

**STATE OF KANSAS
BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE**

In the Matter of the City of Wichita's)
Phase II Aquifer Storage and recovery Project) **Case No. 18 WATER 14014**
In Harvey and Sedgwick Counties, Kansas)
_____)
Pursuant to K.S.A. 82a-1901 and K.A.R. 5-14-3a

**CITY OF WICHITA'S RESPONSE TO
INTERVENERS' MOTION FOR EXTENSION OF TIME**

The City of Wichita, Kansas (the "City") submits the following as a written response to the recent Motion for Extension of Time submitted by the Interveners herein:

1. In prior discussions of the Scheduling Orders and the impact of intervention by additional parties, it has been the consistent premise that additional parties would enter the case subject to all existing deadlines.
2. With respect to the Interveners' request to continue deadlines for discovery, it is notable that they have not identified materials needed for their case analysis beyond those included in the very considerable discovery responses already served by the City and the Division of Water Resources ("DWR"). Further, despite the weeks-long (if not months-long) pendency of Interveners' decision to intervene, they have apparently made no effort to seek relevant documents available under the Kansas Open Records Act.
3. Interveners appear to have purposely delayed their request to intervene, as well as all case preparation, with a view to causing further case scheduling delays, including delay of the scheduled hearing dates. The press account from Newton Now, transmitted herewith, reflects that the group consulting with Ms. Wendling has publicly discussed tactical delay of the case in hopes the current Chief Engineer will retire before the case can be decided.
4. The City's interrogatories, which Interveners claim (in their Paragraph 4) they

cannot respond to without discovery, essentially seek disclosure of Interveners' grounds for belief that their interests are adversely impacted by the proposed modifications in water levels and accounting methods. If the Interveners cannot provide any answers without discovery, they lack standing to participate as formal parties in this case.

5. To the extent the Interveners also suggest (in their Paragraph 4) that they cannot meaningfully participate as parties in keeping with the existing case schedule, the appropriate solution (particularly given the now-obvious standing issue arising from inability to articulate how their interests are affected) is not to further extend the case schedule, but to remove the Interveners as formal parties. Given that they have already been afforded the benefit of all the discovery responses produced by the existing parties, Interveners should be able to adequately address whatever issues they may develop as non-parties, during the public comment phase of the hearing.

WHEREFORE, the City requests that Interveners' Motion be denied, and that any participation by the Interveners as formal parties be in compliance with the existing schedule.

Respectfully submitted,

Office of the City Attorney
of the City of Wichita, Kansas

By /s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that he transmitted the above and foregoing Response to Request for Extension of Time, by electronic mail on this 5th day of November, 2018, for filing, to David.Barfield@ks.gov and served the same upon counsel for the other parties herein by electronic mail, this 5th day of November, 2018, addressed to:

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Brian K. McLeod

Four straight days of rain plunges Harvey County underwater - Page A15

Blues event rocks Newton despite weather - B1-B6



NEWTON NOW

Vol. 4: No. 8 Thursday, October 11, 2018 www.harveycountynow.com Newton, KS \$1.25

Local candidates to square off at Meridian Center

NEWTON NOW STAFF

Voters will have a chance to get informed about all their local candidates all in one sitting.

Newton Now and the Newton Chamber of Commerce will host a candidate forum and debate at 6:30 p.m. on Wednesday, Oct. 17, at the Meridian Center that will include all candidates from the State House race as

well as the Harvey County Commission race.

The candidates will be asked questions formulated by moderator Adam Strunk as well as by members of the crowd.

Each forum session will last approximately an hour, and the format should allow for a broad series of questions to be asked.

See FORUM / 9

Auction will 'seal' fate of the Old Post Office

BY ADAM STRUNK
NEWTON NOW STAFF

A sealed bid process will likely decide the fate and future owner of an historic Newton building.

