

KIRKSVILLE CITY COUNCIL **NEWSLETTER . . .**

Mari E. Macomber, City Manager
September 30, 2015

SUBJECTS:

**ERIC GREITENS IN KIRKSVILLE
MEET AND GREET WITH MISSOURI HOUSE LEADERSHIP
FIRE PREVENTION WEEK
NORTH FORK SALT RIVER WATERSHED MEETING
KIRKSVILLE MOTOR COMPANY RIBBON CUTTING
NEMO RPC / RDC FALL GENERAL MEMBERSHIP OPEN MEETING
COUNCIL MEETING ATTENDANCE
MML ANNUAL CONFERENCE
CHARTER CITY
CITY WEBSITE
CITY COUNCIL / SCHOOL BOARD MEETING
REQUEST FOR GOOSE MANAGEMENT
FIRE DEPARTMENT AIR USE EVALUATION
IMPACT OF POTENTIAL RURAL FIRE DISTRICT CONSOLIDATION
COBBLESTONE LANE STREET REPAIR
CEMETERY SCAVENGER HUNT**

ERIC GREITENS IN KIRKSVILLE

Missouri gubernatorial candidate Eric Greitens will be visiting Kirksville Friday, October 2, 2015 at 10 am in Steve's Garden Deli. State Representative Nate Walker has invited the Council to attend the event. Greitens, a Republican residing in St. Louis, recently announced his candidacy for governor.

MEET AND GREET WITH MISSOURI HOUSE LEADERSHIP

State Representative Craig Redmon will be hosting a meet and greet with Missouri House Speaker Todd Richardson and Missouri House Leader Mike Cierpiot on Tuesday, October 6, 2015, at 9 am in the Kirksville Country Club. The Council is invited to attend.

FIRE PREVENTION WEEK

Fire Prevention Week for 2015 will be October 4 through 10, and the national theme of Fire Prevention Week is, "Hear the Beep Where You Sleep". Across the country the most dangerous time for a residential fire to happen is at night or when the occupants are sleeping. It is important for people to make sure that smoke detectors can be heard in the bedrooms or sleeping areas. If the detectors are only in the kitchen or living room areas the sound could be too muffled to wake a sleeping person. It is not a bad idea to make sure that the sound of a smoke detector going off will wake your sleeping child. Please do not make this a scary time for the child, just use it to find out if it will wake them. This is also a good time to go over EDITH (Exit Drills in the Home). The Fire Department will be doing presentations at the local elementary schools to educate kids in Fire Prevention.

Fire Prevention printed material will be on the trucks and the personnel will use each opportunity to spread the fire prevention message. The week will also be used to kick off our Adopt a Fire Truck Art contest.

NORTH FORK SALT RIVER WATERSHED MEETING

The Mark Twain Regional Council of Governments is holding a meeting regarding the North Fork Salt River Watershed on Monday, October 19, 2015. The Council has invited the City's Watershed Commission to attend the meeting as, technically, the City is included in the North Fork Salt River Watershed. The meeting will be held at the Missouri Department of Conservation's Northeast Regional Office in Kirksville. The Missouri Department of Natural Resources (MoDNR) is working with the Missouri Association of Council of Governments to set up local Watershed Advisory Committees across the entire state. The goal is for each advisory committee to develop their goals and some suggested projects or outreach ideas for each watershed and to encourage local leadership and participation in local watershed type projects. In the long term, the hope is to have at least one Watershed Commission member assigned to attend these meetings. City staff will update the Council as to what comes of this meeting. Please see the invitation attached to this Newsletter. Councilmembers are also invited to attend.

KIRKSVILLE MOTOR COMPANY RIBBON CUTTING

The Kirksville Area Chamber of Commerce will be holding a ribbon cutting for the grand re-opening of the Kirksville Motor Company (formerly Jim Robertson's) on Friday, October 23, 2015, from 4:30 pm to 7 pm to showcase their latest renovation.

NEMO RPC / RDC FALL GENERAL MEMBERSHIP OPEN MEETING

The Northeast Missouri Regional Planning Commission and Rural Development Corporation will hold their Fall General Membership Open Meeting on Wednesday, October 28, 2015, at the VFW Post #4958, 123 W. Monroe, Memphis, Missouri. The doors open at 5:30 pm, dinner will start at 6:00 pm, and the General Membership open meeting will start at 6:30 pm. LouAnn M. Rongey, Area Specialist, Rural Development, United States Department of Agriculture, will be the guest speaker. The Region "C" Solid Waste Management District Management Council Open Meeting will be immediately following the RPC/RDC Membership Open Meeting. Please RSVP to City Clerk Vickie Brumbaugh by Friday, October 16, 2015. The meal cost is \$5.00.

