



Lakewood Village Update

November 15, 2014

Hello Everyone,

The Lakewood Village holiday festivities will be on December 12th at Town Hall beginning at 6pm. Activities include pictures with Santa, cookie decorating with Mrs. Claus, music and games. The Halloween Hayride was a challenge this year with the road construction, but our four drivers did a great job and everyone had a safe and sweet holiday. Thanks go out to Gary Newsome, Gary Schroeder, Darrel West, and Dan Tantalo. Also, I want to thank all of you for waiting on your bulk trash, it really made a difference in keeping things safe and manageable.

Road Update. For the week of November 20th, the plan calls for final grade work and sod placement on Hillside; completion of concrete installation on Peninsula; and continuing excavation and prep work on Parkwood. The final phase of the project calls for the reconstruction and paving of Shoreline Drive. Unlike the other streets, Shoreline will undergo a full-width demolition and construction. In other words, there will be no traffic on Shoreline when it is under construction as both lanes will be demolished, prepared, and paved at the same time. **The Shoreline Drive entrance to the Town from Sunrise Bay will be completely closed to all traffic starting on Wednesday November 19th and will remain closed until the end of the project.** During construction we will work on the intersections one-at-a-time (at least two of the Shoreline intersections with Hillside, Lakecrest, and Peninsula will always be open). This means that for everyone with an address in the 400's, at some point you will have to backtrack and go around the block to get out of town.

The project is now over 70 percent complete and is on schedule, excluding a couple of weather days. The cold weather will not have any impact on the project provided we do not have sub-freezing high temperatures for any extended period of time. There have been several residents who have replaced or expanded their driveways during the project. The Town's flatwork inspection fee waiver is still available and will run until the project completion. Linda has contact information for companies currently doing work in Town.

The New Roads Look Beautiful. Naturally this has led some people to ask me why we don't restrict on-street parking. This question has been around for years and obviously it hasn't happened. I think this is a great opportunity for me to explain how something that seems so easy is really a very complex issue. Many people think that the Town can pass any ordinance. It's not that simple. Before you even consider whether it is a good idea or not, there are several things that must be considered when it comes to an ordinance relating to transportation.

First, can we have a no parking ordinance? Lakewood Village is a general law municipality, which means that we are restricted to only taking actions that are specifically authorized by the state legislature. That's why, for almost every one of our ordinances, they start with the phrase "*whereas Texas Local Government Code Section 123.456 grants authority ...*" But, (there's always a "but") the issue of pre-emption is also at work. Pre-emption means that the State can say "we got that" and prohibit municipalities from creating laws in certain areas. So for example, you don't have a Lakewood Village driver's license – only the State can issue those. Same thing for the penal code, we don't have ordinances against grand theft or bank robbery because we don't have the authority – the guys with the prisons (the State) have said only they can make those laws. When it comes to parking, the State Legislature has already created a "No Parking" law (Transportation Code §545.302) which says that all across the great state of Texas, there are **nine** places where parking is prohibited. How many can you name? You know the easy ones, you can't park: (1) in a cross-walk, (2) on the sidewalk, (3) on railroad tracks (well, unless you are driving a train) (4) in a tunnel or on an elevated bridge (5) in an intersection.

The harder ones: (6) alongside or opposite from a street excavation, (7) in a designated safety zone, (8) next to another car (double-parking), or (9) **where an official sign prohibits parking**. This last one is what allows us to enforce the law in LWV (but it also causes a problem – later). So this, plus the Texas Transportation Code §311 which gives us authority to regulate our streets means we can have an ordinance prohibiting parking.

However, we have to have a reason. When you write an ordinance you have to spell out the reason why you are adopting it – that way judges can interpret it. We aren't an HOA who owns the roads, our streets are public property. So we can't have "I just don't like it" or "because we don't want it" ordinances. So in past Council discussions over the years the justification given was that we need the streets clear for emergency vehicles – we can't have them blocked by cars parking on the street. That is very reasonable – obviously we want the firefighters to be able to get to the fire. **The problem is that ALL of our streets are the same**, they are all 22 feet wide, all have bar-ditches, all are residential streets, all have 30 MPH speed limits. So you can't limit no parking zones to Hillside for example, because it isn't different from any other street – there is no school, church, stadium, or anything special on it. If our ordinance singled out Hillside, we would have a legal problem because that would be arbitrary and illogical and the prosecutor or judge would not enforce the ordinance. So this means that, in our town, to adopt no parking *anywhere*, it must be *everywhere*. Further complicating matters, when does the fire department need to get down the street? You can't tell the fire that it can only occur during the "7pm to 7am" hours or only on "M-F (excluding holidays)". So to be logically consistent, you can't have parking anytime since you don't know when there will be an emergency. That includes the company Christmas party, your 5 year-olds birthday party, and the Texas-OU annual cookout at your house. If you use a life-health-safety justification for an ordinance then that means 24/7, 365 days a year.

