

City Council of the City of Carbondale, Illinois
Public Hearing on the Use of Motor Driven Cycles and Motorized Pedalcycles
July 6, 2004

The City Council of the City of Carbondale, Illinois, held a Public Hearing on Tuesday, July 6, 2004, for the purpose of soliciting public comments on the use of motor driven cycles and motorized pedalcycles. Mayor Brad Cole called the public hearing to order at 7:23 p.m. with the following-named members of the City Council present/absent:

Present: Councilman Lance D. Jack, Councilwoman Corene McDaniel, Councilwoman Margaret Flanagan, Councilman Chris Wissmann, Councilman Steven Haynes and Mayor Brad Cole

Absent: Councilwoman Sheila Simon

Also present were City Manager Jeffrey W. Doherty, City Clerk Janet M. Vaught and various members of the City's administrative staff.

Mayor Cole asked City Manager Doherty to present the staff report for the public hearing. City Manager Doherty said on April 19, 2004, the City Council received a written request from Timothy Donohue for a public hearing on the "regulation of motorized scooters currently not legislated by the State of Illinois Department of Motor Vehicles". At the July 15 Council meeting, Mayor Cole announced that a public hearing on this matter would held at the July 6th Council meeting.

Mr. Doherty noted that a report on motor driven cycles and motorized pedalcycles was presented to the Mayor and City Council at the May 18, 2004, regular meeting. The report concluded the following:

1. The City of Carbondale does not have the authority to allow motor driven cycles and motorized pedalcycles on roadways because all motor driven cycles and motorized pedalcycles must be registered by the State of Illinois. The Illinois Secretary of State will not register these vehicles because they are not manufactured for general highway use.
2. The City of Carbondale does not have the authority to allow motor driven cycles and motorized pedalcycles on sidewalks. The City's home rule authority is limited because the City cannot adopt regulations in conflict with the Illinois Vehicle Code. The Illinois Vehicle Code prohibits these vehicles from being driven on sidewalks.
3. The City of Carbondale does not have the authority to allow motor driven cycles and motorized pedalcycles on bike paths. Bike paths are part of the highway as defined by the Illinois Vehicle Code, therefore, motor vehicles must be registered.

Mr. Doherty said that while many Illinois communities like Carbondale rely on the State laws to regulate motor driven cycles and pedalcycles, other communities have adopted local ordinances prohibiting their use on public ways. Danville, Springfield, Skokie, Hoffman Estates, Oak Forest and Herrin have adopted ordinances prohibiting them.

Mayor Cole said at this time the Council has no action to consider other than to hold the public hearing. He invited comments from the audience.

Mr. Timothy Donohue, 307 S. Graham, said this is the first opportunity that the report from the Legal Division is being addressed. He said at the time it was presented, there was no response other than the reading of the report. He said there are some things he finds questionable, contradictory and do not make sense. In the report it says that the type of vehicle that is being discussed, which is basically an electric skateboard with a seat, the City has issued him tickets for not being licensed, not having insurance, but at the same time admits that the State will not issue a license or registration and does not require insurance. He said there seems to be a conflict when he is being charged with something "you can't be charged with". He said he would take care of that in court. Donohue said that in the certification and registration part of the report dealing with the Illinois Vehicle Code requires all owners of motor driven cycles, which definition also includes motor pedalcycles, to apply for a certificate of title. However, he said, the State does not issue those. Reading from the report, he said, "However, if the cycle is not properly manufactured or equipped for highway use, it is not eligible for license or registration," adding that this is what he received a ticket for. He said that licensing and insurance requirements state, to paraphrase, that motorized pedalcycles and motor driven cycles must comply with state licensing and insurance law requirements and requires any person driving a motor vehicle upon a highway to have a valid license or permit. Mr. Donohue said the second to the last line says "drivers of motor driven cycles and motorized pedalcycles must also have valid insurance if the motor vehicle is designed to be used on a public highway." Donohue said that it clearly states in the brochure for this type of vehicle that it is not designed for highway use. He added that bicycles are also not designed for highway use but *are* permitted on highways. He said that the State has allowed under home rule the right to preempt home rule (sic) since the State does not license bicycles or wheelchairs and says that the City may allow bicycles or wheelchairs to be used either on the streets or sidewalks. However, he said, the vehicle that he is talking about for which it has been demanded that he have a license and insurance for, the State isn't legislating that.

Mr. Donohue said there is no point in dealing with sidewalks because it is already known how the State has allowed the City to preempt motor driven vehicles, according to the report, on sidewalks. Electric personal mobility devices are not motor driven cycles or motorized pedalcycles. He said it doesn't state how many wheels are necessary for something to help a person get around. Donohue said in his case he finds it hard to get around, adding that he doesn't feel he's ready for a wheelchair yet and a bicycle is difficult for him on hills. He questions the interpretation of an electric personal mobility device. He added that he doesn't use this device for fun.

Donohue said that in another section it talks about home rule authority and says that Carbondale under its home rule authority does not have the authority to license or regulate vehicles that would ordinarily be licensed by the State. So the State can preempt home rule, but if the State refuses or desires not to regulate these vehicles, then home rule can apply. Donohue said this is a case where it can. He said he believed the Mayor had been contacted by Mike Bost concerning this issue. He said he was told at one time and it was written in the newspaper that the Legal Department said that the City does not have the authority to regulate these things and that it could only be regulated by a higher authority. Donohue said that he would imagine that the people that write the laws of the State would be a little higher authority and according to that higher authority, they have passed their authority, have allowed the City to have the authority of regulating these vehicles. However, he said, since he first brought this issue to the Council four months ago, he has only used his cycle about 45 minutes. He said "not to throw a slap in the face" of the City Council or the Police Department or the Legal Department, very patiently he has brought up issue after issue and has even proposed how these things can be very reasonably legislated for use for people who could get a lot of use out of them, whether it be a college student going across campus with only minutes to cross. He said he didn't know whether the federal

government would allow mailmen to use them to go down the blocks or whether the police department could use them to sneak up on people on these very silent vehicles. Donohue said the vehicles do have a use and a purpose and this should be considered.