COUNCIL MEETING ATTENDANCE

The current Ordinance for Council salary says: "No compensation will be given if one or more meetings are not attended during a month." The Missouri Municipal League (MML) Conference was held during our regular Council meeting in September. Councilmember Phillip Biston was attending the MML Conference on September 21, 2015, on the same date of a regular Council meeting. The Council may wish to discuss your interpretation of a meeting, and also consider including wording in the Council salary Ordinance that references the MML Conference and any other government training meetings that might be attended by the Council on a regular meeting date. The MML Conference will probably continue to be held during the same week in September which does affect those Missouri cities who hold their Council meetings on the third Monday.

MML ANNUAL CONFERENCE

This year the MML Annual Conference was held September 20 through 23, 2015. Typically, the MML Annual Conference is held at the same time each year, beginning on the third Monday of September. This date always coincides with a regular Council meeting date. Councilmembers Glen Moritz and Philip Biston have expressed their interest in having more individuals from the City attend the MML Annual Conference. Therefore, to avoid conflicting with a regularly scheduled Council meeting, the Council is asked to discuss this and decide if you would want to adjust the Council meeting schedule in September to allow and encourage participation in the MML Annual Conference.

CHARTER CITY

Following the MML Annual Conference, Councilmember Philip Biston inquired as to why the City was not a charter city. For informational purposes, following an amendment to the Missouri State Constitution approved by voters in 1971, the State authorizes cities of 5,000 or more population to adopt or frame a charter, and the powers of a constitutional charter city now are defined as "all powers which the general assembly of the State of Missouri has authority to confer upon any city, provided such powers are consistent with the Constitution of this State, and are not limited or denied either by the charter as adopted, or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law."

Approximately nine years ago the Council at the time briefly explored becoming a charter city. Ultimately the Council decided to not pursue a charter. Nonetheless, City Manager Mari Macomber prepared a report outlining the steps necessary to do so, if the Council had wanted to pursue such a course of action. Again, this report was prepared approximately nine years ago, so the information would need to be updated. However, it should provide the Council an idea of what is involved in the process of adopting a charter. If there is interest after reviewing this, the report could be updated and presented at a future Council Study Session. Please see the report as an enclosure with this Newsletter.

CITY WEBSITE

City staff are in negotiations with QScend Technologies, Inc. to update the City website. City staff plan to refresh the overall look of the site while making it easier to navigate and more informative for citizens. City staff will update the Council as the project moves forward.

CITY COUNCIL / SCHOOL BOARD MEETING

The City Manager and Kirksville R-III School District Superintendent are planning to schedule a meeting between the Council and the Kirksville R-III School Board to discuss items of mutual interest. In advance of the meeting, the School Board signed a memorandum of understanding granting the City and County emergency services access to School District radio frequencies. City staff will update the Council once a date is set for the meeting.

REQUEST FOR GOOSE MANAGEMENT

Municipal Ordinance 18-123 is a somewhat unique ordinance. This Ordinance allows the Police Chief to authorize citizens to discharge a firearm in the City for the purpose of managing wildlife that are damaging property. It is used infrequently but has been used in the last few years for everything from squirrels (which, in the most recent request, authorized only the use of low power BB guns) to coyotes. The police department evaluates each request, and if approved, usually sets limitations upon the request (e.g. caliber/type of weapon, limitations on direction of fire, neighbor notification). A request was received recently seeking authorization to use shotguns to manage Canada Geese in the south part of town, south of the Days Inn. The address is 4001 S. Baltimore and is approximately ¼ mile from the east City Limits. Please see a copy of the application and a map of the area attached to this Newsletter. The application process requires consultation and approval/agreement with the Missouri Department of Conservation (MDC). MDC has approved. A copy of their written approval is forthcoming.

Per ordinance the Police Chief is inclined to approve the request, as restricted. The approval is contingent on a number of restrictions, including, but not necessarily limited to: 1) shotguns only, 2) notification of surrounding property owners, if applicable (including a request that the Days Inn notify their guests – The property owner actually owns the Mobile Home Park to the south), 3) shooting only towards the timber area to the east within an area marked on a map, 4) limit total shooters to no more than four(4) at any one time, 5) requiring that the shooters be at least 150 yards from any roadway or structure (other than the affected landowners home), 6) restricting the initial application to two days (with the ability to reapply if necessary), and 7) require that the application coincide with the upcoming goose season starting October 3rd (which also places restrictions on the number of shells in the gun, maximum number of geese allowed per day, etc.).

The proposed authorization will also require that this permit be part of a larger management effort as allowed by MDC (pursuant to Federal Statute 21.52, public health control order for resident Canada geese).

Although this request is on the southern end of town, the accomplishment of the request is likely to be more visible/apparent than other requests. The Police Chief just wanted to make certain that Council Members were informed of the request and were comfortable with the approval.

