

Kansas

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Inside:
North Newton's Rich History
The Dissolution of Treece
Biased-Based Policing

-2012- CONFERENCE HOTEL ACCOMMODATIONS & RESERVATION PROCEDURES

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Volume 98 • Number 4 • April 2012

October 6-8 • Maner Conference Center & Capitol Plaza Hotel • Topeka

CAPITOL PLAZA HOTEL**

1717 SW Topeka Blvd
Topeka, KS
(785) 431-7200
\$102 + tax per night
Cut-off Date: 9/14/12

**Capitol Plaza Hotel requires a non-refundable deposit equal to one night's stay in order to secure reservations.



*Kansas Ave. in
Downtown Topeka.*

ADDITIONAL ACCOMMODATIONS:

Clubhouse Inn & Suites

924 SW Henderson
Topeka, KS 66615
(785) 273-8888
\$73 + tax per night
Cut-off Date: 9/06/12

Country Inn & Suites

6020 SW 10th Avenue
Topeka, KS 66615
(785) 478-9800
\$89.99 + tax per night
Cut-off Date: 9/14/12

Hyatt Place Topeka

6021 SW 6th Avenue
Topeka, KS 66615
(785) 273-0066
\$89 + tax per night
Cut-off Date: 9/20/12



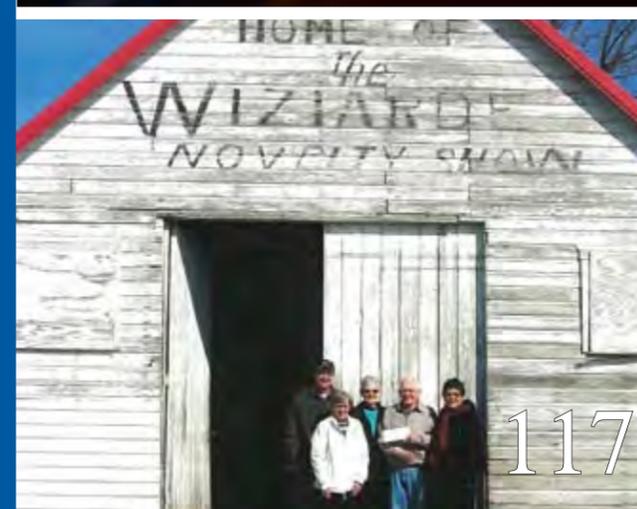
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About the Cover:
Mathy Stanislaus, EPA's Assistant Administrator of Solid Waste and Emergency Response, listens to Treece residents talk about the contamination problems left by the city's mining past. See related article, beginning on page 108. Photo by Jaime Green, *The Wichita Eagle*.

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The mission of the League shall be to unify, strengthen, and advocate for the interests of Kansas municipalities to advance the general welfare and promote the quality of life of the people who live within our cities.

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June

- 8 - LKM Governing Body Meeting, Dodge City
- 8 - MLA: Personnel Management, Scott City
- 9 - MLA: Personnel Management, Lindsborg
- 22 - MLA: Personnel Management, Mission
- 29 - KMIT Board of Trustees Meeting, Roeland Park

July

- 4 - Independence Day
- 20 - MLA: Neighborhood Building, Webinar
- 21 - MLA: Neighborhood Building, Webinar

August

- 10 - MLA: KOMA/KORA, Garden City
- 11 - MLA: KOMA/KORA, Abilene
- 24 - KMIT Board of Trustees Meeting, TBD

September

- 7 - LKM Governing Body Meeting, Kansas City
- 7 - MLA: Preparing for Retirement, Webinar
- 8 - MLA: Preparing for Retirement, Webinar

Obituaries

Laura Bukovatz, 87, died December 28, 2011, at Life Care Center in Andover. Bukovatz was a past editor of the League of Kansas Municipalities and then later worked as an office manager/tax preparer for H&R Block.

William Cole, 65, died January 6, 2012, at his home in Larned. A lifetime area resident, Cole was the Pawnee Coop Service Station Manager and retired from the Larned State Hospital after 21 years. He was a former Larned City Councilmember and a member of the First Southern Baptist Church.

Louis A. Hayes, 90, died January 12, 2012, at the Nemaha Valley Community Hospital in Seneca. Hayes served the City of Centralia in many ways, serving on the City Council and was instrumental in getting the City pool. He was President of the Lions Club and a member of the The Centralia Booster Club.

Bryson E. Mills, 75, died January 19, 2012, Mills was a retired attorney, mediator, municipal court judge, and race car owner/driver in Wichita.

Neil L. Tucker, 83, died January 16, 2012, Neil served on the Stark City Commission, was Mayor, and retired from the City of Stark as City Clerk. He was a longtime member of First Baptist Church and was the first accountant in Stark owning his own firm.

William Yockey, 93, died December 29, 2011, at Lawrence Memorial Hospital. Yockey was a Farmer and Stockman most of his life. He had served as a City Councilmember and Mayor for Lyndon and was a County Commissioner for Osage County. He was a member of the Osage City Presbyterian Church and the Euclid Lodge #101 A.F. & A.M. in Lyndon.

BY KIMBERLY WINN



For the 2012 calendar year, membership in the League of Kansas Municipalities (LKM) has reached an all-time record high of 594 cities (out of 626 incorporated Kansas cities). From the largest city in Kansas (Wichita, pop. 382,368) to the smallest city in Kansas (Freeport, pop. 5), city governing bodies have recognized the importance and value of participating in the statewide association of cities.

Now more than ever, it is imperative that cities work together. Elected officials must balance the service needs of the community with diminishing revenue streams. Appointed officials face the daily challenge of providing those services with shrinking budgets. LKM serves as a conduit to provide high quality training, inquiry services, and advocacy in order to assist elected and appointed officials accomplish community goals and serve the citizens of this great state.

Established by municipal officials in 1910, LKM is a voluntary, nonpartisan organization. It operates as a public agency and is defined by state law as an instrumentality of its member cities (K.S.A. 12-1610a *et seq.*). The powers and duties of LKM are prescribed by state law and in bylaws adopted by the voting delegates of its member cities. The mission of LKM is to “unify, strengthen, and advocate for the interests of Kansas municipalities to advance the general welfare and promote the quality of life of the people who live within our cities.”

Value in Association

The need to associate with others is an inherently human one. Indeed, governments are no exception. Our Founding Fathers included the right to peaceably assemble and associate with one another in the first sentence of the Bill of Rights. For some, this is a political association wherein individuals with common interests come together to pursue legislative issues of mutual concern. For others, the key aspect of an association is found in knowledge-sharing and educational pursuits.

The association of cities embodied by LKM serves those varying purposes. At the founding of this organization in 1910, three key purposes were established: research, advocacy, and training. Those are critical reasons for cities to associate with one another and they are still the core mission of the organization today.

The many publications of LKM, including the monthly *Kansas Government Journal*, provide valuable research to officials at all levels of government. Our role as the primary advocate for cities in the State Capitol is undisputed. And, our many trainings provide essential information to literally thousands of city officials each year.

Participation is Key

While a number of the services provided by LKM (inquiry service, legislative advocacy, amicus briefs, etc.) are provided free of charge for dues-paying cities, it is important to remember that LKM is at its core an association. LKM is not simply a fee-for-service business. This organization exists to bring cities across Kansas together. More than 82% of Kansans live in an incorporated city and those citizens deserve the best local governments that we can provide. Working together expands the knowledge base and provides the means for more effective and efficient governing.

By their very nature, associations are successful only to the extent that the members of the association participate. To this end, we encourage city officials to get active in your association. There are many ways to participate in LKM...join a policy committee, attend a training, go to a regional supper. For information about upcoming training opportunities or events, see our website at www.lkm.org.

You will find that the benefits of association are innumerable when you seek out opportunities to learn and to network. In turn, the more city officials that participate in LKM, the greater our ability to represent you and provide the resources that you need to make Kansas cities a great place to live, work, and play.

LKM Membership Since 2001

2001	528
2002	556
2003	557
2004	565
2005	576*
2006	579*
2007	580*
2008	576
2009	579
2010	588*
2011	585
2012	594*

**Record High Memberships*

Kimberly Winn is the Deputy Director for the League of Kansas Municipalities. She can be reached at kwinn@lkm.org or (785) 354-9565.

North Newton Interprets Its Rich History

by John Torline



Left: Jacob D. Goering envisioned the use for the Kidron Martin canal and with other retired men, created a wood chip trail—now Sand Creek Trail.

Below: A map of the “Pause Points” along the walking trails in North Newton and an upclose look at the College on the Prairie “Pause Point” for the founding of Bethel College.

All photos by Vada Snider.

the City of North Newton and the Kauffman Museum and it was primarily funded through a Kansas Department of Transportation Enhancement grant. In addition to the construction, the approved grant provided funding for an archaeological survey of the area.

The archaeological survey was conducted in 2009 by the Wichita State University Department of Anthropology under the direction of Dr. David Hughes. In addition to carrying out field investigations, the surveyors examined local collections. Their study indicated the presence of rich archaeological resources at numerous locations. Some evidence suggests that one site may be 8,000 years old, and ample evidence that the early Wichita Indians inhabited the area at about the time of Coronado’s visit to central Kansas.

Waldo Wedel and Emil Haury grew up in North Newton as “campus kids.” Both developed an early and intense interest in the artifacts left behind by the

Wichita and possibly earlier tribes. Both received their doctorates and pursued careers in archaeology. Dr. Wedel continued his interest in the Great Plains and spent his career at the Smithsonian Institution. He provided the definitive work on the prehistoric Wichita Indians. His initial contact with the artifactual remains of the Wichita were as a boy, along the banks of Sand Creek. Dr. Haury focused on the American Southwest. Both are remembered as distinguished members of their profession and are often referred to as the “father of plains archaeology” and “the dean of Southwestern archaeology,” respectively.

The Chisholm Trail is the stuff of legend and lore. Newton was founded as a cow town in 1871 and was a way station along the trail. Herds of Texas longhorn cattle were driven northward to Abilene for shipment to the East. Ruts from the trail are still visible in North Newton in what is appropriately called “Chisholm Trail” Park. (Pause point #7 will tell you where to look for them.)

Mennonites who had moved to the area to grow their turkey red wheat founded Bethel College in 1887. The massive limestone administration building was the vision of renowned architects Proudfoot and Bird. It remains in use today. It is the focal point of the campus and is listed on the National Register of Historic Places.