Donohue said in one of the sections of the report, under Conclusions, he wrote his own heading "Smoke and Mirrors". He said that magicians use smoke and mirrors to deceive, to throw people off, to get people to think something is fact. Under the first conclusion, "Can the City allow motor driven cycles or motor driven pedalcycles on the roadways?", early in the report it says they have to be licensed. But the answer in the report is no, because "all motor driven cycles or motorized pedalcycles must be registered and the driver of such vehicle must be licensed." However, Donohue said, the State has no way and does not want to license these. Donohue said that a point was made earlier about other communities that wrote a law or ordinance banning the use of these and asked why they had to ban them if the State has already made them illegal for use. He said this would create a law banning something the State has already supposedly banned. He suggested the Council really look closely at the report.

Donohue said the report says that the Illinois Secretary of State will not register these vehicles because they are not manufactured for general highway use. He said of course not, adding that he would never dream of getting on a cycle like he now owns and getting on a main highway. He said that's ridiculous because it doesn't go fast enough and would be an obstruction to traffic. However, bicycles which are not licensed are allowed on highways because they follow a rules-of-the-road system. He said the City of Carbondale is getting ready to make one of the most wonderful bike paths around the city, adding that it's very good that the City did this. But nowhere is the City going to allow licensed vehicular traffic to roam freely on these bike paths because that does not follow the rules of the road.

Mayor Cole asked Mr. Donohue if he had a suggestion for the Council, adding that he and Donohue have talked about this and he (Mayor Cole) intends to bring back an action for the Council to either allow or disallow them at a future meeting. He asked if Donohue had a suggestion. Donohue responded that the Mayor is mistaking what he is saying, adding that this is what has been happening. Donohue said he did not ask whether they should be allowed or disallowed because the State allows them. He only asks where the City wants them run, on the sidewalk or the street. The State does not forbid these vehicles, adding that the City may come up with an ordinance to ban them which it can do because it's within the City's realm. However, he has never asked if they should be allowed because the State allows them; he asked where they can be used. Mayor Cole asked Donohue if he has a recommendation as to where they should be allowed. Donohue said he does, adding that the last time he was at the Council he presented a proposal for a law. He said because the vehicle he showed is a sit-down vehicle with headlights, turn signals, horns, brake light, etc. and he proposes that there be proper reflectors that can be seen from the side so that there's no mistaking there is a vehicle and because it does not come with reflectors (adding that bicycles don't either but he thinks they should be required), he thinks that this type of vehicle should be allowed in approved bicycle lanes at all times possible. He said that the vehicle that he commonly refers to as the electric skateboard, a standup type of vehicle, he thinks should be used on a sidewalk because they cannot have side reflectors, do not have headlights, rear lights, etc. and are not equipped the way a bicycle can be equipped. Donohue said that type of vehicle should be used on the sidewalk closest to the street-side of the curb so to make traffic in and out of buildings unimpeded.

Mayor Cole asked Mr. Donohue if he had any other recommendations for the Council at this meeting other than what has been discussed and in the report. Mr. Donohue said that he would recommend that rather than taking a single report or just his viewpoint that the Council get online with their

computers, talk with state representatives, find out for sure and don't take his (Donohue's) word for anything and don't take the Legal Department's word for anything.

Donohue said the third part of the conclusions in the Legal Department's report asked whether the City can allow motor driven cycles or motorized pedalcycles on bike paths. Donohue said the answer was no, adding that does fall under the law because they don't want people using motorcycles on sidewalks but just in approved areas. However, he said, the last line gets a little confusing because it says "No. Bike paths are part of the highways as defined under the Illinois Vehicle Code." Therefore, he said, you can't ride a motorcycle on a bike path. However, the last line of that part says, "Therefore, motor vehicles must be licensed and registered in order to be operated on the bike path." He said that the next time someone walks through Thompson Woods and there is a licensed motor vehicle like a Mack truck coming through there, get out of the way. He said if a person comes through Turley Park on a Harley-Davidson, get out of the way. He said motor vehicles must be licensed and registered in order to be operated on the bike paths. He said the Council should read the report very, very closely and see whether it applies to automobiles, trucks and other "licenseable" vehicles. He added that the Council should not take "licenseable" vehicles and apply to "nonlicenseable" vehicles like bicycles and wheelchairs. He said the vehicle he has falls under "nonlicenseable".

Mr. Donohue said that the only other recommendation he would have is that there be continued discussion, adding that he would recommend that state legislators be contacted to find out what the law really says.

Mayor Cole invited further comments or questions from the audience.

Charles Howe, 848 E. Pleasant Hill Road, said on the motorized bike issue it would behoove all of us if some way could be found to allow motorized vehicles on the same paths that bikes do share if the bike system throughout the City could be increased/enlarged. Mr. Howe said it is too much of a danger to allow any kind of motorized vehicles on the sidewalks, adding that this is why there is a \$750 fine for bikes on sidewalks. He said he believes the City could work within the law.

Mayor Cole invited further comments from the public. There being no one else who indicated a desire to speak, Mayor Cole said plenty of discussion had been allowed and that he appreciated everyone who has come forward. He said the City will continue to look at this issue and at some point will take definitive action on this in the near future.

There being no further business to come before the Council at this public hearing, the hearing was declared adjourned at 7:46 p.m.

Janet M. Vaught, City Clerk

Approved by the Council on:
