



Mayor's Letter

April 15, 2017

Hello Everyone,

APRIL 15TH may be tax day in some places, but in LWV it was time for the Easter Egg Hunt. A great time was had by all, with candy, pictures with the bunny, a petting zoo (pigs and bunnies). Pictures to follow next month.

I RECEIVED AN EMAIL from a citizen as well as a flyer that was distributed and a couple of people have approached me. Before I address the issues, let me say that if you have concerns, let us know. There's nothing wrong with that - my email and cell phone number is at the bottom of every mayor's letter for a reason. In addition, all of our councilmembers have their contact information on our website. We are a small town, we're all neighbors, there isn't a huge nameless, faceless, ten levels of bureaucracy between you and the town's government.

Now, let me address the complaint / concerns (in no particular order) with direct quotations:

1. "Two thirds of the roads are past horrible condition and now dangerous."

It is true that our roads are of differing quality. We have eleven streets in Town, let's take an objective look at them. First, Lakecrest, Hillside, Peninsula, Parkwood, and Shoreline, the "concrete five" are absolutely beautiful. Next, Meadowlake, Woodcrest, and Stowe, the "asphalt three" are in good shape – yes there is some settling and cracking along the edges, but that is because we don't have curbs and gutters. Last we have Melody, Carrie, and Highridge, the "chip-and-seal three". I think it's obvious that these are in need of repairs. That's why last year we repaired Melody, and this year the Council has approved repairing Carrie and Highridge. The repairs are structural repairs – we are fixing the base failures and then patching them with asphalt. Yes, they won't look pretty like the other roads because they will be ripped out when the concrete roads are put in, but they will be fine.

2. A related comment someone has said: "Using chip-and seal would be much cheaper than concrete".

This is true. Suppose the transmission on your car was failing. Your neighbor tells you to replace the windshield wipers because that's "much cheaper", well, it is, but you haven't fixed the problem. We all know someone who has had foundation issues with their houses (maybe you unfortunately) – why is that? Because the ground moves, that's why many of us have piers under our houses. Why would the soil under the roads be any different? It doesn't have magical properties. When the streets were built, the developer didn't build piers under the streets (where do you think the dirt went that was in the bar-ditches). That's why the roads heave and fall – look at the south end of Carrie Lane. Chip and seal has no structural properties – spray tar and then chuck gravel on it – it's a topping only. Yes, painting the street is cheaper, but it isn't a solution. It's been three years and our concrete streets are perfect – remember Eldorado and all the fractures in the concrete near our entrance – we don't have any issues. In order to make sure the soil under the concrete roads didn't heave up and down, we simply removed it, we dug it up and trucked it away. We replaced it with inert crushed concrete and under that we put in a liner, a physical barrier, just like in a pool, to make sure that water didn't get under the roads. You can look for yourselves, we have chip-seal, asphalt, and concrete roads in town. In my opinion, the choice is clear.

3. "The town is over a million dollars in debt."

Yes, that's true, for the concrete roads, we borrowed \$1,600,000 for ten years (7 to go) and we currently owe \$1,178,000. I anticipate that we will pay it off early and borrow again to finish the rest of the town. Let me explain an important point – **nearly all of our decisions involve cost-benefit tradeoffs. You have to look at both.** Is spending \$50 today a bad decision? Well, if it's for a super big gulp at 7-Eleven then "yes", to replace the bald tire on your daughter's car, then "no". You have to look at the whole picture. We were never going to be able to save enough money on our own – prices keep going up faster than we could save money. The town council made the decision that the benefits outweighed the costs. I voted for it. I believed it then, I believe it now, and it's something that I am very proud of. Having said that, if a future council disagrees, then they may do something different.

OVER ↘

4. ***“There is a moving van that regularly parks. on the street, blocking half of the street.”***

Understood. First the legal issue. We have a LWV ordinance that prohibits the parking of boats and campers on the streets. **There is no town ordinance** against parking over-sized vehicles on the street. With certain restrictions, under the Texas Transportation Code we can regulate it, however, to my knowledge I am unaware of any one who actually lives near it filing any complaints. I placed the issue on the April 12th agenda and we have had some preliminary discussions. It is an open issue, let us know what you think.

