



## *Lakewood Village Update*

January 15, 2015

*Hello Everyone,*

**ROAD UPDATE.** For the next two weeks, the schedule calls for the completion of the concrete pours at the Highridge transition areas and the remaining two driveway approach issues. This should complete all of the concrete work. Work will continue on the shoulder prep work, sod, and seeding the staging area. Weather permitting, the rest of the month should see the asphalt work being completed including the various repair patches throughout town. Jagoe will then perform crack-sealing of the road joints, final cleanup, and we will be done.

**LAST MONTH.** We had an unusual event, we had a sewer main blockage at opposite ends of the Town. I think it is important that everyone understand the shared responsibility between us, the citizens and the Town. First, a quick engineering lesson. Water lines are easy, they are pressurized. Sewer lines are gravity operated, which means that the slope of the pipe is very important. For our size lines the slope needs to be between 1/16" and 1/8" of fall per running foot for the materials to flow properly. However, if the slope is greater than one-half inch per running foot, then we have a different problem - the liquids "outrun" the solids and that's not good. So when a sewer line is constructed you have to lay it correctly. We diagnosed a couple of problem areas (sags or "a belly") several years ago and corrected them then. Our sewer lines are operating properly. We perform routine annual maintenance – jet cleaning and video recording all sewer lines in the system over a three year cycle.

So how do we get a blockage ? Well one possibility is the line collapses - I don't recall this ever happening. Most of the clogs are due to a combination of tree roots entering the pipe and things being flushed that shouldn't be. We have a chronic issue with people flushing diapers and "disposable" wipes. These items are constructed of more dense fibers and do not break-up in the system like toilet paper - they also block and damage the lift-station pump motors that send the sewage to the wastewater plant. The internet is full of news articles reporting that many large cities are spending millions of dollars in repairs due to "disposable" wipes being flushed. **Despite what the label may say, you cannot flush these down the toilet !** Class-action lawsuits have been filed against the manufacturers for causing damage due to blocked pipes. Every two to three months we have Little Elm Services vacuum out several manholes ( I won't name the street) and the lift stations that are full of wipes. It is getting expensive and if we don't stop, it will cost us about \$10,000 when the lift- station motor is destroyed. In their mass-mailing to their citizens, I think the town of Grand Rapids said it best, *"no wipes in the pipes!"*. Raleigh N.C. has an ordinance against flushing them, I'm not really sure how they enforce it. I don't see us using CSI-Lakewood Village to forensically examine wipes to identify the wipee. The solution is obvious, I know we can do this.

**SUPPOSE** there is a backup. I think this is a good opportunity to clear up any confusion on insurance or damages or who pays for what. The legal concept at play is called sovereign immunity, and it has a long history. A long, long time ago, you could not sue the government for damages for wrongs they might have committed, because the government had immunity. They had immunity because the King made the laws and he was never wrong, because, you know, he was the king. Well, over time, the concept stayed, but it evolved into you can sue the government for damages only if the government agrees to let you sue. Sounds odd, why would anyone let you sue them ? Well governments realized they weren't infallible and that, in some **limited** cases, justice was better served if you could sue the government for damages. So governments, including our Texas Legislature (The Texas Tort Claims Act), have waived their immunity (giving you permission to sue) in certain **extremely limited** cases where there is gross negligence. Say for example, there is a gas leak and the city sends a bus driver to fix it and your house blows up. The waiver is **extremely limited**, because otherwise, people could potentially file so many lawsuits that a town could be unable to function if its employees are constantly involved in court trials and attorney meetings. Imagine you

could sue a town for the pot-hole in the road, the street light that was burned out, shutting-off your water, or sue the Mayor or Councilmember because you didn't support an ordinance that was adopted. Instead of paying attorneys, the fear is that, with the "deep pockets", governments would just spend taxpayer money to settle the suits to make them go away, which could lead to higher taxes, and potentially even more dubious suits. This would not be an efficient use of public funds.

So how does this work for the sewer system ? Before I give you the legal answer, some logic. We don't have any control over what you choose to put in the sewer line. If your toddler flushes your iPhone 6, then start filling out the insurance claim – don't call us, there's nothing we can do. If a bank robber uses a Ford F-150 as their get-away car, the bank can't sue Ford. We don't have control over mother nature either - the ground shifts, pipes fracture, pumps get hit by lightning, trees grow roots.