In August, the building's owner, Steve Johnson, announced his plans to sell the building at 725 Main St., which he had remodeled and used as a law firm. He merged his law firm, Cornerstone Law, with Sizemore, Burns, Gilmore and Bell and moved into that law

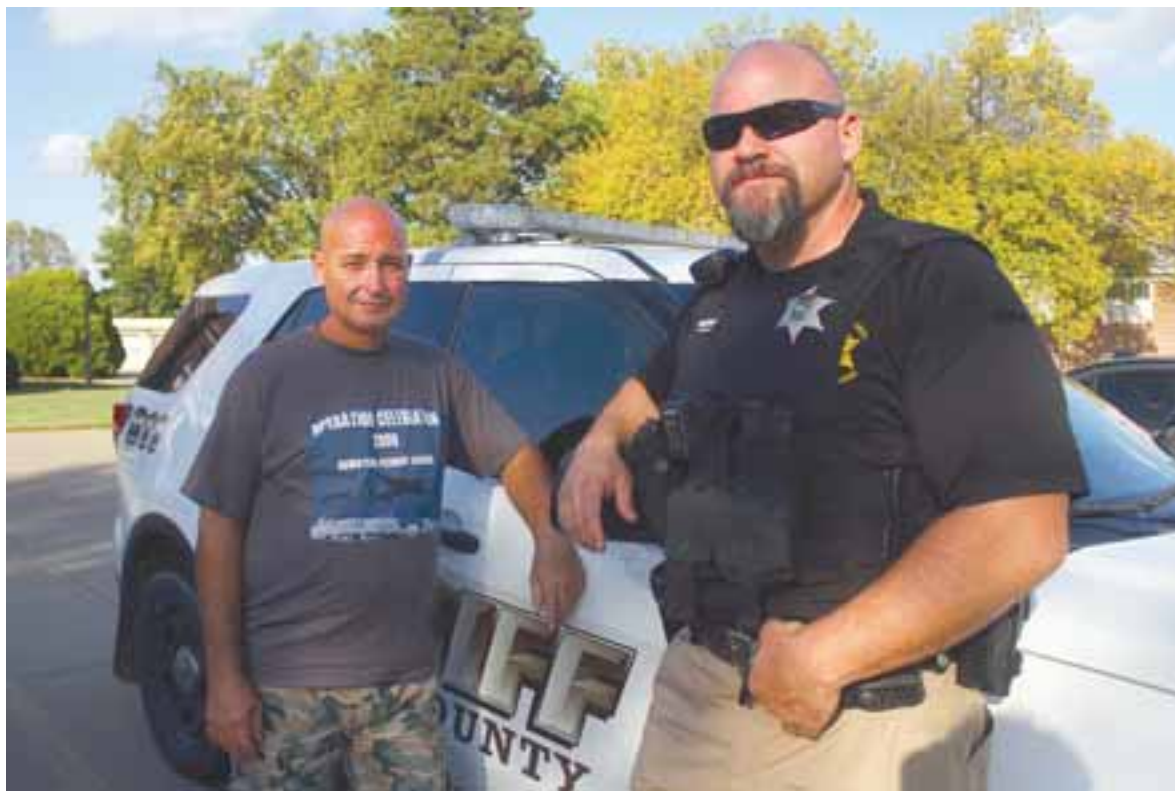
firm's building at 121 E. Main. At the time, Johnson said it would have taken significant work to relocate the entire operation to the Old Post Office.

Now, Nick Holzrichter of United Country National Realty and Auction announced earlier this week that his group was seeking bidders to buy the building as part of a sealed auction. In the sealed auction, bidders will have until noon on Thursday, Nov.

See SEAL / 8



WENDY NUGENT/NEWTON NOW
An auction sign stands in front of the former Newton Post Office at 725 Main Street. The office will be sold via sealed auction.



WENDY NUGENT/NEWTON NOW
James Turner, left, and Deputy Jeff Van Horn lean against Van Horn's vehicle.