Lastly, to enforce the ordinance there must be an **official** sign. Signage is covered under the Manual of Uniform Traffic Control Devices (MUTCD). Nationally, you have to follow the manual for it to be an "**official**" sign. That's why in California the traffic signals aren't pink, purple, and brown; stop signs in Oklahoma aren't square; and TxDot doesn't use Roman numerals on the speed limit signs on I35E. Remember, the default is, if there is no sign, then parking is legal – there has to be an **official** sign in order for "no parking" to be enforceable. Based on the MUTCD standards in a rural setting you would put signs every 250 feet or so, and no you can't just put up one sign at the entrance, that is not sufficient notice. That means that signs would be about every three houses (small lots) or every other house (Shores), **on both sides of the street**. Or, given that we have about 24,000 feet of roads, you are looking at about 190 no parking signs. That would be awful, and expensive.

So, when you put it all together, **in my opinion**, this is a case where the solution is worse than the problem. And, this assumes that you want to do it in the first place. I haven't discussed whether it's fair to disadvantage the family with three teenagers who have cars and parents who leave early in the morning so they can't block the driveway. In the Shores where some of the driveways are so long you could park the entire starting grid of a NASCAR race on it, it seems like you shouldn't need to park on the street. I get it, I understand. However, at this time, in my opinion, the problem isn't bad enough for us to consider an ordinance and all the baggage it brings. Having said that, please try and minimize your parking on the street as there are more children playing around the new streets and we don't want a problem. I hope you have a better understanding of the difficulty facing the Council in addressing something **so simple**.

At our last meeting; we unanimously appointed two new members to fill our open council seats until the May elections. We chose Gary Newsome to fill Ken's old seat. A former councilmember, Gary served with Ken and brings class, dignity, experience and real-estate knowledge to the Council. As anyone who knows Gary can attest, it is unquestionable that his actions always have the best interests of the Town at heart. Gary was the obvious choice, and we all appreciate Gary and Janie taking time away from their retirement to help us all out. Our second action was to appoint Ed Reed to my old seat. Ed has been serving on the Lakewood Village Municipal Development District board. Ed has been representing the MDD at our weekly road meetings and also been taking part in my meetings with the Corps of Engineers. In the past several months I have really leaned on Ed and he has been very responsive to my increasing his time commitment to the Town. I look forward to working with both on the Council.

Ed's appointment is significant for another reason. When I came to Lakewood Village eleven years ago, besides myself, there were quite a few people who attended council meetings. So, when there was an opening, the Council would often appoint someone who had been coming to the meetings. This made sense since regular attendees knew how the council operated and the personalities of the members, while the councilmembers knew the audience members. However, in the last several years our attendance is typically only one or two people, even when we have cake. That could be due to the internet keeping people informed, Thursday Night Football, or just that you are happy with the way things are going (my interpretation). So, what this means is that I look to our boards to identify potential appointees.

We have two economic development boards, the EDC and the MDD. The EDC serves Lakewood Village only – it has tax money that can be spent on Town related infrastructure like roads, signs, and parks. The EDC paid for the construction of the mailbox facility adjacent to Town Hall. **It has money to spend** and there are openings on the board. At the council meeting we appointed Linda Loudon to fill one opening and we are looking for others wishing to join.

The MDD also collects taxes, but these taxes come from both the Town and the county. The MDD also owns land and operates the Rocky Point Water Company, which supplies water to residents of the county just outside the Town's border. The MDD's primary strategic focus is on improving infrastructure located in the unincorporated county area surrounding our Town. These boards present a great opportunity for you to meet councilmembers and learn about and participate in how we accomplish various strategic goals. If you would like to become more involved in Town governance, the boards are a great way to start without obligating yourself to the large time commitment of being on the Council. Anyone interested can contact me, Linda, or the board presidents, Bill Schoknecht (EDC) and Dan Tantalo (MDD).

I wish everyone has a safe and enjoyable Thanksgiving and I look forward to seeing you at Town Hall getting your picture taken with Santa.

Santa knows, Our town is *Lakewood Village*



Dr. Mark E. Vargus
Mayor
Mark@lakewoodvillagetx.us