Legally, because the Tort Claims Act specifically lists sewer service as a basic governmental function, for all intents and purposes you cannot win a lawsuit against any town for a backup. The legislature's motives are clear:

Governments must have the ability to provide basic services without fear of litigation or financial ruin.

| <i>Municipality</i>     | <i>Insurance</i> |
|-------------------------|------------------|
| Little Elm              | NO               |
| Oak Point               | NO               |
| Crossroads              | NO               |
| Shady Shores            | NO               |
| Frisco                  | NO               |
| The Colony              | NO               |
| Lewisville              | NO               |
| Corinth                 | NO               |
| Denton                  | NO               |
| <b>Lakewood Village</b> | <b>YES</b>       |

More bad news is that most homeowners insurance policies do not cover damages due to sewer backing up in your house. So, as Linda can attest from a problem she had in her house in Lewisville, normally all of the cost is on you. Now, some good news. Towns can obtain sewer backup insurance - it is an optional coverage offered by the Texas Municipal League Risk Pool (our insurer). But, as I said earlier, the courts have held that Towns aren't financially liable - so a legitimate question is, why pay for insurance that you don't need ? We don't pay for volcano insurance, so we're all OK with taking the risk that if a lava flow destroys Town hall, rebuilding it is on us. So, should we buy the insurance? Simple answer. **We already have sewer backup insurance - we have had it for about five years.**

As you can see from the table, none of the towns around us have the insurance, which is consistent with the fact that towns face little financial risks of a lawsuit. So why do we have it? My reasoning is simple; because we are Lakewood Village, and it's the right thing to do for us. Maybe if our Town was spread out over 20 square miles and we had 50,000 people, it would make more sense to skip the insurance. But here in Lakewood Village, I think between the Council, and myself we personally know almost everyone in the town - we're all neighbors. Having a backup into *your* house is awful, especially when someone else down the street caused the blockage. The cleanup is messy, and then finding out your homeowners insurance won't cover the cost of replacing flooring or baseboards just makes it worse. We wouldn't want that to happen to any of us. We can't stop people from clogging the sewer line, but we can lend a financial hand when it does happen. That's what neighbors do.

**WE GOT A MINOR DING.** Last month we got notice from the Texas Commission on Environmental Quality that they did not get the results of one of our lab tests. I think this is a good time to tell you about the regulatory inspections that we do for the water and sewer plants. First, the water. We measure and record the chlorine levels daily, calculate a weekly average and report it to the TCEQ monthly. The acceptable range of chlorine to perform disinfection is 0.2 to 4 (don't worry about the units), and we run our system at around 0.4. Running it higher doesn't make it cleaner, it just wastes chlorine and changes the taste. We inject chlorine gas into the water as it is pumped from the well to the ground storage tanks. The chlorine has to measure greater than 0.2 *at your house*, so we adjust the gas settings depending upon water consumption – since that affects how much time before the water gets to the end-user. That's why you may observe a slight change in the chlorine smell sometimes. We also must send monthly samples to the lab so they can run a bacteria test, where they test for E. coli and coliform.

At the wastewater plant we are required to test the water we discharge into the lake. A lot. We spend over \$500 per month on sewer lab fees, which is about ten times what we spend on testing the water you drink. We perform a daily test of the chlorine levels. The level has to be between 1.0 and 4.0 and we report the daily number for the entire month – no averaging – any one reading out-of-bounds is a violation. We also send off to the lab a weekly sample so they can measure the amount of solids in the discharged water and the ammonia levels. Under our permit, we are required to operate the wastewater plant within certain parameters or it is a violation. **In addition**, we must provide a sample each month so that lab can perform an E. coli test. **In addition**, we also must report the weekly average of

the level of oxygen in the wastewater. **In addition** we must separately test the pH and report it monthly. By the way, consistent with our groundwater, our wastewater is slightly alkaline (~7.5 pH), and well within TCEQ limits. So, we do a significant amount of testing of our wastewater even though we are mixing it with 137,433,224,962 gallons of water in Lewisville Lake (that's the actual number based on today's lake level).