'World needs more humanity'

■ Newton Deputy gives man ride to get job.

BY WENDY NUGENT
NEWTON NOW STAFF

When looking into James "Jimbo" Turner's soulful eyes, there's depth, there. There's a desire to get on with his life; to

make things better. There's also some sadness. He's been through a lot.

After his unemployment payments unexpectedly ended, Turner ended up homeless and now he's living at New Hope Shelter in Newton, the local homeless shelter.

He also doesn't have a vehicle. Even with that, Turner

still was determined to get a job, even if he had to walk 15 miles to Park City and another 15 miles back to Newton for a urine test. With the help of a Harvey County Sheriff's Office deputy and a couple of nurses, Turner was able to get to Park City and back, and the nurses

See JOB / 8

Wichita water hearing postponed, locals organize to block regulation changes

BY ADAM STRUNK
NEWTON NOW STAFF

Wichita might have to wait a little longer for a decision on whether or not it can take more water from the Equus Beds Aquifer, which provide drinking water for all of Harvey County, as well as Wichita and 14 other municipalities it serves as customers.

The Groundwater Management District Two (GMD2), in charge of regulating the aquifer, was successful in postponing a public hearing into Wichita's proposed regulation changes until Dec. 11. The hearing will be held at 9 a.m. at American Ag Credit, located at 4105 North Ridge Road, in Wichita.

Tim Boese, director of GMD2, said the request came, due to a need to look over water models used by the city of Wichita. While discussions about proposed regulation changes have been going on for more than a year, the GMD2 only received the technical computer models on Sept. 28.

"That's the foundation of their request," Boese said. "We're reviewing that and doing a review of their modeling to ensure we believe the model was set up, correctly. We feel that we need every bit of that time. It's a lot to review."

The hearing was originally to be held Oct. 22.

For more than a year, the City of Wichita has been working with

the Kansas Department of Agriculture Division of Water Engineer David Barfield to change regulations that limit's how much it can draw down the Equus Beds Aquifer when using its recharge credits.

The change would lower the limit from 36 feet below ground level to 51 feet below ground level.

The move, the city has argued, would allow it to deal with possible droughts projected in its future planning for the next 100 years.

The city has water rights to 40,000 acre feet of water in the Equus beds, which it can draw

See WATER / 8

Mail Label



WENDY NUGENT/NEWTON NOW
Students, from left, Samantha McCurdy, Keaton Outley, Gracie Good work on coding.

Coding with ozobots: Northridge kids learn about animal classifications

BY WENDY NUGENT
NEWTON NOW STAFF

Many have scales, while others have fur. Some are cold-blooded, while others are warm. No, it's not a character description from a "Lord of the Rings" movie. It's a description of various kinds of animals.

Some of those animals are reptiles, while others can be amphibians, birds, mammals and fish - all of which are vertebrates.

Invertebrates include insects, protozoa, flatworms and arach-

nids, to name a few.

Second-graders in Emily Schmidt's science class on Monday afternoon used what Schmidt called, "coding" with an "ozobot," to learn about vertebrate animals.

"The purpose of the project is learning different types of animals," said Schmidt, who's the kindergarten through fourth-grade science teacher at Northridge Elementary School in Newton.

She said technology is a huge part of science and STEM (Sci-

See CODING / 8



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FROM PAGE ONE

JOB

From Page 1A

even bought him lunch. He passed the drug test and now has a job at Norcraft in Newton.

Turner said he came to the Newton/Hutchinson area from Nebraska, where he had been living, because he heard there was work in the area and has been working on a temporary basis.

"I got sent out (to Norcraft) on Monday through LSI," he said, sitting in the New Hope Shelter dining room, saying it was a one-day assignment.

He said he inquired about getting hired there and it seemed people liked him and liked how he worked. The following morning, he had a job interview.

"She showed me around the plant and things I could pick from," Turner said.