Charles Kauffman was a talented and industrious taxidermist, wood carver, artifact collector, and folk artist. His collection of produced and collected mounts and artifacts rivaled any of the Ripley’s Believe it or Not museums during the mid 20th Century.

Much has occurred along the banks of Sand Creek during the last 500 years. Indigenous peoples constructed villages of grass lodges on the high ground. Thousands of head of Texas longhorn cattle pounded the earth as they were driven north to Abilene along what came to be known as the Chisholm Trail. A Mennonite College was founded with the construction of a spectacular native stone administration building as its focal point. The community that became known as North Newton grew up around the newly founded Bethel College. Two boyhood friends walked the plowed fields

collecting artifacts left behind by the original inhabitants. Charles Kauffman opened a museum featuring his works of taxidermy and wood carving along with curious artifacts. A committee of octogenarian volunteers created, funded, and maintained a wood chip trail up to, and along the top of the high bank of the creek. The beauty and diversity of the native tallgrass prairie was recognized and attempts are being made to restore representative areas.

These events and manifestations are heralded in a series of eight “pause points” along the walking trails in North Newton. This interpretive sign project was the result of collaboration of





View of the Kauffman Museum and a map with the Sand Creek Trails including interpretive signs about the history of North Newton and the Chisholm Trails. Photos by Vada Snider.



The vision for the museum has evolved and it has become nationally renowned for its presentation and interpretation of Charles Kauffman's artifacts as well as its outreach and educational programs.

In 1997, octogenarian Jacob D. Goering and his wife Beth retired back to the town of their alma mater, Bethel College. Jake developed a passion and vision for the recreational use of the Kidron Martin canal that flows east from Chisholm Trail Park to Sand Creek. He and several like-minded and similarly situated retired men created a wood chip trail along the north side of the canal that turns north along Sand Creek, then heads west back to Highway K-15, and then south to the Bethel College campus. In 2011, Sand Creek Trail was designated a national Recreation Trail by the U.S. Department of the Interior.

The Sand Creek Trail Committee, as it became known, commissioned local wood carver John Gaeddert to carve a larger than life "plainsman" out of an elm log that is at the entrance of Memorial Grove, the trail head of the Sand Creek Trail. Memorial Grove features a gazebo, fire pit, bricks engraved to commemorate friends or family of donors, and is maintained in an informal garden setting. The Committee also landscaped an area known as "Arbor Lane" along the K-15 corridor. An endowment has been created to maintain the trail. Its assets are currently in excess of six figures. At 94 years of age, Jake Goering is still a daily hiker of the trail and is actively engaged in its maintenance.

All who are familiar with the story lament the loss of thousands of acres of tallgrass prairie. Restoration efforts are underway in various locations to reintroduce prairie plots and appreciation for them. North Newton has several such reintroductions underway. Kauffman

Museum led the efforts in the 1980s with a scientific approach in restoring a 1.5 acre prairie on museum grounds. The City of North Newton received a KDOT Transportation Enhancement grant for a prairie restoration project on a two-acre tract of ground at the K-15/I-135 interchange. Bethel College has a larger tract under restoration on the east side of the college campus. These three projects are noted at the appropriate pause points. Mennonite Central Committee-Central States has an additional reconstruction project underway at its offices just north of the Bethel Campus. The North Newton City Hall sign is landscaped with native plant materials.

North Newton's long held secrets have now been revealed. There is much to see and do along the community trail system, and you are invited.

☀️ *John Torline is the City Administrator for North Newton. He can be reached at jgt@northnewton.org.*



Public Nuisance Ordinances Questioned by Court

In an opinion that raised more questions than it answered, the Kansas Court of Appeals appears to hold the "Maintaining a Public Nuisance" and "Permitting a Public Nuisance" sections of the *Uniform Public Offense Code* unconstitutionally vague. *City of Lincoln Center v. Farmway Co-op, Inc. et al.*, ___ Kan.App.2d ___, (Case No. 105,962, April 13, 2012) Those two sections are now one, Section 9.5 in the *Uniform Public Offense Code for Kansas Cities* (27th Edition, 2011) (UPOC), reflecting the change in Kansas statute, K.S.A. 21-6204. Lincoln Center's noise ordinance was also involved in the appeal, but the League of Kansas Municipalities only filed its *amicus curiae* brief in support of the UPOC sections. The opinion never quite gets to a holding, and in the syllabus does not distinguish between the City's noise ordinance and its public nuisance ordinance, which were two totally separate ordinances for which violations were cited. Thus, this opinion should only be applied to the facts of this case, without further clarification of the Court's reasoning. It is possible that the City may request review by the Kansas Supreme Court.

The facts of this case are fairly straightforward. Farmway owns and operates a grain elevator in the City of Lincoln Center. It applied to the City for a building permit to construct a new grain storage bin next to the existing elevator. In the application, Farmway stated that it hoped the new storage bin would help control some of the noise and dust that had resulted in complaints by citizens living nearby. Instead, the new drying fans were louder, caused windows and houses to vibrate, and the dust increased, causing citizens to keep their windows closed. In addition, some people complained of increased health problems. Dust particulate testing by the Kansas Department of Health and Environment (KDHE) and noise testing by the Kansas Department of Labor (KDOL) showed no regulatory violations. The City eventually cited Farmway under its noise ordinance and under the public nuisance sections of the UPOC.

The municipal court found the company guilty of the violations, but the district court found all of the ordinances, including the UPOC, unconstitutionally vague. Several points regarding the opinion are significant. First, the opinion notes that the City's nuisance citations were from the UPOC, but then fails to acknowledge that those sections are existing state law as well. The opinion does not at any time state that those UPOC sections or the corresponding state law are unconstitutionally vague, although it does affirm the district court's opinion. Instead, the Court uses a New Jersey Supreme Court case to find that the City could (and apparently should) adopt a more specific ordinance proscribing specific conduct with objective standards that would put Farmway on notice that its operations were problematic. Thus, the Court seems to be suggesting that the City should have an ordinance specifying what levels of dust and noise would subject businesses to prosecution. Of course, what the Court

fails to acknowledge is that this would no longer be a nuisance ordinance, but rather a regulatory ordinance.

Second, the Court found that Farmway met all of the regulatory standards for dust and noise as measured by Kansas Department of Health and Environment and the Kansas Department of Labor. Thus the Court concluded that because Farmway had no regulatory violations, the ordinances did not give fair warning of what conduct could subject the business to enforcement actions. In addition, the Court said the ordinance does not guard against arbitrary and discriminatory enforcement. This assessment, however, does not fit the facts of the case. There is no requirement that businesses violate regulatory standards for a nuisance to occur. A state regulatory agency doing various measures that show no violation of regulatory standard at the time of the tests, may or may not have any bearing on the impact of the noise and dust on the neighbors. Using this as rationale for lack of notice to the business would defeat the purpose of public nuisance ordinances. But, if given effect, the Court's reasoning would require exactly that result. In addition, Farmway was on notice of a noise and dust problem as early as when it applied for the building permit. Further, throughout the early days of the new expansion many complaints were lodged for noise and dust nuisance issues. There was clearly no lack of notice on the part of Farmway.

Finally, the Court, in using the very same New Jersey case mentioned above, probably gets to the crux of the result in this case. The Court stated, "We realize that small farm towns depend on the agricultural economy for its survival and vice versa. . . ." It went on to note the analogy of the common occurrence of pigeons in Atlantic City and tree branches on sidewalks in another New Jersey community, and compared those to "dust and industrial noise. . . in small rural farm towns." Thus, apparently the significance of noise and dust from the local co-op should be less in a small Kansas community than if the business was located elsewhere.

The question is where this case leaves cities in Kansas wanting to enforce their public nuisance ordinance against businesses. The only result that makes any sense is to limit this case to the facts occurring in Lincoln Center, Kansas. To give it more legal effect would be to read into the case a holding that the Court did not adopt. Hopefully, the Kansas Supreme Court will review this opinion, but there will surely be cases to follow that will further clarify this issue. In the short term, do not look for any change in the Maintaining or Permitting a Public Nuisance section of the UPOC until the courts further clarify the issue of public nuisance law in Kansas.

☀️ *Sandy Jacquot is the Director of Law/General Counsel for the League of Kansas Municipalities. She can be reached at sjacquot@lkm.org or (785) 354-9565.*

State Scene

State Gets Money to Help Schools

Kansas is receiving a \$4.4 million federal grant to continue efforts to turn around its persistently lowest-achieving schools.

The Kansas State Department of Education said the money will benefit seven schools in the Wichita, Kansas City, Topeka, Cherokee, and Liberal school districts.

The schools have received funding previously from the U.S. Department of Education program, which requires districts to

State Reminds Drivers of Turnpike Shelters

State officials want to remind drivers that nearly 30 public tornado shelters are available along the Kansas Turnpike.

Turnpike spokeswoman Lisa Callahan said most of the shelters are in the restrooms of service areas in Belle Plaine, Towanda, Matfield Green, Emporia, Topeka, and Lawrence.

Smaller shelters also are available at the turnpike's toll plazas. Most of the shelters are underground. They are accessed by opening a hatch and climbing down a short ladder.

Construction On Highways Begin

On March 26, 2012, the Kansas Department of Transportation (KDOT) began work on US-183 and K-44 Highways.

US-183 highway is undergoing an asphalt paving project from the north junction with US-160 highway located north of Coldwater in Comanche County and continuing north 48.4 miles to the US-56 highway junction at Kinsley in Edwards County. This highway construction project is scheduled to be completed by the end of June.

K-144 highway is also undergoing an asphalt paving project from the east city limits of Anthony continuing east 23.38 miles to the junction with K-49 highway in Sumner County. This highway construction project is scheduled to be completed by the end of May.

Kansas Exports Increased in 2011

Exporting in Kansas reached the second highest level on record in 2011, rising to \$11.57 billion, according to data released by the Kansas Department of Commerce. Exports increased by more than 16% from 2010. Since 1999, the state's export activity has increased 170%, an average annual increase of \$560 million over the past 13 years.

"This is great news for Kansas businesses that are active in international markets and for the state's economy as a whole," said Kansas Commerce Secretary Pat George. "The 2011 total shows that the upward trend for exports continues. Companies of all sizes and in all types of industries are successfully engaged in exporting. The

Kansas Schools Win "Green" Designation

The Kansas State Department of Education (KSDE) and the Kansas Association for Conservation and Environmental Education (KACEE) are proud to announce that Brookwood Elementary (USD 512), Eisenhower High School (USD 265), and Erie High School (USD 101) are among 78 schools named U.S. Department of Education Green Ribbon Schools. Kansas is among 29 states and the District of Columbia with schools receiving the first-ever awards.

