

## REPORT

TO: PPCC

FROM: SRB

SUBJECT: RESULTS AND OBSERVATIONS OF ATTENDING HEARING OF THE LA CITY COUNCIL TRANSPORTATION COMMITTEE MEETING ON JUNE 12, 2019.

DATE: JUNE 13, 2019

My primary purpose in attending this meeting was to support Councilman Koretz's motion instructing LADOT to revise the rules and guidelines for Dockless On-Demand Personal Mobility Pilot to allow the City to deny, suspend, and /or cooperate with law enforcement investigator.

Essentially the Koretz's motion was a follow-up to the PPCC motion co-authored by Chris Spitz and me stating that scooter companies should be required to divulge the name of renters when they are using scooters that are involved in the commissions of crime or an accident. Our position is that such regulation is both rational and consistent with the reasonable regulation of businesses seeking permits to operate in the City of Los Angeles.

The talking points I prepared for my presentation are attached to this Report. Based upon information furnished to me that morning by Chris and my observations resulting from watching about 45 people testify before me, I deviated somewhat from my planned presentation. The talking points were distributed to each of the Council Members present before my presentation.

### Observations and Conclusions:

1. There is massive anxiety among the people who testified about the safe use of scooters, the lack of maintenance, the litter effect of many scooters being left like so much garbage, that in many areas (Council district 1) they block entrances to apartments, make wheel chair usage difficult, and cause problems with some women pushing baby carriages. Aside from causing accident with pedestrians, cyclists, and automobiles, a new legal practice has sprung up: suing the manufacturers and distributors of scooters based upon accidents that arise from faulty construction.
2. Each of the 3 Councilmembers present voiced concerns as the desirability of permitting scooters, and Councilman Bonin even ruminated out loud that maybe they should be permitted by Council District and not on a city-wide basis.
3. As to the actual hearing on the Koretz motion, there were only 3 people who provided public comment. One person was in favor of not restricting

the scooter companies, the representative of the Beverly Crest Council was in favor of outlawing them, and yours truly.

My presentation focused on a legal work-around the alleged privacy issue, which I think is a false flag issue, but it is being taken seriously by the City Attorney.

My proposal was that the Unser Agreement signed by the renter of the scooter should contain a provision in the App that says, in effect, when you agree to the terms of this agreement to use this scooter, you intelligently consent to the company divulging your identification to law enforcement in the event the scooter you rent is involved in an accident or crime during the time you have rented the scooter.

My proposal further requires that the City of Los Angeles insist upon the existence of such a provision in the agreement between the scooter company and the renter as a condition of the City granting the scooter company a contract to do business in the City of Los Angeles.

My conclusions:

1. The only way this will work will be for an outside law firm to research the issue and craft specific language that the City insist be inserted in any agreement between the City and the scooter company;
2. That the City lobby for the deletion of the part of AB 1286, which if it passes in its present form, will provide a state law that seeks to prevent any municipality from doing what I have proposed.
3. Alternatively, the PPCC could focus on the City not offering licenses to scooter companies that do not agree to this type of regulation. This would place the PPCC in opposition to the scooter pilot program morphing into a full-blown program, or the PPCC might be able to convince Councilman Bonin that scooters that do not have this type of agreement will not be permitted to operate in Council District 11.

////////////////////////////////////

X - know it works because AB 1286 (pending)  
is an attempt to prevent

1. The privacy issue is a "red herring", if not simply overstated by the tech companies because they do not want government intrusion into their affairs. The councilman should view a scooter company as an electronic platform that collects data, much in the same way, and for similar purposes, as Facebook, Google, Uber, etc. Because of the manner in which I have framed issues 2 & 3, below, I think I have removed the privacy issue from the debate, or show a way to deal with it.

X  
2. Whenever you sign up to use an app, the user signs a document called a Terms and Use Agreement. This Agreement controls the user's rights to use the company's software and other proprietary material by setting forth the terms and conditions of use by the user. If the Company simply inserted a sentence to the effect that by signing this agreement the renter consents to the Company providing your name and identification information to law enforcement agencies in the City of Los Angeles if the scooter you rented from the Company is involved in an accident or the commission of a crime during your rental of the scooter.

By so doing, this term of use would be no different than any other term or condition of use and the user would have consented to the disclosure of his name address, etc. to law enforcement in the event it was involved in an accident or crime. With such a consent, there is no privacy issue. There is no need for a warrant..

X  
3. The next step is for the City of Los Angeles to insist upon such a term or condition being inserted into every contract that a dockless vehicle company has with renters of scooters. By so insisting, the City protects itself from claims of invasion of privacy, and saves the countless dollars from having detectives assigned to a case, from the expense of warrants having to be issued, and streamlines at least this portion of the user - City interface. Once again, the privacy issue is eliminated.

4. I think points 2 and 3 are adequate in themselves as talking points for this matter. I believe they address the substance of the matter. Point 1 is probably not appropriate or necessary for Wednesday's hearing and I shall not refer to it with such a limited time to speak.

5. My 5th point is that there is a clearly established exception to the warrantless search - it is called "intelligent consent" . This is often raised in police searches. Nevertheless, I think it is applicable to the privacy argument, wherein an individual is being asked to consent in advance to the disclosure of certain information about him in certain specific circumstances.

\* 6. The real issue in all of this is for the City to push back and assert its negotiating leverage. There are lots of scooter companies and more than one of them will incorporate such consent language in its user agreement in order to obtain a license to do business within the City of LA. The City needs to recognize that the City of Los Angeles is too big a potential market for the scooter companies to abandon over an issue that really doesn't harm them.