However, before he could be hired, he needed to pass the drug test and he had to go to a doctor's office in Park City to do it. At first, he thought he'd wait until Wednesday and get up at 5 a.m. to walk there, but then his determination kicked in and he said a prayer, asking God for help.

"I said, 'F*** it. I'm going to do it,'" Turner said. "I said a prayer."

He said New Hope residents are required to be back at the shelter at 5:45 p.m., so he hoped

he could make it back by then. He started off to Park City at 10 a.m., walking on U.S. Highway 50, headed to I-135. Turner said he asked a man for directions.

"I stopped this man here and I asked him how do you get to Park City?" Turner said.

Walking along, Turner eventually was stopped by a Harvey County Sheriff's Office vehicle.

"He pulls over, and I tell him what's going on," Turner said. "I showed him my paper, showed him I'm not BS-ing him."

Deputy Jeff Van Horn ran Turner's information and said if his name came up clean with no outstanding warrants, he'd take him part of the way.

"I was initially going to take him to the county line," Van Horn said. "We got to talking in the car, and I decided I'll run him all the way to Park City and to the doctor's office."

"He took me to the front door," Turner said in his Virginia accent. "There was only three or four people there."

Those people got called in, and then about five more people arrived. They were called in before Turner was and Turner got frustrated.

"I was there an hour and 20 minutes before they called me back," Turner said, adding he had been getting pissed



James Turner, who lives at New Hope Shelter, and Harvey County Deputy Jeff Van Horn talk at New Hope Shelter in Newton. Van Horn gave Turner a ride for a urine test in Park City so he could get a job.

WENDY NUGENT/NEWTON NOW

off because the lady at the front desk said he was next in line, but then called another lady, who arrived after Turner did.

Maybe God had a hand in that. Because of Turner's frustration, when he finally did get called, he told the nurse his story. The lady doing the lab work offered to give him a ride back to Newton, saying she and another nurse were fighting over who got to give him a lift, so they both decided to do it. They also got him lunch.

"Took me to Wendy's," Turner said. "I was just getting a single combo, but they weren't having none of it. Got a double combo."

He said they told him a man's gotta eat.

Turner said he got a call last Thursday, saying he got the job and his orientation was on Monday.

"I got the job because of this man and the nurses," Turner said. "Ya'll are the ones doing the good deeds. It's really an amazing story of what happened, so I

start the job on Monday."

On Friday, he wasn't sure what his duties were going to be.

"I think I'm going to start out sanding," he said.

Van Horn said it's not unusual for law enforcement to give people rides.

"Me giving him a ride is kind of commonplace," he said. "Deputies do this all the time. Talking to him and hearing his situation, I had no problems giving him a ride."

Van Horn said he's taken people to McPherson and Park City before.

Turner said he knew he wasn't going to have to walk the entire 15 miles. He had faith. He also had another plan.

"Is hitchhiking legal here?" he asked Van Horn.

Van Horn said it's illegal to walk on I-135, but a person is allowed to walk and ride a bike on U.S. 50.

When Van Horn gave Turner a ride, it was the first time they met.

Turner had been a resident at New Hope for 10 days as of Friday.

Before going to New Hope, Turner lived in a house in North Platte, Neb. The guy he worked 14-16 hour days for, owed him several thousand dollars in bonus money, which he never received. He left the job and drew unemployment until the former employer stopped paying, so unemployment was terminated.

Turner said he lived off his savings because it took 13 weeks before he could get unemployment. With his money gone, Turner hitchhiked to the Newton/Hutchinson area and found temporary employment in Hutchinson, until getting the job in Newton.

"I'm just glad he got the job," Van Horn said. "I'm just glad the ladies brought him. The world needs a little more humanity."

SEAL

From Page 1

15, to submit their bid on the building.