U.S. Department of Education Green Ribbon Schools (ED-GRS) is a federal recognition program that opened in September 2011. Honored schools exercise a comprehensive approach to creating

choose an aggressive turnaround model. One option is replacing the principal and improving the school through comprehensive reforms. Another option is going through a transformation model, which evaluates all staff and then improvement strategies are implemented in the school.

Callahan said at least 20 people can fit comfortably in the smallest shelters, and more if circumstances require it.

Every turnpike toll plaza has a tornado shelter except Tonganoxie-Eudora.

There are no storm shelters along I-70 or any highways controlled by the Kansas Department of Transportation.

Traffic through both of these work zones will be controlled by flagmen and pilot car, so drivers can expect delays of up to 15 minutes. The work zone area will move daily and work will be underway during daylight hours only. There will be a 12 ft. width restriction in the work zone, so vehicles with widths wider than 12 ft. will need to use an alternate route. Highway construction project locations and road condition information can be viewed at the <http://511.ksdot.org> website.

KDOT urges all motorists to be alert, obey the warning signs, and "Give 'Em a Brake!" when approaching and driving through a highway work zone.

state also is doing a better job of promoting the potential of foreign markets."

The top 10 industry sectors were up from 2010 by an average of 18%. The largest gains were seen in cereals (101%), pharmaceutical products (54%), and meats (36%). The top 10 industries accounted for 75.5% of the state's exports. The largest sector, aircraft sales, had \$2.12 billion in exports, which was essentially flat (a .42% decline) from 2010.

When looking at the five-state region that includes Colorado, Missouri, Nebraska, and Oklahoma, the export value for Kansas this year was above the five-state region average of \$9.32 million.

"green" environments through reducing environmental impact, promoting health, and ensuring a high-quality environmental and outdoor education to prepare students with the 21st Century skills and sustainability concepts needed in the growing global economy.

The U.S. Department of Education's "Green Ribbons" are one-year recognition awards. Next year's competition will open in summer 2012. Kansas schools interested in applying for next year should go to <http://www.kansasgreenschools.org/kansas-green-ribbon-schools> and use the application workbook at the bottom of the page as a guide.

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• **Safety Publications** — *City Safe*, a quarterly publication, helps train employees in workplace safety. *CompControl*, a quarterly newsletter, is filled with up-to-date workers' comp information, safety tips, pool news, and more.

• **Annual Contribution Discounts** — Members earn discounts based on safety records and participation in KMIT safety programs.

KMIT is a workers' compensation program endorsed by the League of Kansas Municipalities and the Kansas Municipal Utilities Association.

Contact the League of Kansas Municipalities for more information.
(785) 354-9585 • dosenbaugh@cox.net

Treece: The Former Boomtown

by Michael Koss



Photo by Danae Males, 2011

Treece, Kansas was located in far southeast Kansas in Cherokee County, just off of U.S. Highway 69 on the Kansas-Oklahoma border. Today, little remains of this former boomtown that once held almost 1,500 people and was the site of the largest zinc mine in the world. The residents have been relocated, the buildings demolished, and the water tower torn down. Across the border is Picher, Oklahoma, which the EPA has said is in danger of caving in, and is separated from Treece only by a gravel road marking the state line. The surrounding landscape is littered with shafts hundreds of feet deep, piles of toxic dust, and caved-in earth filled with acidic water. But even though the City of Treece no longer has a physical presence amongst this ravaged landscape, memories of the town, and lessons from it, remain

History of Region

Like many parts of Kansas, small farmers and ranchers first began settling around Treece in the 1850s. The surrounding prairie remained sparsely populated for much of the mid-century, disturbed only by a few nearby battles between pro and anti-slavery militias¹. However, the area around Treece had resources like few other places in Kansas, and wouldn't remain quiet for long.

Although local Native Americans already knew of the existence of ore around Treece, the first positive discovery of the minerals wasn't made until 1872. As that decade progressed, more discoveries were made and mining shafts began to pop up as prospectors searched for coal, lead, and zinc. In the spring of 1877, one prospector's shaft reached a rich vein of mineral. Rumor of the discovery created intense excitement, and in less than three months the nearby towns of Galena and Empire City went from non-existence to having populations in the thousands². Between 1870 and 1880, the population of Lyon Township, where Treece was located, increased from 378 to 909. Land values skyrocketed as the area underwent rapid development. Rex Buchanan, Associate Director of the Kansas Geological Survey, compared it to the California Gold Rush, saying "people poured in and sank shafts and just went crazy."³

In the 1880s and 1890s, European Immigrants with little education traveled to the area to work in the mines. Many merchants advertised in foreign languages to attract these workers. Mining companies built camps near the mines with small houses for the workers and their families. Conditions in these mining camps were typical of the

American West, with crime, violence, overcrowding, and unsanitary conditions ever-present.⁴

By 1900, Cherokee County's population had reached 42,600, over 15,000 more than a decade before.⁵ Lyon Township had a little over 1,000 people, but soon would have many more.

Treece Is Founded

In 1914, a major lead and zinc discovery was made by the Picher Lead Company near the future location of Treece. An unofficial townsite (hereafter Treece-Picher) developed virtually overnight around this new mining operation.⁶

Although many men in the region worked this mining field while farming on the side, the local labor supply couldn't meet the demand of the mining companies. Without existing infrastructure to support the necessary miners, railroad lines were built so that workers from nearby cities could ride into the camps. Some traveled from as far away as Carthage, Missouri to work at the mine.⁷

The miners excavated hundreds of mine shafts around the Treece-Picher site to reach the underground ore. Today, these shafts are dangerous safety hazards because they are barely visible and often hundreds of feet deep. Once underground, the miners created space to extract the ore by digging out areas around columns of mineral, which were left to support the ground above. The miners endured grueling working conditions in these tight spaces always in constant danger from collapses, explosions, dusty air, polluted water, and disease.⁸

Each mining company at the site had a processing mill that pumped underground water through the mill to separate the mined ore from the waste rock (chat). This chat was then collected into huge piles, covering the area with grey mountains of dust. Today, if you look at Treece in Google Maps satellite view, you can still see what appear as giant, popcorn-like mounds dominating the landscape. By the time the large mining operations left the area, 747 acres of land in and around Treece were covered by this mining waste.⁹

Because lead and zinc were essential components for 20th Century weapons, the outbreak of World War I increased both the demand and prices for these minerals. With Germany controlling the mines in Belgium, the Treece-Picher mine became a crucial source of materials for the Allied Forces, fueling further expansion of the field.¹⁰ The Treece-Picher mine by itself produced more than 50%

Landscape in the City of Treece, now covered with chat piles of toxic dust, mine shafts, and caved-in earth filled with acidic water. Photo by Danae Males, 2009.

of all of the zinc and 45% of all of the lead used by Allied Forces in World War I.¹¹

The mines increasing productivity drew more and more workers to the area, and in 1917, Treece-Picher was the largest lead and zinc mine in the world. That year the government placed a post office on the Kansas side of the mining city, establishing the City of Treece. The City was named after J.O. Treece, a local real estate agent. Together, Picher and Treece had around 25,000 people about 1,500 of which lived in Treece.¹²

The early 1920s would be the golden years for the mine. However, after 1926, plummeting prices for lead and zinc caused many mining companies in the area to either shut down or consolidate.



A view of the mines in the north part of Picher, Oklahoma. The houses are in Treece. Mining was at its peak when this photo was taken in the 1920s. Photo provided by John Schehrer.

The mining industry continued to deteriorate throughout the Great Depression, causing Treece and Picher to quickly lose population. World War II increased the demand for zinc and lead during the 1940s, bringing hope of a possible revival in the area. But even though the War caused production to increase, it never reached the peak period of the 1920s, and Treece continued to depopulate. In 1930 Treece had 749 people, 568 in 1940, and only 378 by 1950.¹³

After World War II, demand for lead and zinc slowly declined, thanks in part to increased awareness about lead poisoning and the replacement of zinc products with plastics. By 1957, most of the large mining operations around Treece had shut down, with the last one closing its doors in 1970. By then Treece's population had dropped to 225.¹⁴

Health and Environment Issues

Treece residents have long felt the adverse health effects caused by the nearby mining operations. The city was part of a region called the "tri-state district," which was known for mining-related health issues. In 1940, famous filmmaker Sheldon Dick made a highly acclaimed film called *Men and Dust*, which documented the effects of silicosis (miner's lung) in this district. During filming, he traveled to Treece and named the city's Main Street, *The Street of Walking Death*, because of the prevalence of miner's lung in the community's inhabitants.¹⁵ That same year, Frances Perkins, President Roosevelt's Secretary of Labor and the first woman appointed to a position in the U.S. Cabinet, organized a conference in Joplin, Missouri in response to mining-related illnesses in the tri-state district.¹⁶

During her visit, she traveled through Treece, where she met former miners and their families, many of whom suffered from miner's lung. Unfortunately, after President Roosevelt's Administration, very little attention was given to the disease at the national level.

In 1949, Congress passed the Strategic Minerals Act, which paid mining companies a subsidy for minerals regardless of ore content. Because these newly valuable minerals could be mined by removing underground support columns, the Act provided an incentive to do so. Removal of these columns triggered mine collapses, causing sinkholes above ground. Many abandoned tunnels also filled with water, which carried pollutants like iron sulfide into local ground water, springs, and surface water.¹⁷

In the late 1950s, as mines continued to close, the mining companies began subleasing to independent miners, who would enter the mines and take out any ore remnants. They also removed most of the remaining support columns, causing further damage. The resulting sinkholes can still be found all around Treece, with some almost 200 ft. deep.¹⁸ Buildings, roads, and in a few instances, even people have been victims of these sudden ground collapses.