FIRE DEPARTMENT AIR USE EVALUATION

The Fire Department has been conducting Air Use Evaluations for all personnel. Most air paks are listed by a minute rating: 30 min, 45, minute, and 60 minute. In reality the time is not as long as listed. As part of the evaluation, 9 workstations were setup to simulate multiple evolutions on the fire ground. Bottle pressures are recorded and we use a stop watch to time the participants. Each person works through the course completing each task while being followed by a proctor. The proctor tracks times, ensures safety and directs the participant as needed. The course is a circuit style so there is no end. You just keep going to the next evolution until your air is done.

The first time noted is low air alarm activation time. This is an alarm that tells the participant that they are critically low on air and need to exit the building if not already doing so. They then continue to progress through the course until they totally run out of air. This time is considered escape time. This completes the first rotation. After the first rotation, they get a 15 minute break, which simulates our Rehab on a fire scene. Vitals are taken as they enter rehab and before they return for the second rotation. For the second rotation, a new bottle is put in the air pak, and they go again. The only difference is when the low air alarm goes off, they are instructed to get comfortable and make the reserve air last as long as possible. This simulates if they cannot escape but have to wait for help. By staying calm and controlling breathing they are able to increase the time that a rescue crew would have to find them alive. Please see photographs of the Air Use Evaluation attached to this Newsletter.

IMPACT OF POTENTIAL RURAL FIRE DISTRICT CONSOLIDATION

The Boards of the Adair County Rural Fire District No. 1 and the Novinger Rural Fire District are currently discussing a possible merger, or consolidation, of both districts. The City entered into an agreement with Adair County Rural Fire District No. 1 on February 11, 1991, which allowed the Adair County Rural Fire District No. 1 to use a tract of land for the construction of a building, used by the District, in exchange for \$1.00 and fire protection of City-owned property within the boundaries of the District. If this consolidation occurred, the City-owned property would be within the boundaries of a newly consolidated fire district. Please see a copy of the existing agreement attached to this Newsletter. City staff will update the Council as we learn more about the negotiations between the two fire districts.

COBBLESTONE LANE STREET REPAIR

City staff recently received the following service request: *“On Cobblestone Lane at the corner of E. McPherson there is a huge pothole with alot of concrete missing that has washed away. It is across both north and south lanes of traffic on Cobblestone. We need some pothole repair done. Thank you for fixing E. McPherson at that intersection, but they needed to do a little more onto Cobblestone Lane.”* The Public Works Department addressed the problem and received a positive response: *“Thanks so much for your quick response in fixing the street on Cobblestone. Your crew did a good job and fixed the yards back promptly. They are an efficient, skilled and friendly team.”*

CEMETERY SCAVENGER HUNT

The City's Friends of Forest-Llewellyn Cemetery Committee will be holding a Cemetery Scavenger Hunt from October 26 to November 1, 2015, in Forest-Llewellyn Cemetery to raise funds for a perimeter fence at the cemetery. The price is \$5.00 for an adult card, or \$3.00 for a child card. Cards will be available at the City's Harvest Heyday event in Rotary Park on October 24, 2015. Otherwise, cards may be purchased at the Aquatic Center. All cards must be turned in by November 2, 2015, to be eligible for a drawing to win Kirksville Cash. Please see the flyer for the event attached to this Newsletter.

Attachments:

- North Fork Salt River Watershed Meeting
- Request for Goose Management Attachments
- Fire Department Air Use Evaluation Photographs
- Impact of Potential Rural Fire District Consolidation: Existing Agreement
- Cemetery Scavenger Hunt Flyer
- Adair County Humane Society August 2015 Shelter Report
- Waters of the United States Article
- Congressman Sam Graves Newsletter September 28, 2015
- Thank You Card for Parks and Recreation Staff
- Thank You Letter for City staff from the NEMO Triathlon
- Thank You Letter for City Manager

Enclosures:

- Charter City



Audrain

Macon

Marion

Monroe

Pike

Ralls

Randolph

Shelby

(573) 565-2203
Fax (573) 565-2205
42494 Delaware Lane
Perry, MO 63462

September 28, 2015

To: North Fork Salt River Watershed Stakeholders

From: Robin Simpson, Executive Director, Mark Twain Regional Council of Governments



RE: Stakeholders Healthy Watershed Meeting

Please join us for an initial meeting for the creation of a healthy watershed plan for the North Fork Salt River Watershed. This meeting will be informative and will begin to establish the foundations and relationships on which the plan will be based. Representation from various stakeholders is vitally important to the long term success and health of the watershed, so we hope that you or your representative can attend.

The Mark Twain Regional Council of Governments is partnering with the Missouri Department of Natural Resources to form a Watershed Advisory Committee for the North Fork Salt River Watershed. The watershed includes parts of six counties and serves as the source of water for the Clarence Cannon Wholesale Water Commission, which provides drinking water to over 70,000 people in northeast Missouri.

The goal is to engage local residents, like yourself, in the identification of your priorities and ideas for solutions to issues within this watershed. Ultimately, creating a healthy watershed plan that will help guide local leadership and future planning for water quantity and quality in this area.