"The situation is so unique that we felt that this is the best avenue for the seller to take," Holzrichter said

The building was one of a kind, had immense historic value, and with its commercial zoning and busy Main Street location, it could have a variety of uses, such as an office space or restaurant, he said.

Holzrichter said that while sealed bids were not common, they sometimes made sense in the sale of commercial property. He said that the process allows those interested to stay anonymous.

"There are some companies that don't want people to know that they are even interested in a commercial property," he said, giving an example.

Holzrichter didn't give an amount that they expected the building to bring at auction.

"We don't know," he said. "That's another reason why we're doing an auction method. An auction is true price discovery"

Bidders will be required to submit a \$10,000 deposit to bid, which will be returned if their bid isn't selected.

If their bid is selected, that deposit will be applied to a 10-percent escrow payment required with the purchase.

Johnson will then have the option of reviewing all the bids and selecting his choice of buyer. Johnson also has the option of selling the property before the official bidding process is done, should he find an agreeable offer.

Johnson has put much work into restoring the building over the years, and the building is a contributing property to Newton's Downtown Historic District.

That designation means construction and building changes requiring a building or demolition permit would first need to be approved through the Newton/North Newton Historic Preservation Commission.

As part of the district, the building would also qualify for

certain tax rebates available to repairs on historic buildings.

The building has stood for 108 years, functioning as the city's post office for much of that time. It represents one of the last remaining

Planning on the building began in 1908 but was delayed until early 1909 because of so many public buildings at the time being constructed across the country. Construction on the building, designed by David Knox Taylor in a Renaissance Revival, took two years due to further delays, such as resource shortages and worker strikes. The stone on the building's bottom and edges came from Bedford, Ind., via rail.

By the end of 1910, the building was completed.

According to the Harvey County Historical Society, the building has stood for at least 1909. The building served as the Newton Post Office until 1963, when the office was moved to its current location at W Fourth St.

The building was eventually purchased and renovated by Steve Johnson of Cornerstone Law.

Early in 2018, Johnson successfully lobbied the Newton City Commission to override city regulations and sign off on a curb cut out for a driveway onto the property along Main Street. That request still has to be approved by the state, as Main Street is part of Kansas Highway 81.

In August, Johnson announced that he was combining his law firm with Sizemore, Burns and Gilmore and moved into that firm's building at 121 E. Fifth St.

In an Aug. 28 article, Johnson said that building was more suited for the merger of the two organizations.

At the time, Johnson said he was looking for a buyer for the building and hoping to find one who would help the town.

"I've got some suspects, not prospects," he said. "We're eventually looking to find a really fine addition to downtown," he said. "Someone needs to be here, because it's a great spot for them, and it's a great deal for the downtown."

CODING

From Page 1

ence, Technology, Engineering and Math), so she likes to incorporate it when she can.

"We are gonna keep working on a project, today," Schmidt told the class as they sat in an orderly fashion on the ground.

She held up a drawing of a reptile and asked, "This is a what?"

Some of the students responded, "A snake!"

"What kind of animal is it?" she asked them. "Reptile," they responded.

Schmidt said they're using coding with animal classifications and learning about animals.

"I needed something to retain their attention better," she said, adding that "coding" is a buzz word that has been integrated into curriculum.

"What we're doing



Teegan Corp and Madalyn Weldon work on coding in science class.

WENDY NUGENT/NEWTON NOW

with these?" Schmidt asked, holding a round object. "I have ozobots. They're tiny coding robots. They run on color. They read color code."

In small groups, students created a zoo on paper that contained a changing color path to match the ozobot's light changes.

Students designed the path where they were placing cutouts of ani-

mals.

Placing the animals in the correct classifications, the ozobot then drives past and looks at them, like in the movie, Jurassic Park.

There's also different color codes students can draw, that make the ozobot do other things, like move faster or slower, do spins or follow a certain direction.

"There's lot of differ-

ent things you can do with it," Schmidt said.

Right now, just the second-graders are working on it, but Schmidt said she plans to have other classes use ozobots.

