

Statement of Michael E. Hobbs
for the City Council
December 14, 2019

Docket #3
Phase II Dockless Mobility

Thank you, Mayor Wilson, Vice Mayor Bennett-Parker and members of the Council. I am Michael Hobbs, residing at 419 Cameron Street.

Effective and efficient enforcement is central and essential to the success of any scooter program going forward.

Experience to date with the “electric scooter” pilot program has confirmed that a successful program will depend overwhelmingly on whether or not there is, or realistically can be, effective enforcement of the reasonable constraints that might be placed on the use of scooters. With such constraints, we might hope for a program which reasonably balances the advantages to scooter users, on the one hand, with responsible protection of the interests—particularly safety—of other users of our public rights of way: bicyclists, motorists, and especially, pedestrians. Without such constraints, the interest and convenience of the many—including that of responsible scooter users—will be sacrificed to the behavior of the few irresponsible or indifferent scooter users. But even with reasonable constraints spelled out in the rules and regulations of the program, without effective enforcement, those constraints become, not the key to a successful program, but a delusional palliative which contributes nothing to the safety of other users but results, rather, in disillusionment about our ability to devise a responsible scooter program at all.

Anecdotal evidence from personal experience: My wife and I have been the victims of irresponsible or even reckless scooter use on multiple occasions just in the block surrounding City Hall. On several occasions, my wife has been confronted after dark by scooters approaching her from behind and passing at high speed on the Cameron Street sidewalk adjacent to the north side of City Hall. (When she has complained to the operators, she has been verbally or physically insulted and the scooters have continued west—still on the sidewalk.) On another, daytime occasion, I was used as a sort of human “slalom gate” by two scooter operators who approached me at high speed from the rear as I was walking across Market Square toward City Hall. It seemed as if they were enjoying the sport of seeing how close they could come to me without actually hitting me; and after going by, they circled back for another pass before eventually continuing on their way.

In all of these instances, the fault was not with an absence of responsible constraints. At the time, it was already against state law and/or the terms of the “Memorandum of Understanding” for scooters to operate at all, let alone speed, on the sidewalks or on Market Square. (Indeed, one of the ironies as I continued on my way was noticing the posted signs to the effect that skateboarding, bicycling, motor scooters, etc., were not permitted on the Square—with the Code section citation.)

The failure, rather, was in enforcement. Even in the case of unmistakably clear violations, all of us involved—my wife, myself, and especially the scooter operators—knew that there would be and could be no effective enforcement: and thus no consequence for their reckless endangerment of our use of these public spaces, and of our safety.

From all of our experience, I would urge that the City’s enforcement program—if it depends on direct visual observation or measurement of violations, and issuance of citations, by police officers or other City personnel—will be essentially useless. It would likely be no more effective than “traffic enforcement” has heretofore been, against motorists (or bicyclists) blowing through stop signs, speeding, “blocking the box,” or otherwise impairing the use or endangering the safety of other vehicles, and particularly, pedestrians. An effort to enforce constraints on scooter use by police officers personally observing violations would be largely ineffective, prohibitively expensive, or both.

Our scooter enforcement mechanisms, if they are to have any realistic likelihood of success, **should be, so far as possible “self-executing”**: built into the technology of the system.

Thus:

1. Speed Limits. Specification of speed limits in the Code or program regulations is necessary and appropriate. But “enforcement” by an army of new police officers with radar guns would clearly be a fantasy. Enforcement, rather, should be by a requirement that scooter speed be limited by an intrinsic “governor” in the units which *prevents* their operation at speeds above the maximum limit set in the Code. (I understand that it is, indeed, possible for the operator to “set” the maximum speed at which a scooter can operate.) If it is possible for the scooter hardware/software to set different speeds for different situations—e.g., for operation on sidewalks (where permitted), as opposed to in bike lanes and roadways—all the better. Reliance on the design or size of the engine alone is not enough.
2. Sidewalks. Again, the rules and regulations of the program should specify where scooter operation on sidewalks is and is not permitted. But here, again, reliance for enforcement entirely on visual observation by police officers, or on the assurance of good intentions by the operators, would be futile. The approach in the staff proposal of designating larger areas for “okay” or “off limits” designations (as opposed to trying to implement a block-by-block differentiation) might help: it is easier both for operators and enforcers to remember that scooters on sidewalks are not permitted within the boundaries of a larger area, than to remember whether operation is permitted on one block or the next.

Use of the “GPS” technology could simplify the operation and be much more effective—by automatically “geo-fencing” scooters from operating on designated sidewalks.