Due to the size of the watershed, there are two initial meetings planned as listed below. They will follow the same format and have the same content. Please attend the event which best fits your needs.

Monday, October 19th
1:30 pm
Missouri Department of Conservation
Northeast Regional Office
3500 South Baltimore
Kirksville, MO 63501

Or

Tuesday, October 20th
1:30 pm
American Legion Hall
520 E. Maple St.
Shelbina, MO 63468

This initiative is not about regulation. It is about sharing information and building the relationships and understandings necessary to maintain healthy watersheds for future generations of Missourians.

This initial meeting is expected to take 1 ½ to 2 hours. Information will be presented by the University of Missouri Extension service regarding the North Fork Salt River Watershed, watersheds in general and healthy watershed planning. Attendees will be given an opportunity to share information, ask questions, and to become further involved in this effort.

For more information, contact Alan Winders at the Mark Twain Regional Council of Governments at 573-565-2203, email winderscog@rallstech.com. Or contact Mary Culler at the Missouri Department of Natural Resources at 660-385-8000, email mary.culler@dnr.mo.gov.

For planning purposes, your RSVP regarding which meeting you plan to attend, would be appreciated. Please call or email Alan Winders or Mary Culler as listed above.

A copy of the tentative agenda is attached.

We hope to see you at one of these events.

WILDLIFE DAMAGE FIREARM APPLICATION PERMIT

CITY OF KIRKSVILLE
(City Ordinance 18-123)

~~~~~  
Applicant: Conny Dover  
Address: 4001/5, Baltimore  
Phone: 660 341 6272  
AGENT FOR APPLICANT ANDY GRIM 660-988-6252

Property Owner: Doyle & Conny Dover  
Adjoining Property Owners: NORTH Days Inn  
SOUTH Doyle & Conny Dover  
WEST \_\_\_\_\_  
EAST \_\_\_\_\_

~~~~~  
Brief Description of Damage: Feces from Geese throughout lawn, porch and driveway