In her classroom are Code & Go Robot Mouse activity sets, also, and students have coded mice with those, too.

With the ozobots, students are still designing their zoos and they will soon have a testing day.

Drawing paths first with pencils, followed with magic markers of various colors, students said they enjoyed learning in that way.

"I like the way we cooperate together and we can work as a team," student Samantha McCarty said.

Gracie Good summed it up in fewer words.

"Having fun," she said, before changing the subject with her own question. "Have you went to Cowtown?"

WATER

From Page 1

out at any time. It gains credits on additional water in the beds for each gallon of surface water it treats and pumps into the beds, through a water recharge program it operates. That program is credited in part at helping keep the beds at relatively full levels.

When the beds are full, Wichita is unable to accrue those recharge credits.

So, it has proposed that it gain credits for water from the Little Arkansas River that it treats and uses directly in its municipal water systems.

GMD2 would be charged with making a recommendation in favor or against such changes. The request would then be up to Barfield to approve, regardless of GMD2's recommendation.

Boese said the GMD2 has brought in two outside experts recently, to help review Wichita's proposal. One is the former Chief Engineer of the Department of Water Resources, who oversaw the original regulations on Wichita's water recharge program.

The other is an attorney, who previously worked for the Kansas Department of Agriculture and specializes in

water law.

Boese said the two will help consult on the legal and technical issues related to Wichita's request.

On top of the changes in hearing date, Wichita has, at least temporarily, withdrawn a request to put 30 additional wells in the Equus Beds. Boese said he believes the city will resubmit requests for the wells, but do so after decisions on its other proposals.

He said his understanding is that the city believed the question about additional wells was confusing the process and was also currently re-evaluating usage plans for its existing well fields.

So now, the hearing will center on Wichita's proposed changes -- how much water it draws from Equus Beds and when they can draw from the beds.

Those proposed changes have drawn concerns from local governing bodies and organizations, like the Farm Bureau and county property owners.

Ruth Jacob is part of a group of residents, farmers and land owners that has begun to organize against the proposed changes.

She said her home's well is at 32 feet below ground water, which would be left dry, should the city be allowed to pump the water level of

the Equus beds down deeper.

"I don't want to be without water," she said. "That's the wells you have to worry about."

Jacob said the change in draw down levels could leave domestic well users in the county high and dry, while agricultural wells might also be affected by the draw down.

She also said the group has major concerns about a possible conflict of interest, when it comes to regulatory oversight.

As has been reported in previous stories, Barfield, who is in charge of approving the changes, has publicly stated that he is working with Wichita to continue to revise its plans to make the changes possible.

"I will say we've worked hard with the city on developments that we think will be approved," he said at a June meeting.

Jacob said, it's the group's belief that he will soon retire and they hope for a different person to oversee the proposal.

"I think that the group that has gotten together really hopes to at least postpone approving such a proposal until there is a change in personnel at the Department of Water Resources, because this Dave Barfield is the one, who got up

and said he's working with the city of Wichita."

The group has gone far enough to consult with Tessa Wendling, an attorney, who splits her time between Halstead and Chicago, in case legal action needs to be taken.

Wendling grew up in the Halstead area and recently purchased the old city hardware store in the city. She said, with her family farming in the Halstead area for more than 100 years, water usage is important to her.

"This has been an issue impacting my family, as long as I can remember."

She added that in her belief, certain water models presented by the city of Wichita need independent validation.

She said she does trust the local ground water management district to do the needed vetting of the proposals.

"It's an important issue that everyone living around the Equus beds should pay attention to," she said.

Those with concerns or possible testimony for the hearing can email doug.schemm@ks.gov or mail to The Department of Agriculture, Division of Water Resources, Topeka field office, 6531 SE Forbes Ave., Suite B, Topeka, Kan., 66619.

Boese said those with questions, can also call him at 316-835-2224.