The mountains of chat surrounding Treece were also a dangerous health hazard. Wind blew the toxic dust into the air, and runoff from the piles reached nearby streams. People who inhaled this dust or drank the contaminated water put themselves at risk of diseases such as emphysema, cancer, and heart disease. A 1991 study of children in nearby Galena showed that nearly 10% had blood lead levels of 10 micrograms per deciliter, which is considered lead poisoning.¹⁹ A study near the same time found 34% of Picher children had blood lead levels exceeding the point of risk for brain and nervous system damage.²⁰

In 1983 the federal government made Treece and the surrounding area an EPA Superfund site, which put it on a priority list for

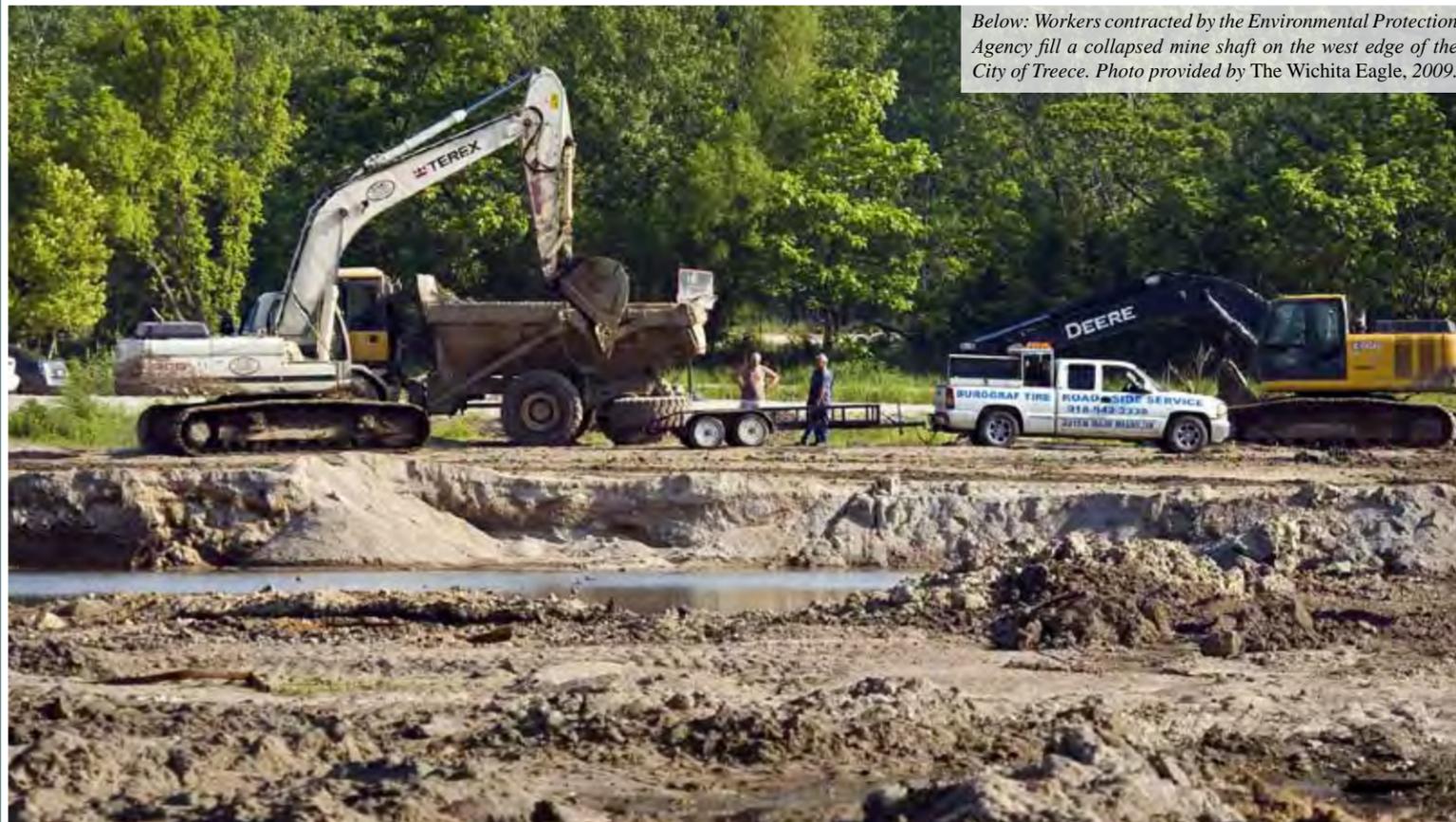
environmental cleanup. However, investigative work didn't begin until 1988, and it took another 9 years to determine clean-up strategies.²¹

In 1995, the EPA began their cleanup efforts by building wells that gave residents access to safe water and replacing contaminated earth with new soil and grass. This clean-up in and around Treece cost the federal government almost \$90 million, and was declared complete in 2000. That year a new study was conducted of the blood lead levels of Galena's children, and the percentage with lead poisoning had dropped from 10 to 6%.²² Although these cleanup efforts improved the health of the regions residents, they couldn't completely cure the damage caused by the mining operations. A 2009 study showed that citizens of Treece still had blood lead levels 60% higher than that of the average Kansan, with some children still testing positive for lead poisoning.²³

The End of Treece

Treece's fate has always been intertwined with Picher, its bigger neighbor across the border. Because Picher was over 10 times its size, many Treece residents relied on Picher for groceries, gas, jobs, and public services such as police and fire protection.

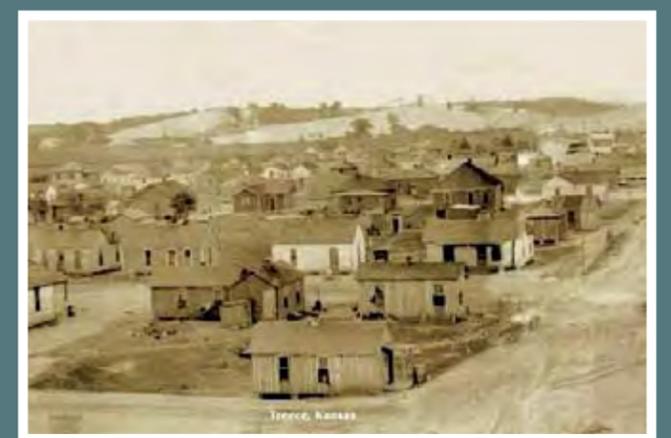
In 2006, a federal study found that the underground caverns created during mining operations had left the entire city of Picher at risk of caving in. In an almost unprecedented move, the government decided to offer to buy out the entire community so residents could relocate. In a case of twisted irony, in 2008 an F4 tornado struck Picher, killing several people and causing extensive damage. The federal government decided not to send aid to rebuild, speeding up the diaspora from the city. By 2010, Picher, a city of 1,600 people just 4 years earlier, had 20 people left. Its empty buildings began being used as meth labs, and drug use increased in the area.²⁴



Below: Workers contracted by the Environmental Protection Agency fill a collapsed mine shaft on the west edge of the City of Treece. Photo provided by The Wichita Eagle, 2009.

After the federal study and subsequent abandonment of Picher, the homes of Treece residents became virtually unsellable. With poverty levels more than twice the national average, many Treece residents couldn't afford to move out of their seemingly doomed town. On March 13, 2006, citizens of Treece signed a resolution stating their interest in being included in the Picher relocation efforts.²⁵

Logically, a man-made state border wouldn't have prevented Treece from receiving the same buyout as Picher. Unfortunately, that border was also a regional EPA boundary line. While EPA officials in the Dallas office supported Picher's buyout, officials in the Kansas City office resisted doing the same for Treece residents.²⁶



Looking east over the residences, showing the primitive living conditions. Treece was a typical mining town in the district during the 1920s. Blue Mound is visible in the background. Photo provided by John Schehrer.

EPA scientists found that Picher residents who stayed through cleanup efforts of their city would be exposed to unacceptable levels of risk. But somehow the Agency decided that right across the gravel road that marked the state line, soil rehabilitation could be performed around Treece without its residents being in danger. Many frustrated residents wondered why the federal government would spend the money to clean up the town if it was going to cave in someday.

In 2006, Kansas State Representative Doug Gatewood of Columbus, whose district includes Treece, attempted to arrange a voluntary buyout of the towns' residents. To no avail, he tried to get the federal government to pay for the buyout. The next year, he pushed for Kansas to allocate matching funds to encourage the federal government to help pay for it. His bill passed, and \$680,000 was allocated to assist in the buyout. In 2007, Congresswoman Nancy Boyda and Senator Pat Roberts both introduced bills in their respective chambers allocating federal funds for the relocation expenses. However, both bills died at the end of the congressional session.²⁷

In 2009, Senators Brownback and Roberts unsuccessfully attempted to use federal stimulus money to buy out Treece's citizens. Along with Senator James Inhofe of Oklahoma, they then introduced a buyout amendment to an environmental appropriations bill. Representative Lynn Jenkins pushed for a buyout on the House side. Finally, on October 29, 2009, Congress approved a House-Senate conference report that reconciled differences in the two chambers' environmental spending plans.²⁸ This enabled the EPA to supplement the relocation funds already set aside by the Kansas Legislature. A

few months later, the EPA set the conditions for funding the buyout. The State of Kansas would be required to pay for 10% of the relocation costs and develop a buyout plan, assume responsibility for the purchased land, and inform residents about the process. The EPA provided \$3.5 million to the Kansas Department of Health & Environment (KDHE) to fund the buyouts, and KDHE provided \$388,888 for the State's 10% match.²⁹ Eighty residents applied for buyouts by the August 31, 2010, deadline. On March 28, 2012, with only two residents remaining in the city, Governor Brownback signed House Bill 2412, dissolving the City of Treece³⁰ (see sidebar).

After Treece

When Congress authorized funding to buy out Treece, all that remained of the city was a Pentecostal church, the city hall, and less than 60 households. Now, virtually all of the buildings have been demolished, leaving 40 acres of barren land where the community once stood. In the first week of March, 2012 the water tower, one of the last memorials of this journey weary ghost town, was torn down. There's now little left to show that Treece ever existed at all, but memories remain for its past residents. These are the words from former City Clerk Pam Pruitt:

"[I remember] how when an ambulance entered town, everyone would come outside to see where it went, because we knew it would be someone we loved.... How when someone passed away, the elderly couple in town, Mr. and Mrs. Samples, would walk the town taking up donations for flowers. Everyone gave.

I remember standing by the bedside of Mary Fitzgerald, as she was dying of cancer. Singing hymns with others to raise her spirits and help her passing go easier. She was our postmaster for years.