Using our experience with City Hall to illustrate:

It would be needlessly costly (and not necessarily effective) to post police officers on all four of the blockfaces of City Hall to watch for scooters operating illegally on the sidewalks. It may or may not be technically possible (and would be complicated even if possible) to set a

narrow “geo-fence” overlaying just the sidewalk, on each side of the building. But it would be easy to set one fenced-off area encompassing the entire block: the City Hall building, Market Square, and the four sidewalks within the block bounded by Fairfax, King, Royal and Cameron Streets. Similarly, a simple “geo-fenced” area could be set for any other block where it was desired to preclude scooter operation on one or more of the surrounding sidewalks.

This approach would permit scooter operation on sidewalks (as well as on roadways) wherever that was deemed appropriate; but it would electronically preclude operation on any sidewalks where that was deemed inappropriate—without the necessity of intervention by observing police or other City personnel for enforcement.

3. Parking. Detailed “electronic” enforcement of the program’s parking rules is probably not possible. But neither should it be necessary to rely entirely on a massively increased police or parking enforcement staff, or alone on the good behavior of scooter operators. Incentives for the scooter-renting companies to “police” their own customers could help. For example, the program regulations might specify that if a scooter is improperly parked (e.g., left on the sidewalk in front of a business or residential entrance; “parked” in a tree well, or without permission on private commercial or residential property, or in the access to a pedestrian crosswalk—or, perhaps, anywhere on a sidewalk which is within the same block where a “scooter corral” has been provided)—wherever a scooter is illegally parked, it will subject to impoundment and removal to the city impound lot—just as are illegally parked automobiles. Perhaps there should be a “grace period”—such that vehicles would not be impounded unless still in place 48 hours after notice has been given to the operator.

An individual homeowner or business owner has practically no ability to prevent illegal parking in front of or on his premises. The scooter-renting company has far the greater ability—and equitable responsibility—to discourage and deter such violations by its customers, using its vehicles.

A similar incentive might provide that a private business or homeowner would be authorized to move an illegally parked scooter to the street (or to a nearby scooter corral, if available) if it has been in place for 48 hours. Prior notice to the owner-operator would not be required, except as a predicate to the City’s moving a vehicle to the impound lot.

4. Bike Lanes. Where bike lanes have been provided, scooters should be required to operate in the bike lane, rather than on the sidewalk. This, too, could be enforced by the use of “geo-fencing”—physically disabling scooters from operating on the sidewalk where an adjacent bike lane is available.
5. Driving Records. The City may or may not wish to permit scooter use by operators who are too young to qualify for a driver’s license or “learner’s permit”. At the least, display of a valid driver’s license should be required of any driver’s license-age-eligible operator in order to rent a scooter. In any case, in the event of conviction of a moving violation (e.g., speeding, or operating a scooter on an unpermitted sidewalk, or other precluded public space: Market

Square, Waterfront Park, etc.) the operator should know that points will be assessed on their driving record, the same as in the case of moving violations when operating an automobile.

Flexibility

Clearly, the crafting of a program which balances the reasonable needs, interest, convenience and especially safety of all users of the sidewalks, streets and roadways, and especially of pedestrians, is unavoidably complex. Council should consider enacting an ordinance and Memorandum of Understanding which state the broad policy principles, and provide enough detail to provide reasonable assurance and understanding to scooter users and others alike; but retains or delegates sufficient authority to provide flexibility for staff to adapt, enhance or revise the regulations as necessary to reflect evolving experience—without the cumbersome requirement, for example, that any and all textual changes to the Memorandum of Understanding would require a prior hearing and approval by Council. One approach, analogous to the Planning Department’s “Administrative Special Use Permit” process, might be for the staff to be given authority to amend the MOU, after notice to the public, with any changes then to be reported to Council—leaving Council the opportunity to intervene if it feels that a particular change was not sound policy, or had gone beyond the degree that should be permitted without a full public hearing.

Conclusion

As argued, a successful scooter program depends on a reasonable balance of scooter renters’ and users’ interests with those of business operators, residents, other sidewalk and roadway users, and the general citizenry—and on effective and efficient enforcement of regulations to implement that balance. If scooter owners, operators and users were not able or willing to agree to enforcement mechanisms such as the above (or reasonably close approximations of them)—then City Council should consider whether continuation of the scooter program is feasible or realistic at all. A program which is aspirational, but not realistically and efficiently enforceable, should not be acceptable.

Thank you for your consideration.