment, and President Bunder adjourned the meeting the time being 8:18 p.m.