Description of Wildlife Causing Damage: Canadian geese

Type of Weapon to be Used: Shotgun

~~~~~  
Authorization Date: 10/3/15 to 10/4/15 (Valid for a maximum of seven (7) days)

**INDEMNIFICATION AGREEMENT:** Applicant agrees to indemnify and hold harmless the City, its agents and employees, from any and all liability, costs, or damages, including reasonable attorneys fees, which arise out of, or are related to, either directly or indirectly, the conduct authorized herein.

**PERMIT AUTHORIZED THE DISCHARGE OF A FIREARM ONLY UPON THE REAL PROPERTY DESCRIBED ABOVE AND OWNED BY THE APPLICANT FOR THE PURPOSE OF KILLING SAID WILDLIFE. PERMIT IS SUBJECT TO FEDERAL REGULATIONS GOVERNING THE PROTECTION OF PROPERTY FROM MIGRATING BIRDS AND ALL REGULATIONS PROMULGATED BY THE MISSOURI CONSERVATION COMMISSION.**

Applicant further agrees to follow all reasonable safety procedures when carrying and/or discharging said weapon.

Conny Dover  
Signature of Applicant  
TEXT CONFIRMATION "I'm TOTALLY FINE WITH THIS,  
RECEIVED FROM MDC AGENT MARSHA JONES \*  
Conservation Agent

\_\_\_\_\_  
SIGNATURE OF AGENT  
SEPTEMBER 25, 2015 AT 1206HRS  
Date

[Signature]  
Chief of Police  
\* MORE FORMAL WRITTEN AUTHORIZATION FORTHCOMING (P/R MARSHA JONES)

9/29/15  
Date

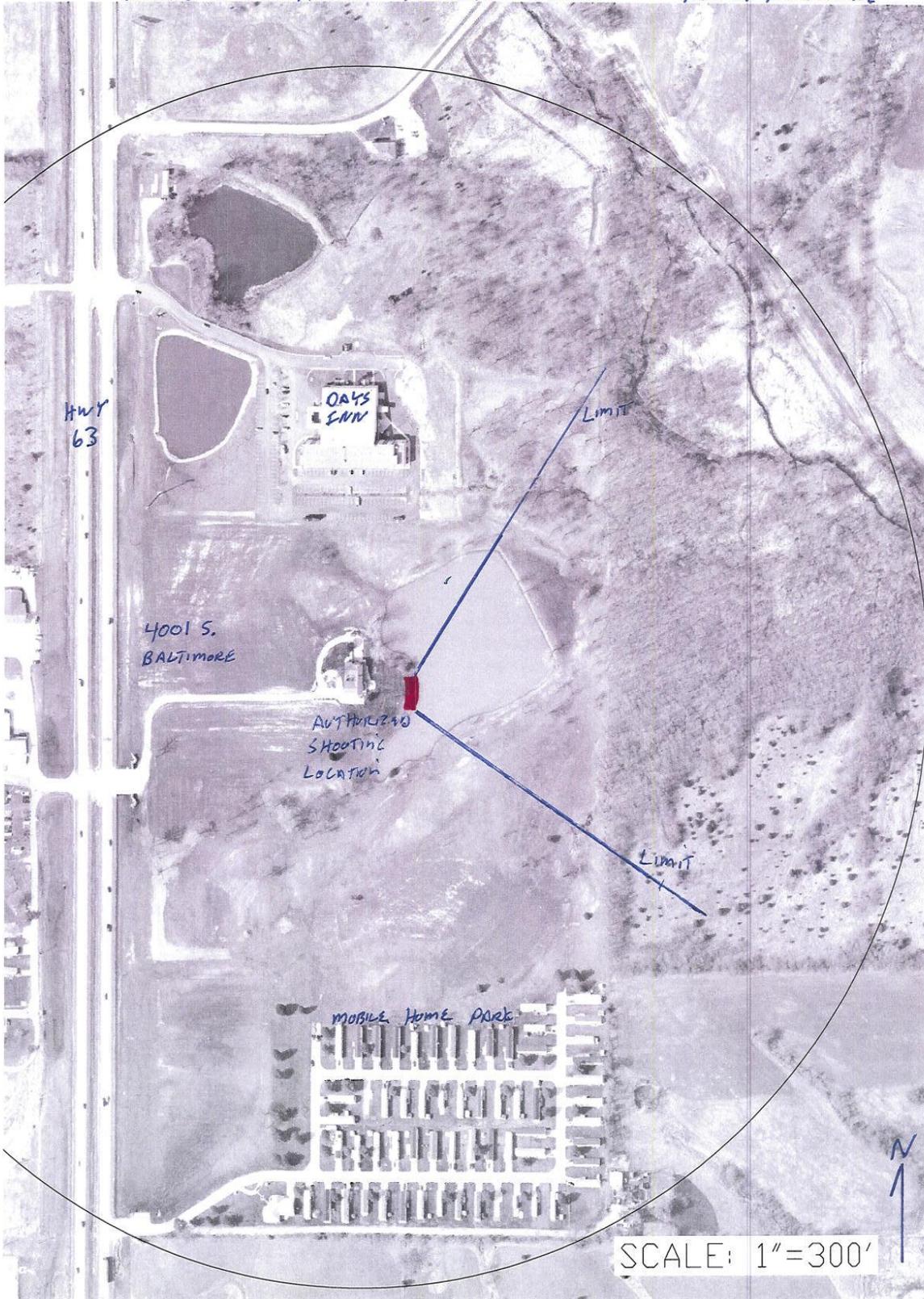
### WILDLIFE DAMAGE FIREARM APPLICATION PERMIT

Applicant: Conny Dover  
Agent: Andy Grimm  
Address: 4001 S. Baltimore  
Date: October 3 – October 4, 2015

### ADDITIONAL RESTRICTIONS

The approval of this request is contingent on a number of restrictions, including, but not necessarily limited to: 1) shotguns only, 2) notification of surrounding property owners, if applicable (including a request that the Days Inn notify their guests – The property owner actually owns the Mobile Home Park to the south), 3) shooting only towards the timber area to the east within an area marked on a map, 4) limit total shooters to no more than four(4) at any one time, 5) requiring that the shooters be at least 150 yards from any roadway or structure (other than the affected landowners home), 6) restricting the initial application to two days (with the ability to reapply if necessary), and 7) require that the application coincide with the upcoming goose season starting October 3rd (which also places restrictions on the number of shells in the gun, maximum number of geese allowed per day, etc.).

The proposed authorization will also require that this permit be part of a larger management effort as allowed by MDC (pursuant to Federal Statute 21.52, public health control order for resident Canada geese).



To: Chief Jim Hughes KPD

From: Marsha Jones Conservation Agent Adair County

Subject: Early Goose Season

This memo is to clarify any questions regarding the support of MDC for KPD to allow the harvest of Canada Geese within the city limits during the early goose season in Missouri. The early Canada goose season opens on October 3, 2015 and runs through October 11, 2015. The daily limit is 3 geese; hunters must have a valid small game permit, a federal waterfowl stamp and a migratory bird privilege the MDC permit system.

The large numbers of Canada geese have caused concern to several property owners in the Kirksville area. We have been able to address these issues through an egg oiling program during the summer months. Canada Geese are migratory birds and are federally protected by the Migratory Bird Treaty Act. The U.S. Fish and Wildlife Service has jurisdiction over Migratory Birds but grants the MDC a blanket permit for goose abatement practices from March 15th through August 31 annually. Outside of those dates, the U.S. F and W Service has jurisdiction over geese and hunting seasons dictate limits and restrictions on the taking of geese.

The city of Kirksville may authorize citizens to protect their property from damage through legal methods, as well as make more restrictive rules as they pertain to the city limits. In keeping the great relationship MDC has with the City of Kirksville I am very supportive of the issuance of a special authorization to Andrew Grimm to deal with the Canada goose problem his family is currently facing. He is clearly aware of his obligations to do this under the Early Goose Season parameters of being legally permitted and held to the daily limits allowed of harvest.

