



## ***Mayor's Letter***

January 15, 2019

*Hello Everyone,*

**DARK SKIES.** There are only fifteen cities in the entire United States that are certified by the International Dark-Sky Association (IDA). On **August 10, 2017** we began the process of being number sixteen when Mayor Pro-tem Ed Reed volunteered to research and educate us on the program and lead us toward certification. Over the course of the **last 18 months** (!) Ed has had many meetings with the IDA working on the complicated application process and through it all, it has been very beneficial to the Town. As part of the process of determining our existing lighting conditions, Ed identified the various types of inefficient barn-lights that we had and worked with CoServ for alternatives. As a result, we replaced all of the lights outside of the Shores with IDA compliant high efficiency lighting. Ed and Councilman Darrell West are working on more efficient lighting solutions for the marquee (that's why it has been off), and we will be improving the lighting around the mailboxes in the near future. Will we replace the lights in the Shores ? Yes. Our current thinking is that the next developer must have underground utilities, so they too will have the lamp-post type lighting (no "telephone poles"). So, our most efficient and economical option is to piggy-back on the developer's IDA approved lighting choice and have one uniform style for all of the town.

**LIGHTING ORDINANCE.** One of the toughest parts of the IDA approval process is the adoption of a lighting ordinance which limits light pollution. After discussing the ordinance for the last several months, I expect the Council to adopt it at our next Council meeting. Let me say a few things about it. First, the ordinance places design requirements on **future** houses; current houses are **grandfathered**. You don't have to do anything. It is our hope that when you choose to replace your outdoor lighting or install new lighting you will follow the ordinance. Second, much of the outdoor lighting that you have would be exempt under the ordinance because it isn't bright enough, or because it is located under the eaves of the house so it is shielded. **It is critical that we have a lighting ordinance.** When the next developer submits a preliminary plat and asks for a list of approved lighting fixtures, we have to be ready. They will build whatever we require, that's easy, the hard part is figuring out exactly what we want. When the developer is at the door, we don't have 18 months to find someone like Ed to do the work. We have to be ready. We will be ready.

**UTILITY SYSTEM UPDATE.** We have completed our annual winter repairs on the water system. We installed a liner in the new steel ground storage tank and replaced valves, fittings, and control wires. In response to our water issues this summer, we are ready to attempt to lower the pumps in our #1 and #2 wells deeper into the aquifer. The well-drilling company is completing a job in Aubrey, I expect them to start here in early February. At the February Council meeting I will be seeking Council approval to construct a new sewer force-main along Melody Lane from the Carrie lift station. This will eliminate the capacity and motor issues we are having with the Stowe lift station. The plan is to have the project completed prior to the Spring rains. In the construction process we will be boring under the driveways along the south side of Melody. Since it is the force main, there will be no effect on individual sewer lines and no service outages. The new line is necessary to correct an engineering design error when the Shores was built in 1995.

***OVER***

**ACROSS THE UNITED STATES** towns are struggling with the issue of short-term rentals (e.g. Airbnb, HomeAway). The issue continues to be litigated here in Texas. Recently with the wedding/event center opening across from us on Eldorado we have experienced the problem first-hand. Before I talk about short-term rentals specifically, it is important to understand the legal environment that we operate under.

In Texas there are two types of cities: Home Rule and General Law, each with unique powers. **Approximately 75 percent of Texas cities, including Lakewood Village, are general-law.** Once a city's population exceeds 5,000 it can elect to stop being a general-law city and be a home-rule city with their own charter. What that means for us is that we are severely limited in the ordinances that we can enact. When people complain to me, they often have the misconception that we can simply make up our own ordinances and declare something illegal. In fact, **it is the opposite**, we can only take actions that have been specifically authorized by the State Legislature. **The Texas Local Government Code (LGC)** has 615 Chapters and 1,336 pages. It's simple, if what we want to do isn't in the code, we can't do it. So, for example, our zoning ordinance states that:

*WHEREAS, pursuant to Chapter 211 of the Local Government Code, the Town of Lakewood Village ("Town") has the authority to adopt...*

Every ordinance of the Town must state where in the LGC we have the authority. If we are challenged in court, the very first thing examined is whether we had the authority to enact the ordinance. It doesn't matter if our intentions are good. If we can't point to a particular section in the LGC, we lose. Period. Game over.