5 ***“Payroll is up 120 Percent”***

What is our payroll exactly ? Well, there’s Linda and Summer, that’s two. They receive a salary and since Linda is full-time she receives benefits. **Our building officials are pay-as-you-go**, they get paid for each inspection. Although they are municipal officers just like Linda, (Steve is the Chief Building Officer for LWV), our insurance company notified me that they are not covered under our policy. So any unscrupulous builder could threaten to sue the inspectors and no matter how ridiculous the lawsuit, the inspectors would have to pay all their legal bills out of their pocket, win-or-lose and we couldn’t help them. And don’t think it can’t happen – I’m personally being sued now by a homeowner. Our deputy building inspector Bryan Ausenbaugh has eight children in his household – it would be unconscionable to expose his family to financial ruin because **he helps us keep you safe**. Sure, you could do as one councilmember wants and just tell them too bad, go pay thousands of dollars and get your own insurance. Think about it, Who would work for us ? And, if they did, how much more would we have to pay them to make up for their additional costs ? Here’s a better solution. **If we pay them exactly the same amount, exactly the same, exactly**, but classify them as part-time employees they are covered under our insurance. The best part - the additional insurance cost to the Town ? **Zero. \$0.00** When you add our three inspectors to the pool of all the inspectors in all the towns in all of Texas, there is no effect on risk. So we could make them pay thousands or we pay zero and cover them, I wish every decision was this tough, what could anyone possibly complain about ? Oh wait, we now have one full-time and four part-time employees, a total of five instead of two – that’s a 150 percent (not 120 percent) increase in head count. OK. That changes ~~everything~~ nothing.

Today, we pay our building inspectors the same amount for an inspection as we did ten years ago when I was elected. So, instead of the raise they were asking for (after ten years, it’s hard to argue), we pay the matching 7.45 percent social security and Medicare taxes for them. So after ten years, essentially they get a 7.45 percent raise that doesn’t even go to them, we send it straight to the government. **At the end of the day, we have the duty to protect our citizens and we have the moral and ethical obligation to minimize the risk and protect those that protect us.**

6. ***“Town legal costs are outrageously out of control”.***

This is a great example of looking at only one side of the cost-benefit analysis. Yes, our spending on legal services was significantly higher than normal last year. We had a lot of one-time issues last year. For example, we ordered Wells Fargo to demolish the house on Woodcrest – their attorney was at all of the meetings and **sitting in the front row**. Obviously we had our attorney giving us advice (what are we going to do if Wells Fargo says “no” ?) and we followed every procedural legal step. The house is gone and we own the property. If you ask people on Woodcrest, I think they would agree that the benefits far exceeded the costs. With the help of our citizens on the Impact Fee Advisory Board, we did something that the town had tried and **failed miserably at in the 90’s** – we passed an impact fee ordinance. Developers will have to pay their share of any new infrastructure that is required. This is Texas, which is pro-developer, you have to **follow the legal requirements exactly** or the fee ordinance will be thrown out (that’s what happened to the Town previously when it went to court). Without this ordinance our water and sewer rates (what you and I pay) would have to cover the millions needed to expand water and sewer for future new houses. The math is easy and indisputable the benefits are a hundred times the costs.

Reality check. We take in about \$200,000 in property taxes each year. I’ve talked with developers willing to spend \$200 million dollars on development. Do you think if they can find a loophole or weakness in our ordinances they won’t exploit it ? Our zoning ordinance was from 1983 ! In 2014, when Clint Bushong wrote a new one, we would meet and discuss how much of the ’83 ordinance was null and void because of changes over the thirty years. Legally, a developer probably could have done anything they wanted and challenged us successfully in court. With help from our attorneys this has all been fixed. Similarly, you can’t have a development across three cities – the development of the Harvey property needs to be in one jurisdiction, Lakewood Village. So we have had to work out boundary adjustments, which as you might expect require legal work. We really don’t have a choice, we are reacting to developers, and trying to stay ahead of them. The highest returns right now are building apartments, as I have said before, that would be disastrous to LWV. We have to make sure that our ordinances will meet that challenge.