The early Canada goose season was set to address issues like this, so that geese can be harvested prior to fall migration, while they are still in their home areas and in groups of large numbers.

Please feel free to contact me with any further questions or issues regarding the goose problem.









AGREEMENT

THIS AGREEMENT, entered into this 27th day of April, 1991, by and between the City of Kirksville, Missouri, hereinafter referred to as "City"; and the Adair County Rural Fire District No. 1, hereinafter referred to as "Fire District".

WITNESSETH:

The parties hereto agree as follows:

1. The City, for One Dollar (\$1.00) and other valuable consideration, agrees to convey to the Fire District, a tract of land more particularly described in Exhibit "A", attached hereto and incorporated herein by reference.

2. Subsequent to said conveyance, the Fire District shall construct and maintain, at the sole expense of Fire District, a fence suitable for turning livestock along the west, south and east boundary lines of the tract of land described in Exhibit "A".

3. Subsequent to said conveyance, the Fire District shall offer fire protection for all lands owned by the City located within the present or future boundaries of the Fire District to the same extent as such fire protection is offered to all members of the Fire District, and the City shall not be required to make any payment for such membership, but shall be considered a member of the Fire District with all the rights and privileges of the same.

4. This Agreement shall be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first written.

Adair County Rural  
Fire District No. 1

By: Matt Eichor 2/11/91  
President - Matt Eichor

City of  
Kirksville, Missouri

By: Tom Duden  
Mayor - Tom Duden

By: David P. Parish  
Fire Chief - David Parish

EXHIBIT "A"

A tract of land in the Southwest Quarter of Section 9 Township 63 North, Range 15 West, Adair County, Missouri, To Witt:

Commencing at the West Quarter Corner of said Section 9; thence east along the quarter section line, 1256 feet to a point; thence south 30 to set iron rod on the south right-of-way line of an existing county road, the true point of beginning for this tract of land; thence continuing south, 250 feet to set iron rod; thence east, 276.6 feet to set iron rod; thence N 43 degrees 02 minutes E, 342 feet to set iron rod on the south right-of-way line of an existing county road; thence west along said right-of-way line, 510 feet to the true point of beginning for this tract of land. Containing 2.25 acres, more or less.

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Friends of Forest-Llewellyn Cemetery Present:

# CEMETERY SCAVENGER HUNT

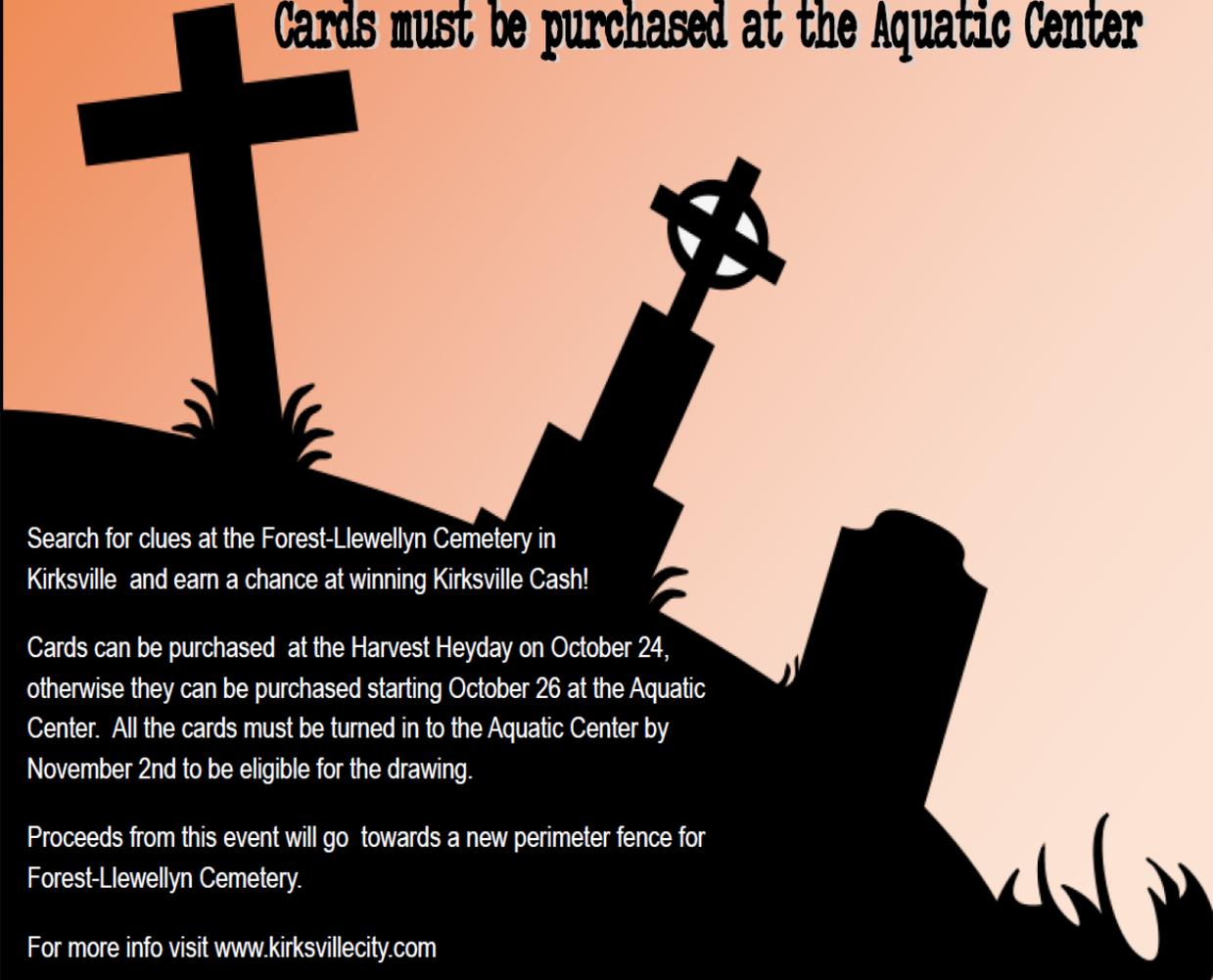
a fun, historical, and spooky fundraiser!

October 26-November 1

\$5.00 Adult Card

\$3.00 Child Card

Cards must be purchased at the Aquatic Center



Search for clues at the Forest-Llewellyn Cemetery in  
Kirkville and earn a chance at winning Kirkville Cash!

Cards can be purchased at the Harvest Heyday on October 24,  
otherwise they can be purchased starting October 26 at the Aquatic  
Center. All the cards must be turned in to the Aquatic Center by  
November 2nd to be eligible for the drawing.

Proceeds from this event will go towards a new perimeter fence for  
Forest-Llewellyn Cemetery.

For more info visit [www.kirkvillecity.com](http://www.kirkvillecity.com)

**ADAIR COUNTY HUMANE SOCIETY**

**P.O. Box 481**

**Kirkville, Missouri 63501**

September 10, 2015

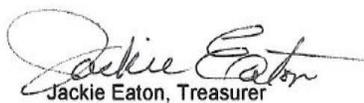
REC'D SEP 23 2015

TO: Kirkville City Manager

FROM: Adair County Humane Society

RE: August Shelter Report

|                                |         |    |
|--------------------------------|---------|----|
| <b>Brought In (City)</b>       | Dogs    | 12 |
|                                | Cats    | 28 |
|                                | Puppies | 0  |
|                                | Kittens | 6  |
| <b>Euthanized (City)</b>       | Dogs    | 3  |
|                                | Cats    | 13 |
|                                | Puppies | 0  |
|                                | Kittens | 4  |
| <b>Brought to Shelter Dead</b> | Dogs    | 0  |
|                                | Cats    | 2  |
|                                | Kittens | 0  |