The buyout was a good thing. Our property became worthless. It came at a good time for us, and I am happy with the change. It is nice being right down the street from the grocery store. I have wanted to move for a while, but we could have never sold our place due to the contamination. When the town of Picher left, it made matters worse. I was afraid to drive through there at night. Too many empty buildings; drugs are a real problem in [the] area."³¹

Memories like these aren't all that remain of Treece. As Rex Buchanan said in summarizing Treece's experience, "I think that if there is one environmental lesson to be learned that the last twenty, thirty, or forty years have taught us is that it's a hell of a lot easier to prevent a problem than it is to fix it once you've got it."³² Even though Treece is gone, hopefully the lessons learned from it won't be forgotten.

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Marking the end of Treece, the water tower was destroyed in a controlled demolition on March 31, 2012. Photo by Patrick Richardson, Cherokee County News-Advocate.

The Dissolution of Treece

-by Nicole Proulx Aiken-



Photo from <http://www.panoramio.com/photo/37649405>

Typically, cities of the third class pursuing dissolution follow the provisions found in K.S.A. 15-111. K.S.A. 15-111 requires a majority of the legal voters in a city to file a petition for dissolution. Once a petition is filed, an election is held to determine if the city should dissolve. The City of Treece did not follow this statutory process, however, because it wanted to ensure its citizens had utilities and services until the Environmental Protection Agency buyout was completed.

By the time the buyout occurred and utilities and services ended, only two people remained in the city. Therefore, the city was no longer able to follow K.S.A. 15-111.

Thus, early in the 2012 Legislative Session, Senator Dwayne Umbarger and Representative Doug Gatewood introduced identical bills, SB 341 and HB 2412, respectively, to dissolve the City of Treece. In the end, HB 2412 received unanimous approval in the House and Senate and was signed by the Governor on March 28, 2012. The City was officially dissolved on April 5, 2012. Because of its dissolution, Kansas now has 626 incorporated cities.

 **Nicole Proulx Aiken is a Staff Attorney for the League of Kansas Municipalities. She can be reached at naiken@lkm.org or (785) 354-9565.**

Correction

An error was made in the *Tax Rate Book* in the March 2012 issue of the *Kansas Government Journal*. While transferring the numbers to the applicable cities, one set of data misplaced La Crosse, causing the values listed for La Crosse, La Cygne, and Labette to be incorrect. The League has instituted a yearly variation test which, in addition to our existing reviews, should eliminate the possibility of this type of error from occurring in the future. We apologize to the Cities of La Crosse, La Cygne, Labette, and any other party inconvenienced by this mistake. Below are the corrected values for the cities affected by this error:

City	2011 Population	Assessed Tangible Valuation	General Obligation Bonds	Special Assessment Bonds	Utility Revenue Bonds	Other Bonds	Total Bonded Indebtedness	Temporary Notes	No-Fund Warrants	Other Debt	Total City Levy	Total Mills Levied in City By All Units
La Crosse	1,342	5,247,968	0	0	0	0	0	0	0	775,000	65.340	220.058
La Cygne	1,149	5,445,375	365,000	0	1,348,220	1,605,000	3,318,220	0	0	96,421	77.890	191.470
Labette	78	207,972	*	*	*	*	*	*	*	*	0	151.132



FEATURES OF THE BIASED-BASED POLICING LAW

BY KATHRYN CARTER

In the 2011 Legislative Session, the racial profiling statutes were amended significantly. In fact it is no longer the racial profiling statute. The prohibited “racial profiling” became “racial or other biased-based policing.” And that phrase has a very specific and narrow definition under the new law. The protected classes are enumerated: race, ethnicity, national origin, gender, and religion. “Policing” also has a specific and narrow definition. Racial or other biased-based policing is the “unreasonable use” of one of the protected classes when “deciding to initiate an enforcement action.” It is, under the statute, reasonable to use race, ethnicity, national origin, gender, or religion as one element along with other elements as part of a specific individual description. Thus, if an officer receives information, for example, about a subject including race, religious dress, general location, carrying a guitar case, then the consideration of race and religion is not unreasonable.

“Deciding to initiate an enforcement action” is always in the context of a nonconsensual contact. And it is one of the following actions:

1. Determining the existence of probable cause to take into custody or to arrest an individual;
2. Constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a vehicle; or

3. Determining the existence of probable cause to conduct a search of an individual or a conveyance.

So there are very specific parameters in reviewing complaints under this statute.

While complaints about biased policing could always be filed locally, they can now be filed with the Attorney General’s office. Previously, the Kansas Human Rights Commission was designated to receive complaints, but the Attorney General’s office is now the designated agency. Attorney General Derek Schmidt has put the complaint form on the website at www.ag.ks.org. The Attorney General’s office reviews the complaint, and if the complaint warrants further review and possible action, it is forwarded to Kansas Commission on Peace Officer Standards and Training (KS-CPOST). KS-CPOST is the agency that oversees officer licensing.

There are new requirements placed on law enforcement agencies by last year’s amendments. The first is the written preemption policy that is required. What is a preemption policy? It is a policy to prevent racial or other biased-based policing. While having a policy is not a new requirement, the contents of the policy are now set out in the statute. Some of the language is mandatory. The Office of the Attorney General has provided a model policy, along with instructions, on the website.

The requirement of training for law enforcement officers was in the old law, with specific subjects delineated. The new law eliminates those specific subjects, and distance learning is now

permitted. The number of hours of training required is not specified. The Kansas Law Enforcement Training Center in Hutchinson is currently providing that training through Telenet, and online later this year.

The next requirement is that Community Advisory Boards that have been formed under these statutes receive training. The curriculum must include training on fair and impartial policing and comprehensive plans for law enforcement agencies. The requirement that the boards “reflect the racial and ethnic community” has not changed. Previously, cities of the first class were required to have advisory boards, but that has been omitted from the new law and cities of any class are permitted to form Community Advisory Boards. The Attorney General’s office is offering training for Community Advisory Boards.

The next requirement placed on law enforcement agencies is filing an annual report. The report consists of recounting any racial or bias based policing complaints that have been made against the department, and providing information about the department. That information includes whether all officers have been trained as required, whether the required preemption policy is in place, and whether the agency has a Community Advisory Board or comprehensive plan, or collects stop data. Agencies are not required to have advisory boards or comprehensive plans or

to collect stop data, but the Legislature wants that information reported. The Attorney General’s office compiles a summary of all reports, and posts the summary online. The statute requires that the reports filed by each agency be posted online, accessible to the public on the Attorney General’s website. Those reports will be submittible directly, online, beginning in July, 2012.

If a law enforcement agency does have, or wishes to adopt, a comprehensive plan, there is a section in the new law that sets out the policies to be included in a comprehensive plan. The section also sets out the data points, if an agency collects stop data. But the comprehensive plan and data collection are not required.

The Attorney General welcomes contact and inquiry about racial or other bias based policing, and provides resources, support and assistance to agencies working through the requirements imposed by this statute. Please visit www.ag.ks.org for more information. Also, see *Racial or Other Biased-Based Policing* from the December 2011, *Legal Forum* of the *Kansas Government Journal*.

 Kathryn Carter is a Special Agent/Trainer for the Office of Attorney General Derek Schmidt. She can be reached at Kathryn.Carter@ksag.org or (785) 296-3751.



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Mainstreet News

Chanute Celebrates New Facility

A new 55,000 sq. ft. manufacturing facility owned by Spirit AeroSystems Inc. formally opened in Chanute. Kansas Governor Sam Brownback and Commerce Secretary Pat George joined company leaders, workers, and other special guests at a ribbon cutting and grand opening ceremony on April 5, 2012.

“This facility represents a great accomplishment for Spirit AeroSystems, Chanute, and Kansas,” Brownback said. “It brings to bear some of the best assets that Kansas has to offer—excellent

infrastructure, an experienced workforce, and exemplary training opportunities through Neosho Community College. I want to congratulate Spirit on this expansion.”

On the job for a little more than a month, the facility’s employees are performing small aircraft sub-assembly bench work for Spirit work packages. They are recruited and trained through a partnership between Spirit, KANSASWORKS, and Neosho County Community College.

Company Expands in Salina

Universal Forest Products announced that it would expand to Salina, leasing 15,000 sq. ft. of space at the City’s airport.

“We are pleased to have Universal Forest Products as a new business,” said Dr. Randy Hassler, airport authority acting chairman. “They are a national leader in wood products for retail and industrial use and we are proud to add them to our national and international tenants at the Salina Airport Industrial Center.”

The space was once occupied by Hawker Beechcraft Corporation. The company, headquartered in Grand Rapids,

Michigan, manufactures and markets wood and wood alternative products for Do It Yourself (DIY), retail home centers and other retailers, structural lumber products for the manufactured housing industry, engineered wood components for various industries, and forming products for concrete construction.

The announcement came the same day that Hawker Beechcraft handed over the keys and completely vacated almost 500,000 sq. ft. of space at the Salina Airport Industrial Center and Salina Aviation Service Center.

Harveyville Receives Grant

The Kansas Department of Commerce announced that Harveyville, a community of almost 300 people in Wabaunsee County, has received a \$245,747 Urgent Need Grant, which is funded through the Community Development Block Grant Program.

The funding will be used to replace or repair storm damaged items related to the community’s wastewater treatment system. Some of the funding will also be used for removing storm debris.

The community was hit by an EF-2 tornado on February 28, 2012. Approximately 40% of Harveyville’s buildings had significant damage. Thirteen people were injured, and one died.

Urgent Need Grants address an immediate threat to health or safety resulting from a sudden and severe emergency. These awards assist in meeting community needs created by a severe natural or other disaster. The need must be certified by the state agency that has regulatory oversight.

Applications are reviewed on an as-needed basis throughout the year. The maximum amount awarded is \$400,000 per grant. Applications must be received within 6 months of the disaster’s occurrence.

For more information visit www.kansascommerce.com or call (785) 296-3004.

Exhibit Highlights Motorcycle Heritage

Dodge City has a storied place in American history as a 19th Century frontier town and a stop on the old Great Western Cattle Trail.

But Dodge City was also a center of motorcycle racing in the early 20th Century, and the City will celebrate that story in May with an exhibit and series of programs at the Carnegie Center for the Arts.

Carnegie Director Summer Bates came up with the project after talking to local officials.

From 1914 to 1916, Dodge City was home of The Dodge City 300, considered the “race of the year” by motorcycle enthusiasts. The sport remained popular for decades afterward.

Items on display include several vintage motorcycles, including a 1929 Harley.