7. *The Bizios Case.*

If you are an Agenda follower, you saw this on many meetings over the past two years. Here is the information. Under Texas law, a town is required to provide for the safe and orderly development of their ETJ. Recall from a prior Mayor's letter, the ETJ is our exclusive bubble outside the town. **Courts have ruled** that cities can legally regulate development in their ETJ since at some point it will be in their city and infrastructure needs to be compatible. It wouldn't make sense to have "round pegs" in the ETJ and "square holes" in the city. In addition, the **Texas Legislature extended that concept** and passed a law that said that towns could require residential housing in the ETJ to meet the Town's adopted building codes. Logically, "safe" construction shouldn't depend on an imaginary boundary drawn on a map, "safe" is "safe". Accordingly, in January, 2010 Lakewood Village passed an ordinance requiring residential construction in the ETJ to obtain permits and build according to our codes just like you and me. I was on the Council and there were concerns about the safety of the projects going on in Rocky Point.

Several projects were completed. Later, in 2012 construction was started on a new house in the ETJ. The builder refused to get a permit from LWV. We went to court. **The Denton County District Court ruled in favor of Lakewood Village.** The builder paid the permit, the house was built to our codes and is a very nice, safe house. In 2013, another builder refused to get a permit from LWV, we went to court, **the Denton County District Court judge ruled for Lakewood Village.** The builder paid the permit, the house was built to our codes and is a beautiful, safe house. In 2014, the Bizios construction began, there was a disagreement. We went to court and the **Denton County District Court judge ruled for Lakewood Village** and issued a restraining order stopping construction. The following month, we had a trial in Denton County District Court. At the conclusion of the trial, **the judge ruled for Lakewood Village.** The fees were paid and inspections were made. Mr. Bizios appealed the case to the *Fort Worth Court of Appeals*. That court had very strong prior beliefs on the "evils" of cities and over-ruled the Denton County court. We appealed to the Texas Supreme Court (at no cost). Unbelievably our case was accepted (which was great, since it doesn't make sense to take cases they think are already decided correctly). However, unlike the U.S. version, Texas Supreme Court Justices are elected and have political affiliations. Although we were hoping for the best, it's no surprise to me that the court ruled against us and for builders (who were backing Bizios and paying some of the costs). The builders group had tens of millions of dollars they could avoid paying in permit fees in south Texas, whereas if you do what's right and side with little Lakewood Village, well, **that won't get you re-elected.**

Following the *Fort-Worth* ruling, we stopped requiring the permits and our ordinances were amended to remove the requirement. That's it. Yes, it cost us some money. But on the benefit side, we have probably twenty projects that were completed and safely built in the ETJ, that's a huge positive. And of course, we received fees for our services, so that was a financial benefit. **At the end of the day, I wish we didn't have to spend any money enforcing our ordinances, but it's an unfortunate reality of the real world.** To the Monday-morning quarterbacks out there, if we would have initially lost in court and then kept enforcing an ordinance that had been thrown-out, that would have been irresponsible. However, in Denton County we won each time, What would you have us do after we won? Look into a crystal ball and tell the judge "rule against us now, because we're going to lose on appeal in six years".

We did everything right for all the right reasons and got a bad outcome. That happens to everybody at some time. The refs don't get every call right. So we dust ourselves off, and we're on to solving the next problem.

8. *From Wikipedia:*

troll trōl/ : trolling .

informal: make a deliberately offensive or provocative online post with the aim of upsetting someone or eliciting an angry response from them.