We are required to test our drinking water for lead and copper every five years. Why every five years? Because we don't have lead or copper in our water. Our ground water in Texas isn't acidic, it is alkaline – the minerals coat our lines, they don't eat through them. Look at all the tests we do on a daily and weekly basis. Every five years? Why would we do a test for something that we don't have? You know the answer. It's a Federal law, lets spell it together E-P-A. So we are required to send a sample to a separate government designated lab (not the one we regularly use), and the sample must be taken at approximately a dozen selected sites in the Town. The sites are picked for us. We had a problem when 460 Highridge was chosen, because that address only exists in some parallel universe, not in our Lakewood Village. Changing sites is a challenge since they don't want you to avoid the problem by just picking

different places. Did I mention this is a federal law? We got that figured out and sent the samples along with the Rocky Point water system samples. The lab processed the Rocky Point samples (surprise! there was no lead or copper) but said they never received the Lakewood Village samples, even though they were in the same shipment. Of course, since it was not our lab, they didn't tell us. So TCEQ dinged us and said we didn't do the test. Well, that box to the left is the test. As you can see the results for copper and lead are "ND" which is lab speak for not detected. This makes sense since **we don't have copper or lead in our water**. However, TCEQ says they didn't get our test results. There is no fine or penalty for our violation, we just have to provide you with the following notice from TCEQ:



Pace Analytical Services, Inc.  
 400 West Bethany Drive - Suite 190  
 Allen, TX 75013  
 (972)727-1123

**ANALYTICAL RESULTS**

Project: 10/Town of Lakewood Village  
 Pace Project No.: 7521670

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Sample: Effluent after Final    Lab ID: 7521670001    Collected: 12/16/14 16:25    Received: 12/17/14 11:20    Matrix: Water

| Parameters  | Results | Units | Report Limit | DF | Prepared       | Analyzed       | CAS No.   | Qual |
|---|---------|-------|--------------|----|----------------|----------------|-----------|------|
| <b>200.7 Metals, Total</b>                                    |         |       |              |    |                |                |           |      |
| Analytical Method: EPA 200.7    Preparation Method: EPA 200.7 |         |       |              |    |                |                |           |      |
| Copper  | ND      | mg/L  | 0.010        | 1  | 12/18/14 10:35 | 12/18/14 17:17 | 7440-50-8 |      |
| Lead  | ND      | mg/L  | 0.0050       | 1  | 12/18/14 10:35 | 12/18/14 17:17 | 7439-92-1 |      |

**REPORT OF LABORATORY ANALYSIS**

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*The Town of Lakewood Village has violated the monitoring and reporting requirement set by Texas Commission on Environmental Quality (TCEQ) in Chapter 30, Section 290, subchapter F. Public water systems are required to monitor for Lead and Copper and report the results of that monitoring*

*to the TCEQ. During Jan. 1-Dec. 31, 2014, we did not complete all monitoring and/or reporting for lead and copper, therefore TCEQ cannot be sure of the safety of your drinking water during that time. We are working to correct the problem: We did sample for Lead and Copper during September of this year. Many of you participated and we thank you. However the samples were lost while in transit to the lab in Austin. Sampling can only be done in warm weather months Jun. 1 – Sept. 30 so we will resample the first week of June 2015. Please share this information with all people who drink this water, especially those who may have not received this notice directly (i.e., people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail. If you have any questions regarding this matter you may contact Mark Patterson at (903) 744-2599 or pattproserv@aol.com*

(Final comments on the back) ↓

## **Final Notes:**

★The next class of the Little Elm Fire Academy starts on February 9th. Call 214-975-0424 to get more information and to sign up.

★The Lakewood Village tradition continues. Our streets will be full of running adults and children on April 25th as we host the annual fun run for the Oak Point/ Chavez PTA 5K. We will provide more information as that gets closer. The new streets will be a surprise.

★ The next regular Town Council meeting is scheduled for February 12th at 7p.m.

Spring is just around the corner.

A handwritten signature in black ink that reads "Mark E. Vargus". The signature is written in a cursive style with a large, stylized initial "M".

Dr. Mark E. Vargus

Mayor

Mark@lakewoodvillagetx.us