Grant Helps Greensburg

Greensburg has received a \$20,000 grant that is going toward replacing trees in the tornado-stricken, south-central Kansas town.

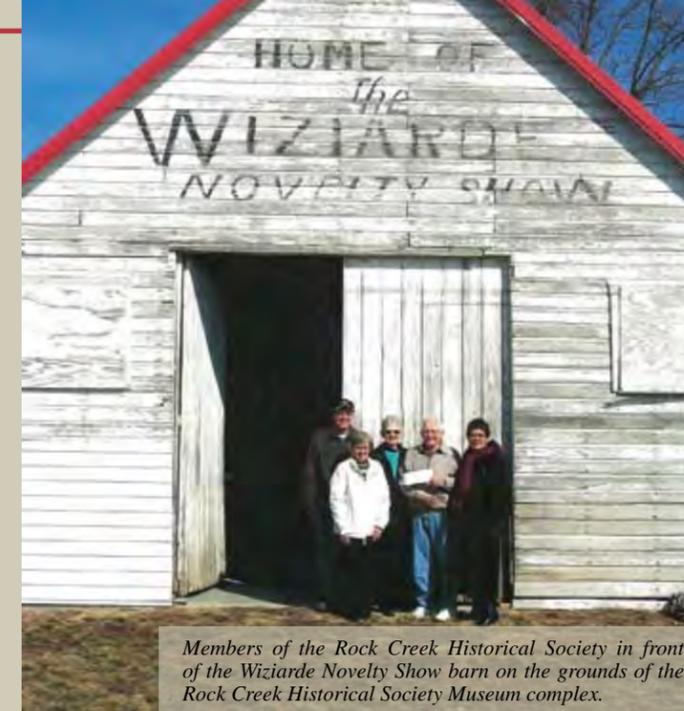
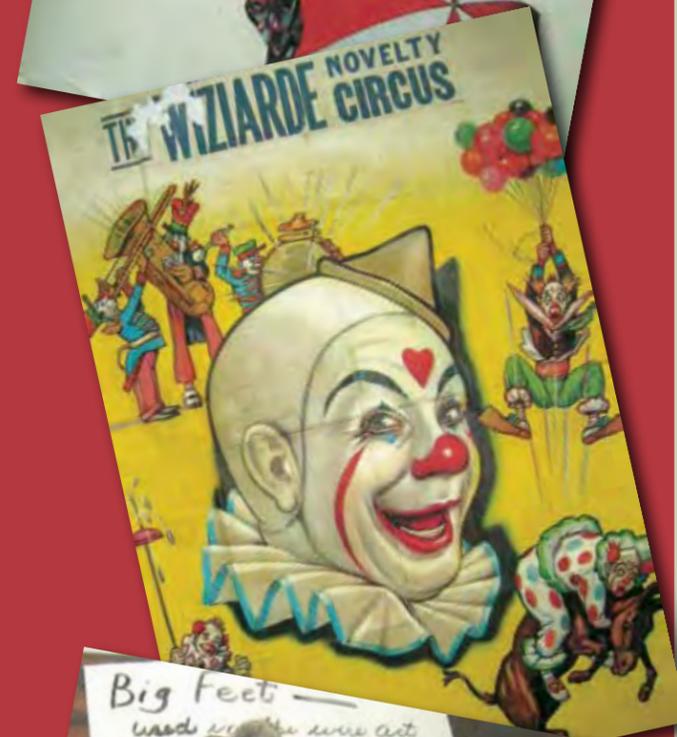
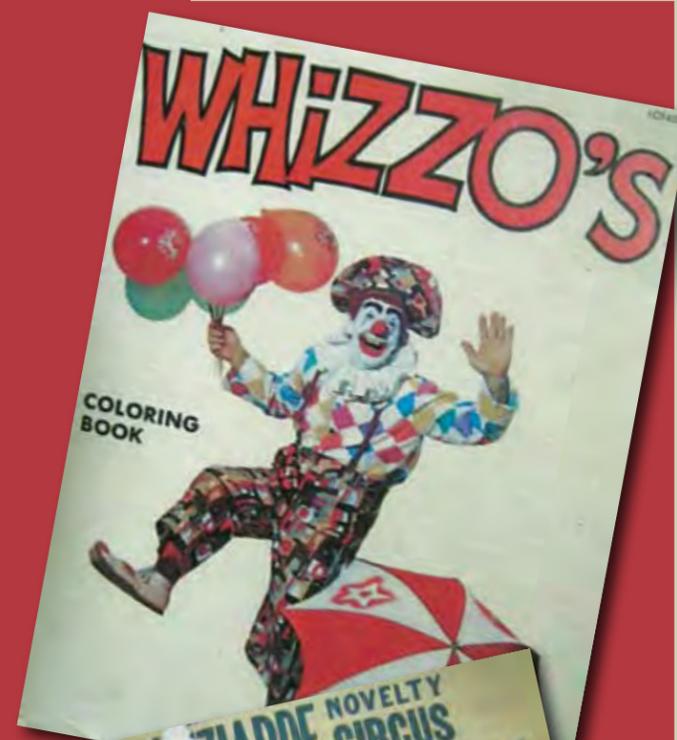
Greensburg officials bought 61 trees with a \$20,000 gift to Greensburg from the U.S. Chamber Business Civic Leadership Center and Siemens USA.

The grant came from winning the Siemens Sustainable Community Awards in 2011. The awards recognize communities that meet three criteria for overarching sustainability, economic sustainability, and environmental sustainability.

An EF-5 tornado destroyed much of Greensburg five years ago. The tornado also killed 13 people. As a result, Greensburg has committed to a green, sustainability plan. More than 500 homes have been built in the community, representing the most LEED platinum buildings per capita in the world. In addition, there is an on-site wind farm that produces more energy than any other of its kind in the world.

Stacy Barnes, Greensburg Museum Director and Director of Tourism, said the trees are another sign of progress for Greensburg.

Below: Memorabilia from Whizzo the clown, Wiziarde Novelty Show, and a photo of Whizzo’s big clown feet. All photos provided by the City of Westmoreland.



Members of the Rock Creek Historical Society in front of the Wiziarde Novelty Show barn on the grounds of the Rock Creek Historical Society Museum complex.

A Piece of History Saved

-by Vicki Zentner-

The City of Westmoreland, county seat of Pottawatomie County, Kansas, has been called home by some famous people including Billie Moore, UCLA and California State University at Fullerton women’s basketball coach; and, Wayne Dunafon, a.k.a. “The Marlboro Man,” the ideal image of a tall, thin, and rugged American cowboy.

But, perhaps the most famous and colorful of all, at least in this writer’s opinion, was Frank O. Wiziarde, a.k.a. “Whizzo the Clown.”

Frank was born in Westmoreland in 1916 to Jack and Laura Wiziarde. At the age of 6, Frank joined the family vaudeville act which started his 71-year career as an entertainer, spanning vaudeville to television.

In 1930, the family created the Wiziarde Novelty Circus, a traveling circus that appeared at stores and county fairs. Frank would do comedy in a rolling globe act with his mother as well as appearing as a principal in the high wire act with his big clown feet.

The Wiziarde’s calliope would often, late at night, announce the return of the family to Westmoreland. During the winter months, the Wiziardes would spend hundreds of hours in their converted barn next to their home to perfect their tight-rope and trapeze acts. The devastation of the “Dirty 30s” caused the circus to disband at the end of the 1936 season.

In 1947, Frank went to work as a radio announcer in St. Joseph, Missouri, where he became known for his man-in-the-street interviews. In 1953, Frank went to work for KMBC-TV in Kansas City as a director. It was there that the idea of “Whizzo” was born as a children’s program. He went on the air in 1954 and switched stations a couple of times (first to KCMO-TV in Kansas City and later WIBW-TV in Topeka).

During his time at KCMO-TV, I was introduced to Whizzo as a child growing up in Leavenworth. Every Saturday at the appointed time, my mother would turn the station on our old black and white box to view the program. Whizzo remained a children’s favorite until his last show on May 20, 1987.

Vicki Zentner is the City Clerk for the City of Westmoreland. She can be reached at westcity@bluevalley.net.



Best Practices

by Michael Koss

Saving Rural Grocery Stores

When I was about seven years old, my hometown grocery store shut down. Many factors caused the store's demise, the biggest being the rapid population decline familiar to so many small cities in rural Kansas. Also, for its last 10 years, the store competed with a Wal-Mart that had been built 25 minutes away. Research shows superstores like this drastically decrease sales of retailers within 30 minutes of their location, and my hometown store was no different.¹ Because the price and food variety are the two most important factors shoppers value in a grocery, residents are understandably attracted to one-stop shops offering an assortment of food products at low prices. Additionally, if people want to buy many different types of goods along with their groceries, it makes economic sense to travel to a larger city where they can purchase them all in one place.

Losing a local grocery store can seriously damage a community. When food dollars start going to other cities or distant corporations, money the grocer and grocery workers would've spent within the community is lost, causing other local businesses to struggle. A grocery store also provides needed jobs, tax revenues, and increased property values. They're also a socially important civic space, where neighbors can visit and discuss issues within the community.

Rural groceries play an especially important role in their community's health. Rural locations 10 miles away from convenient sources of healthy, affordable food have been labeled by health experts as "food deserts." Many small cities are served only by gas station convenience stores, which often sell expensive foods with little nutritional value. Some researchers cite these food deserts as a reason for increased rates of obesity and diet-related diseases in rural America.² The elderly, a large portion of rural populations, are especially vulnerable since travel is more difficult and they suffer worse consequences from bad diets.

In 2007, Kansas State University began the Rural Grocery Initiative, which seeks to develop strategies to sustain retail sources of food for rural Kansans. Since then, the Initiative has become a national resource for rural communities. Cities from more than 25 states have contacted the group, which was recently awarded a \$400,000 grant from the Agriculture and Food Research Initiative.

For Kansas grocers, the Initiative began just in time. A recent study found that 38% of the 213 grocery's in Kansas cities with less than 2,500 closed between 2006 and 2009.³ Professor David Proctor, the head of the Initiative, hopes its findings will be published in academic journals and be turned into a guide on how to create and sustain a grocery store in a rural community.

Research by the Initiative has already identified several important factors hurting rural groceries. Beyond declining population and competition with big box stores, one of the most important impediments to success is meeting minimum buying requirements. Many food distributors take groceries off the delivery route if they don't purchase \$10,000 worth of food per week, which is difficult to justify in many small markets.