Unfortunately, we have a small handful of people who believe this is a substitute for leadership. If you can't convince people of the merits, then scream "fire" and people will follow you out of fear. Prior to every meeting I review our agenda and **prior to every single meeting**, we receive a protection letter from our attorney telling us that all is legal. In the interest of justice, let's dig deeper. Did Gary steal a truck to pull the trailer at the hayride? When Ed Reed was trimming trees at the entrance did he go over the LEISD's property line? Maybe it was Clint, he posts all the updates to the webpage – did he leave off a copyright on the bottom of a news article? Thinking back, when Ray and I were going to the Corps Office, I'm not sure he came to a complete stop at the intersection. I think our residents are very smart and observant (they live in LWV after all) and based on my conversations, trolling them by making unfounded bizarre allegations isn't effective. I think things are going great and getting better all the time.

9. "The town has spent Tens of Thousands of dollars to supply water to an unincorporated area."

I think this is a good example of someone who didn't educate themselves, so let me give it a shot and then you can decide. The Lakewood Village Municipal Development District (MDD) is a separate subsidiary of the town that gets some sales taxes and provides infrastructure improvements to the Town and our ETJ. **In 2009, it was created by a vote of the residents of the Town and the ETJ. As I recall, over 80 percent of the voters approved it.**

In 2012, the MDD purchased a failed water system in Rocky Point (in our ETJ) at the end of Garza Lane. The owners were not able to keep the system in compliance, so it had been seized by the State and was in receivership for

Audit Report	Water Revenue	Cash Flow after all Expenses
2012	\$9,157	\$6,418
2013	\$15,622	\$10,588
2014	\$15,757	\$10,896
2015	\$15,240	\$9,964
2016	\$21,078	\$17,165
	\$76,854	\$55,031
	Purchase Price \$9000	611%

years. After over a year of negotiations with TCEQ and the Texas Attorney General's office, the MDD purchased the system for \$9,000. **As you can see from our audited financial statements** the water system has been profitable since the beginning. In fact the return on our investment over the five years is over 600 percent. And just to be clear, the Town pays NOTHING. **It's the reverse - the water system pays the Town for billing, banking, reading meters, insurance, the annual audit, even mowing.** The water system pays its own way, as it should.

We typically have between \$150,000 and \$250,000 in our Utility Fund Reserve bank account. This money allows us to be able to get the best cash deals on equipment and gives us flexibility to tackle large CAPX projects at the optimal times. Because the MDD couldn't borrow money at a bank (it was new), we approved an agreement where we can loan the MDD some of our reserve funds, subject to Council approval. At various times when the system was being rebuilt and expanded, we loaned the MDD money. **It has been paid back in full. With interest. Paid in Full.** In fact, we charge the MDD six percent interest. The money sitting in our reserve fund currently earns 0.29 percent interest. You do the math. Over the entire five year period, the MDD has borrowed money and paid it back several times. If you look at the grand totals, the MDD has borrowed a total of \$66,015. **They have repaid that, plus \$4,271 in interest to the Town.** If we kept the money in our savings account instead of loaning it, we would have earned only \$237 in interest.

So to recap, the investment has earned over 600 percent return over five years. The Town has received over \$4,000 in additional revenue by making a zero risk loan to the MDD. We didn't "spend" anything – we received money. Now, I only have two Master's degrees and a PhD from Wharton, but if this is a bad investment then I don't see it. In fact when I use this as a case in my classes, students don't think it's something to complain about, instead **every time I teach it, they always ask "How can I buy a water system ?"**. Obviously it has been a great financial investment. But, regardless of the economics, supplying safe water to our neighbors who can't do it for themselves is a noble and worthwhile effort. I'm proud to have been a founding MDD board member.

10. "The Mayor's letter is too long".

That's easy to fix. I'm done. Almost.

I want to thank Carl Menckhoff, M.D. for moderating the voter – candidate forum on April 11th. I hope everyone had a chance to question all the candidates. Early voting starts on the 24th, the election is May 6th.

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

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Mayor



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