**SHORT-TERM RENTALS.** Everyone understands the problems - excessive noise, lots of traffic, cars blocking the streets and neighbors' driveways, extra trash, transient people wandering around. Everybody gets it. Every city understands. I do. Ed, Clint, Serena, Liz, Darrell all get it. What can we do ? First, La'el Collins won't be leading any running plays for the Dallas Stars, and they won't be shooting footballs at the goalie. The Stars play by hockey rules, not the NFL rules. General law cities like LWV have different rules than the larger home-rule cities, so it is useless and pointless to look at what they are doing. **WE have to follow the LGC.**

Dallas makes owners register their rental properties, can we do that ? **NO.** There is nothing in the LGC which authorizes a general-law city to do that. Can we require more inspections for rentals ? **NO.** There is no authorization in the LGC and we have no statistical evidence that they are less safe than any other house in town. Can we limit street parking ? **YES**, but it would apply to every house in the Town. Legally, it is very difficult to justify an ordinance that treats one group of homeowners different from another, especially if you claim it is a safety issue. Logically, if something improves safety, it should apply everywhere.

**ZONING.** The most common action by cities is to use their zoning authority to prohibit or severely restrict short-term rentals. **The city's argument** is that the owner is operating the property like a hotel (they even pay the hotel occupancy tax) in an area zoned residential. **The owners argue** that what matters is how the property is being used by the occupants - they are eating, sleeping, swimming in the pool, even having parties which are things that are normal activities in a residential setting. Who is right ? In May 2018 the Texas Supreme Court ruled **unanimously, yes unanimously** in the case of *Tarr v. Timberwood Park*, that **the owner is correct**. If the occupants were fixing transmissions in the front yard, that would be a commercial use, but if they are using it in the manner like any other resident, then **the use is residential** not commercial. The Tarr case involved an HOA, not a city, but the implications for cities are clearly not good. There are several lawsuits against cities (most notably Austin) that are headed to the Texas Supreme Court. Closer to home, in September, the Grapevine City Council voted to enforce a ban on short-term rentals. Before they could even start, several owners filed a lawsuit and the District Court issued an injunction prohibiting Grapevine from enforcing it. On top of that, rather than waiting for these cases to play out, the Texas Legislature has signaled they may pass a law **banning cities from regulating short-term rentals** (as they tried to do in the last legislative session). This isn't California, here in Texas we have a tradition of strong property rights, so it's tough (as it should be) to restrict what **you** do on **your** land.

However, we have taken a step to address the noise problem. I have discussed with Council a new noise ordinance which is under review by our attorneys. It's a good start. It's the best we can do for now.

# NOTICE OF PROPOSED ZONING CHANGE

The Town Council has discussed changes to our zoning ordinance at our meetings on:

September 13, 2018  
December 13, 2018

October 17, 2018  
January 10, 2019

November 8, 2018

We have held public hearings for citizen comments on the proposed zoning changes on:

September 13, 2018

December 13, 2018

January 10, 2019

**Under the proposed changes, no properties will be reclassified.** As in my discussion of the changes in last month's mayor's letter, there are no changes to the district boundaries, and no changes to minimum lot sizes, set-back dimensions or minimum house sizes. The zoning ordinance with the red-lined proposed changes is available on the town website.

There will be a final public hearing at our February 14, 2019 Council meeting. After the public hearing we will be voting on the changes.

**STOP THE BLEED:** No matter how rapid the arrival of professional emergency responders, bystanders will always be first on the scene. A person who is bleeding can die from blood loss within five minutes, so quickly stopping the bleeding is critical. Those nearest to someone with life-threatening injuries are best positioned to provide immediate care if they are equipped with the appropriate training and resources.

Learning to control bleeding in an emergency is as important as learning CPR. Bleeding emergencies can happen anywhere, in your home, at a social event, at a traffic accident, etc. You can attend a FREE class on Saturday, February 2, 2019 from 10am to 12pm at Town Hall and learn some very simple actions you can take to help save a life. Email Linda at to confirm your spot in class: [linda@lakewoodvillagetx.us](mailto:linda@lakewoodvillagetx.us)

**KEY FIGURES:** Building up our financial reserves is very important as liquidity is one of the key drivers of our future bond rating from S&P. We are continuing to increase our cash position ahead of the February 2020 start of our road project.

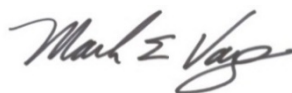
Last year, on January 15, 2018 the Town had \$452,898 in the bank.

Today, January 15, 2019, we have **\$559,010** in the bank.

We are \$106,112 ahead of last year and things are only getting better.

There's never been a better time to be in Lakewood Village.

**Dr. Mark E. Vargus**  
Mayor



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