Stores are trying different approaches to meet these buying requirements. In Gove, Kansas, the store purchased a local grocery distribution business, which redistributes groceries to other local stores. By collaborating with four other groceries and two restaurants, they can meet the purchasing requirement and share items like meat and produce.

Gove's grocery also maximizes the use of the products by housing the store and a café in the same building.

For stores not owning their own distribution business, they can still meet the minimum buying requirement by collaborating with other institutions that use large quantities of food. These institutions can include other groceries, public schools, nursing homes, prisons, and restaurants. A different strategy is for a store owner to spread inventory around by owning stores in more than one city.

Another key to saving rural groceries is developing new, innovative food distribution systems. Luckily, the origins of these future systems may already exist. Uship.com allows grocers to find food shipping routes across the country and pay to move small orders in shippers' empty spaces, circumventing minimum buying requirements. The site also has a reverse auction option, where shippers bid for the chance to ship to the buyer.

Beyond attacking logistical issues, rural grocers have also tried a variety of business models to find success. The store in Protection is organized as an S-Corporation. The store in Plains is organized as a non-profit. In Minneola, the residents bought the grocery by purchasing 4,000 shares at \$50 a piece and renovated it using volunteer labor. Robinson, Kiowa, and Palco have similarly organized community-owned stores.

After a fire destroyed Onaga's grocery in 2010, a couple opened a new store with the help of a package of low-interest rural development loans and a \$375,000 donation by the City. In Leeton, Missouri the City collaborated with the school district to repair, stock, and run the store. The schools' agricultural business and entrepreneurship classes operate the store, with students doing everything from running check out, ordering, and stocking the shelves. A Kansas Supreme Court case dealing with a city-owned gas station indicates that cities themselves may even be able to operate their own grocery stores as a public service. (274 Kan. 702 (2002))

Like the past battle between rural groceries and big box stores, large retailers are now losing a battle to online companies, which offer even more products at lower prices. Superstores like Best Buy and K-Mart have closed hundreds of stores, and as people become more comfortable buying goods online, rural consumers will have less reason to drive to brick and mortar stores in larger communities to buy goods. Food, however, is generally immune to Internet competition because it's difficult to ship to consumers and people like to inspect it first-hand. Therefore, the web may be providing rural grocers an opportunity to recapture the market for rural consumer food purchases. If rural grocery stores can use the Rural Grocery Initiative and local passion to solve their logistical issues, their success may create a new era for rural groceries.

 *Michael Koss is the Membership Services Manager for the League of Kansas Municipalities. He can be reached at mkoss@lkm.org or (785) 354-9565.*

¹ Panle Jia, *What Happens When Wal-Mart Comes to Town: An Empirical Analysis of the Discount Retailing Industry*, July 2007.

² <http://www.tolerance.org/activity/food-deserts-causes-consequences-and-solutions>

³ <http://files.cfra.org/pdf/rural-grocery-stores.pdf>



...To Lenexa

Did you know there is a GIANT underground business park in Lenexa? Neither did I. The underground is one of the many fascinating and exciting things that Lenexa City Administrator Eric Wade showed me on a windshield tour of his city several weeks ago.

Eric had asked me several times to come up for lunch and a tour, but the last five months have been pretty-much a blur. Finally, a significant break in my schedule came to pass, and I headed up I-35 to Johnson County, and to City Hall in Lenexa (population: 48,190, making it the 9th largest city in Kansas), where Eric and I chatted, and he gave me an overview of the layout of the city, before we left there, toward a very good part of this particular excursion...lunch.

The great little Italian place where Eric treated me to lunch (the Copa Room; <http://home.roadrunner.com/~coparoomkc/>) was from the outside, just another nondescript storefront in a nice little strip mall not far from City Hall. Inside it was a little Napolize café. We sat under some very cool pictures of the Rat Pat, which, as you got closer were actually big collages of tiny photographs of hundreds of people put together to form the faces of Peter, Sammy, Dean, and Frank, and the music matched the pictures, which made my day. The food was great, too...I had a penne dish, with tomatoes and basil.

After lunch, Eric drove us around the city and gave me the look-see he had promised, and I was almost immediately overwhelmed by the fabulous City Center (<http://lenexacitycenter.com/>), which is just up the road a piece from City Hall, along 87th Street Parkway, just west of I-435—which runs east/west through the middle of the city (Lenexa is about 10 miles wide west/east, and about 5 miles long north/south). City Center came out of a visioning process (Commercial Goal #2, Lenexa Vision 2020 Report, August 1997) which began about 15-years-ago, and the plan is coming along just fine. A HUGE entry sign leads you into the formal part of the new “downtown” of Lenexa. Already there are pedestrian malls, parks and plazas, various forms of urban residential—apartments (NICE), cottage homes, etc.—amenities (including a fabulous private fitness facility which is busy 24/7), and many other things. Ultimately, there will be about 4.5 million sq. ft. of mixed-use space developed across over 200 acres. This place is going to be a model of “new urbanism” across the country. City Center is a gem...the REAL kind. Please take a Lenexa exit, off I-35 or I-435, next time you are in KC, and take a look. You WILL BE impressed. Eric is very proud of the fact that City Center is something that the City Council has stayed with on a very solid basis for all the years it takes for something of this magnitude and meaning to accomplish, and gives the City’s leadership all the credit in the world. He also feels very fortunate to have inherited (when he arrived some 8-years-ago) this very special opportunity, the likes of which few city managers every get a chance to be a part of.

To the immediate southwest of the fitness center, one looks across acres of yet-to-be developed land. Eric asked me if I could imagine that 65-100 hundred feet below where we were parked was an underground business park. Of course, that IS very hard to believe. We wound our way around and down a street and hill, and there was

the entrance to the Meritex Lenexa Executive Park (http://meritex.com/html/kansas_city.html). It looks from the outside like two giant, side-by-side, box culverts leading into a quarry-exposed rock cliff, and into the side of a tree-covered hillside. Inside, it was for many years one of the best-developed limestone mines ever—one that was constructed (mined) and managed correctly, and in the safest manner. Once you enter this enormous “office, light industrial, and warehousing” facility, it is like a combination of “driving mall” and salt mine. Giant exposed limestone pillars hold the whole thing up, and the “floor” (driving surface) is very smooth concrete. The “walls” and “ceiling” have been sprayed with what looks like thickened off-white paint, making the whole thing extremely neat and clean. The park (which feels like an underground city, it is so big) sits within/among a grid of streets big (and tall) enough for semi-trucks to use (Eric and I watched with amazement as one such truck’s driver did an absolutely incredible job of backing up to a loading dock). Some of the stats: 3,000,000 sq. ft. (about 2/3 developed); 545 parking spaces; 135 truck-height loading docks, and 40 drive-in docks. And, you can drive right in, too.

I am really glad Eric invited me up for a quick visit to Lenexa. I also got to know Eric a bit better, and it is easy to see why he is successful there. Eric is from the North Kansas City area, and took both his undergrad and MPA degrees from Park College. He served as Deputy County Manager for Johnson County for four years prior to coming to Lenexa in 2004; prior to that Eric was City Administrator in Merriam, after that he began his career in Blue Springs, Missouri. Eric is also the current VP of the Kansas Association of City/County Management (KACM), and a really good guy.

My book recommendation this month is *Talent Is Overrated: What Really Separates World-Class Performers from Everybody Else*, by Geoff Colvin. I loved this book, and I usually don’t enjoy books that talk about performance, as they are typically of the endless, self-help, or management-buzzword-of-the-month variety. This read is much more insightful and meaningful (and, frankly, sensible), and it works for your young child or your protégé’ or your assistant or your professional associate or your organization OR yourself, at whatever age. The secret? PRACTICE...DELIBERATE, CORRECT, SPECIFIC, REPETITIVE practice, over a LONG period of time. It sounds too simple, and a bit corny, but it doesn’t READ that way. Isn’t it just too easy to attribute high achievers’ successes to luck or pure talent? And, too easy to excuse poor or mediocre performance on lack of luck or talent? “Talent” is not the answer...lots of people have raw “talent;” and “potential” is just as meaningless a term when it comes to predicting ultimate success. Just ask Larry Brown (coach of the ’88 NCAA roundball champs, KU—and now the new coach at SMU) about practice...he’ll tell you...

 Don Osenbaugh is the Director of Finance and Field Services for the League of Kansas Municipalities. He can be reached at dosenbaugh@lkm.org

Building Official

Salary Range \$38,418-51,854

Join a dynamic team working together to build better neighborhoods. The City of Atchison, Kansas is looking for a qualified Building Official to perform building inspections, plan review, code compliance, manage maintenance contracts for City-owned buildings, and more. If you have more than three (3) years of experience in building inspection and plan review, have attained a technical degree or some college credit, have a good personality, and enjoy working with the public, this may be the career move for you. Computer literacy required. International Code Council (ICC) certification preferred. Job related physical/substance abuse screen and background check upon offer of employment. Salary DOQ. Apply now at www.hrepartners.com. Open until filled. EOE

Finance Director

City of Altus - Altus, OK 73521

Highly responsible supervisory and administrative position directing, monitoring, and planning all aspects of the Finance Department which includes supervision of the City’s auditing and computer systems. Responsible for the work of others directly or through staff. Work requires the exercise of discretion and is performed with considerable independence within the framework of established administrative policies. Duties require knowledge of purchasing procedures and polices in preparing and processing organizational purchase transactions. Work is reviewed by the City Administrator through observation and reports. EOE

\$66,643.00 - \$93,787.00/year

Job includes comprehensive benefit package

Finance Officer/Deputy Administrator

Barton County solicits applications for the position of Finance Officer/Deputy Administrator. This position is intended to perform a variety of functions including assisting in preparing and managing the budget, monitoring county finances, investing county funds, performing certain human relations functions in conjunction with the counselor/administrator, and performing other duties as assigned.

Minimum qualifications include a bachelor’s degree from an accredited college or university in accounting or a related field. Applicants with a Master’s degree in public administration are encouraged to apply.

A minimum of two years experience in financial management and budgeting is required. Demonstrated supervisory experience is preferred. Preference will be given to applicants with municipal experience.

Compensation will be dependent upon qualifications and experience.

Applications will be received until June 15, 2012. Interviews will occur in early to mid July, with an anticipated hire date in early August and an anticipated start date of September 4 2012.

The job description for this position is posted on the Barton County website at <http://www.bartoncounty.org/>.