|                                | Others  | 16 |
| <b>Returned to Owner</b>       | Dogs    | 3  |

  
Jackie Eaton, Treasurer

# WATERS OF THE UNITED STATES

## WHAT IN THE WORLD IS WOTUS?

by Ramona Huckstep

On May 27, 2015, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) finalized the Clean Water Rule, also known as the Waters of the United States Rule (WOTUS). This is the most recent amendment to the Clean Water Act (CWA). According to the EPA, “the rule ensures that waters protected under the CWA are more precisely defined and predictably determined.” Supporters claim this new rule is supposed to respond to the public’s demand for greater clarity, consistency and predictability when determining who has authority. Municipalities need the clarity of knowing which waters are protected to administer their clean water programs and to build and maintain their infrastructure, such as roads and ditches, water treatment facilities, and storm water systems. According to the EPA, local governments are the largest providers of clean water in the U.S.

In developing the rule, the agencies held more than 400 meetings with stakeholders across the country, reviewed more than one million public comments, and received various perspectives from the different sides. Ultimately, the Clean Water Rule was published in the Federal Register on June 29, 2015, and the final rule became effective on Aug. 28, 2015. While the work that went into the creation of the WOTUS rule is done, the real work now begins with the implementation and interpretation of the rule. The Missouri Municipal League (MML) is active at many levels in this discussion and working to support and assist the municipalities.

What does this mean for municipalities around the United States and specifically here in Missouri? It starts with the premise that protecting water resources is important. We need clean water to drink and we need it for fishing and recreation. Clean water is vital to agriculture, energy production, manufacturing and businesses. The way we get and keep clean water is through clear and implementable rules. This is where things become clear as mud. What is “clear” and “implementable”? According to the EPA and Corps they have created a rule that is just that. However, many state and local groups and associations across the U.S. disagree. At many levels, groups are pulling together to figure out how this new Clean Water Rule will impact local entities. They are joining together to let the EPA and the Corps know about their concerns and taking action to modify the rule or stop it altogether.

## WOTUS AT A NATIONAL LEVEL

According to EPA, the new rule does not create any new permitting requirements. It does reduce economic burdens on communities by simplifying and speeding up the process of determining if a body of water is protected. However, the National League of Cities (NLC) has a different opinion on how this rule will impact municipalities. Since before the proposed rule's publication, the NLC made EPA aware of the potential impacts of the rule on localities.

At the national level, NLC joined forces with the U.S. Conference of Mayors, the National Association of Counties, and the National Association of Regional Councils to voice their concerns to members of Congress regarding not only the process, but the specific worries about the rule itself.

In a letter to Congress, the group noted that the EPA and the Corps failed to consult states and localities early and often, especially as they relate to forming practicable and workable rules. The group also believes that the analysis used to support the rule was faulty and incomplete. Federal agencies analyzed economic data from only one section of the permit program. However, with the change to the definition of "waters of the United States," the inference is that it would be applied consistently throughout the Clean Water Act; therefore, it could impact other CWA programs.

In regard to the substance of this rule, this group disagrees with the assumption that the definition in the rule of "Waters of the U.S." provides the certainty and clarity needed for operations at the local level. The rule also includes undefined and confusing new terms with potential for sweeping impacts across all CWA programs. For example, the rule extends the "Waters of the U.S." definition by utilizing new terms, such as "tributary," "uplands," "significant nexus," "adjacency," "riparian areas," "floodplains" and "neighboring," that could increase the types of public infrastructure considered jurisdictional under the CWA.