Send a letter of introduction, a resume, and at least 3 work related references to:

Richard Boeckman
Barton County Counselor/Administrator
1400 Main Street
Great Bend Kansas 67530
Barton County is an equal opportunity employer.

Fire-EMS Chief

The City of Arkansas City, Kansas, (population 12,000) seeks a skilled, proven and progressive individual to lead and manage the Arkansas City Fire-EMS Department. The department consists of 21 full-time and 1 part-time Firefighter/EMTs and/or Firefighter/Paramedics, Secretary and EMS Director. The department operates from one central station, has an operational budget of \$2.3 million and responds to an average of 2,350 calls annually.

The City is seeking a candidate who will be an innovative leader with the ability to mentor, train and motivate employees, set goals/objectives for the department and ensure the delivery of exceptional fire prevention/suppression and emergency medical services. A strong background in integrated Fire and EMS Service is necessary. Progressive personnel management and public relations experience as well as the ability to work cooperatively with surrounding departments essential.

Documented successful experience in Fire

and Emergency Medical Services as well as significant supervisory experience and firefighter certifications required. Bachelor’s degree in Fire Science or related field and certified Fire Inspector designation and a minimum of 10 years of progressively responsible experience in a Fire-EMS service area, including 5 years of increasingly responsible command experience preferred. Any equivalent combination of training, experience and education that provides the required knowledge, skills and abilities may be considered by the City.

Must possess a valid driver’s license with a safe driving record. Must establish residence within the City of Arkansas City limits within six months of date of hire. Compensation DOQ. Excellent benefits package including health/dental insurance, paid leave and Kansas Police & Fire (KP&F) retirement system benefits. The successful applicant must pass post-offer, pre-employment drug/alcohol screens along with physical capacity profile and background checks.

For further information and to review the position profile, including the job description, please visit the City of Arkansas City website at www.arkcity.org.

If interested please submit a resume and cover letter to the following:

City of Arkansas City
Attn. Marla McFarland
Human Resource Manager
PO Box 778
118 West Central
Arkansas City, KS 67005

Applications accepted until position is filled with initial review beginning May 14, 2012. EOE/ADA.

Fleet Maintenance Technician

The City of Eudora, Kansas (population 6,300) seeks responsible applicants with excellent mechanical skills for the maintenance and repair of city owned diesel and gasoline fleet vehicles and equipment including but not limited to automobiles, trucks and lawn equipment.

Interested applicants should submit an application and/or resume to the City of Eudora, Box 650, Eudora, KS 66025 Attn: Pam Schmeck or at pschmeck@cityofeudoraks.gov. Position open until filled. For more



information go to www.cityofeudoraks.gov. or call (785) 542-2153. EOE

Streets & Traffic Supervisor

The City of Junction City announces the opening of the Streets & Traffic Supervisor. This Public Works position performs a variety of skilled, technical, supervisor, management, and administrative work in the planning, construction, operation, repair and maintenance of all City street right-of-ways, drainage channels, traffic control systems and markings. This full time position requires a High School or GED diploma, a Valid Driver's license and Class "A" Commercial Driver's License with a tanker endorsement, must pass and extensive background check, strive in providing excellent service to the public and be willing to reside in Geary County within 90 days of employment. For more information please visit the "How Do I?" I page at www.junctioncity-ks.com. An applications must be submitted on-line through www.hrepartners.com to be considered for this position. Questions? Please contact Alyson Junghans at (785)238-3103. The City of Junction City is an equal opportunity employer.

Utility Maintenance Supervisor

The City of Junction City announces the opening of the Utility Maintenance Supervisor. This Public Works position provides a variety of skilled, technical, supervisory, management and administrative work in

the planning, construction, operation, repair and maintenance of City Water Distribution and Wastewater Collection Systems. This full time position requires a High School or GED diploma, a Valid Driver's license and Class "A" Commercial Driver's License with a tanker endorsement, must pass and extensive background check, strive in providing excellent service to the public and be willing to reside in Geary County within 90 days of employment. For more information please visit the "How Do I?" I page at www.junctioncity-ks.com. An applications must be submitted on-line through www.hrepartners.com to be considered for this position. Questions? Please contact Alyson Junghans at (785)238.3103. The City of Junction City is an equal opportunity employer.

Water Treatment Plant Operator/ Manager

Rural Water District No. 5, Sumner County, KS is accepting applications for a part-time to full-time position as a water treatment plant operator and system manager. Individual must have, or be able to obtain, a Class II water system operator certification as administered by the Kansas Department of Health and Environment. Individual must have a high-school education or the equivalent. Physical requirements include the ability to lift and carry 50-pound bags and the ability to climb an 8-foot ladder. Individual must possess a driver's license. The system consists of

two water supply wells, two water storage tanks, one pump station, one ion exchange water treatment plant, and rural distribution pipeline system. The District currently serves approximately 370 rural households and one community. Prior experience in the operation of a water supply and distribution system is helpful, but not mandatory. Anticipated salary is \$30,000 to \$50,000, commensurate with experience and qualifications. Benefits are to be included. The district is an Equal Opportunity Employer. Resumes will be accepted until June 15. Send to: RWD No. 5, P.O. Box 115, Conway Springs, KS 67031.

Water Works Director

City of Ingalls, Kansas needs full time position filled of someone with mechanical, plumbing, and electrical skills to check and maintain the cities public wells and lagoon sewer system.

This person must be responsible, action oriented, self driven and motivated. The would fix all minor water breaks and sewer problems and also be responsible for the maintenance of city cafe, streets and other duties of the city such as the park and city buildings. Moving expenses would be provided as would a vehicle. Applicants must have high school diploma and training would be available. Send resume to City of Ingalls PO BOX 103 Ingalls Kansas 67853 - call (620) 335-5118.

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Moler's Musings

by Don Moler

The Hummingbirds



I guess everybody needs to have a hobby, and one of mine involves feeding hummingbirds. I don't remember exactly when I got started on this particular avocation, but it has been at least a decade. Recently, it struck me that there might be the seeds of a *Moler's Musings* in this process. So, before you stop reading and turn to Sandy Jacquot's *Legal Forum* column, I thought I might talk a little bit about hummingbirds, their care and feeding, and what that has to do with local government in Kansas.

The linchpin of my thought process on this matter came as I was given a window hummingbird feeder in my Easter basket. It reminded me that it seems like you can't go into a hardware store, speciality store, dollar store, or many groceries stores anymore without seeing hummingbird feeders sitting there on the shelves. It got me to thinking about how they are marketed, and what this means in the greater scheme of things. Over the years I have had what wife Judy would describe as a love/hate relationship with the hummingbirds. I believe when they don't come to my feeders, they are purposely ignoring me. I don't know why they ignore me, but apparently some of them do. What I have learned over the years, is not so much that they ignore me, but that they are very particular about where they eat, not unlike some people I know. Hummingbird feeders are sold to the mass public as an EASY way to bring hummingbirds to your home so that you can enjoy them as they fly around and feed outside your windows. That is a snare and delusion. Attracting hummingbirds to your home on a regular basis takes a certain amount of work and dedication to achieving that goal. You can't simply put a feeder out, and then expect hummingbirds to flock to it. It's a little more complex than that. Please let me explain why.

If you really want to attract hummingbirds, let me give you a few tips. First of all, don't buy the prepackaged hummingbird food that you will find in all the stores. It's too expensive, and contains red dye which the hummingbirds don't need, and I would suspect probably isn't very good for them. Instead, make your hummingbird food at home. What you do is you mix four parts water with one part granulated white sugar. Note that it has to be white granulated sugar; not honey, not raw sugar, not agave syrup, not brown sugar, not molasses, not artificial sweeteners, or anything other than white sugar. Using honey in the mixture can even kill hummingbirds. So, use four parts water to one part white sugar. That's the easy part. You mix up this concoction, and you put it in your hummingbird feeder. It is good for probably three or four days at the most. I am going to say that again. It is only good for three or four days at the most. At the end of that time, you must take the feeder down, pour any unused mixture out, and start over again. This is the single step which causes most people to fail in their attempts to attract hummingbirds. Over the years,

I have had numerous people in our home ask how is it possible that so many hummingbirds visit our feeders. The simple answer is that I work at it. The key is that hummingbirds, again like some people I know, are very discerning about the food that they take into their bodies. In the case of the hummingbird, the sugar/water mixture sours after a very short period of time, particularly in the hot sunshine. You can expect that the mixture will be totally soured after three or four days, especially during a hot Kansas summer. So the key is not only to replace the mixture on a very short schedule, but then you must also clean the container with every change of food, so that you remove as much bacteria as possible to avoid the growth of black mold which can also be harmful to hummingbirds.

So, if you truly want to attract hummingbirds, and enjoy their beautiful flight outside your windows, you must dedicate yourself to routinely taking care of the feeders, and providing them with appropriate food on a regular basis. In Kansas, we can attract hummingbirds from early April thru October. Typically, I put my feeders up the first week of April, and take them down the first week of October. Depending on the time of year, and the migration patterns of the hummingbirds, we can see quite a few who will literally fight over which bird gets to feed at the feeder at a particular time. Enjoying hummingbirds is very rewarding, and a real amazing slice of nature.

So what does all of this have to do with local government? In a nutshell, it speaks to the old saw that anything worth doing is worth doing right. There are few things in life that are easy and productive or lend themselves to a great deal of enjoyment, simply by showing up. As in the case of the hummingbirds, any project that is worth doing is not only worth doing right, but is something that you have to commit yourself to doing on an ongoing basis. You cannot simply will it to be, and then hope for the best. Almost inevitably when projects are undertaken in that fashion, whether they be governmental or personal, they are failures. What one must commit to do, whether individually or in a group, is to persevere and continue to work the project. You cannot simply expect that starting a project is enough to make it successful in the end.

There is an old line from a movie which goes something like this: When raising children, you can't simply spike the ball and declare victory. The fact of the matter is that you are worried about them your entire life, and you are taking care of them the best you can over that period of time. The same is true when looking at projects of any kind. One only has to look around to see the difference between projects, undertakings, and other governmental systems to see the difference between those that have been taken care of, loved, and maintained over the years, and those haven't been. The difference is one between success and failure. I would urge you to take stock of the projects you have ongoing in your community, and to make sure that those that have merit are fed, watered, and taken care of on a daily basis. Dedication to a project is the only way to make it successful.



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