## WOTUS AT THE STATE LEVEL

On Aug. 11 of this year, Missouri Attorney General Chris Koster filed

## HISTORY OF THE CLEAN WATER ACT

The Federal Water Pollution Control Act of 1948 was the first major U.S. law to address water pollution. Growing public awareness and concern for controlling water pollution led to sweeping amendments in 1972. As amended in 1972, the law became commonly known as the CWA. The 1972 amendments are as follows:

- Established the basic structure for regulating pollutant discharges into the waters of the U.S.;
- Gave EPA the authority to implement pollution control programs such as setting wastewater standards for industry;
- Maintained existing requirements to set water quality standards for all contaminants in surface waters;
- Made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions;
- Funded the construction of sewage treatment plants under the construction grants program; and
- Recognized the need for planning to address the critical problems posed by nonpoint source pollution.

Subsequent amendments modified some of the earlier CWA provisions. Revisions in 1981 streamlined the municipal construction grants process, improving the capabilities of treatment plants built under the program. Changes in 1987 phased out the construction grants program, replacing it with the State Water Pollution Control Revolving Fund, more commonly known as the Clean Water State Revolving Fund. This new funding strategy addressed water quality needs by building on EPA-state partnerships.

a motion on behalf of the state of Missouri for preliminary injunction to block implementation of a new federal rule until the court decides whether the rule violates the U.S. Constitution and other federal laws. In June, Missouri and 12 other states sued the EPA and the Corps over the agencies' new rule defining "Waters of the United States." According to the Attorney General's office, "The new definition expands the scope of clean water regulations to lands that are dry much of the year, and increases

the federal government's authority to control land use in Missouri." The states allege that EPA and the Corps also failed to follow proper procedure before adopting the rule, which is what the National League of Cities and their group insisted as well. They also allege that the rule violates several provisions of the U.S. Constitution.

Koster said the agencies' new definition of "Waters of the U.S." extends the agencies' regulation far beyond what a reasonable person

considers to be a waterway. For example, the rule defines tributaries to include ponds, streams that flow only briefly during or after rainstorms, and channels that are usually dry. The definition extends to lands within a 100-year floodplain, even if they are dry 99 out of 100 years.

Gov. Jay Nixon engaged the EPA by sharing the accomplishments of the citizens of Missouri and the Missouri Clean Water Commission that adopted modifications strengthening state water quality standards pertaining to classified waters. This state rulemaking was lengthy and highly contentious. However, the outcome was positive in that Missouri's water quality standards better protect more waterways and have the support from citizens. Now, the newly minted WOTUS rule overrides state jurisdiction and imposes extreme standards with disregard for ongoing efforts by state regulatory authorities and stakeholder groups in Missouri to advance water quality goals.

#### WOTUS AT THE LOCAL LEVEL

The Missouri Municipal League has teamed up with 22 other associations to voice their concern of the WOTUS Rule. This coalition of associations, including the Missouri Association of Counties and various farm and agriculture associations, stress that the rule extends EPA's regulatory reach farther than originally thought. According to the coalition, the rule will "subject citizens to land use restrictions and enforcement action in situations that always have been and should rightly remain the purview of state and local government." This has serious implications because the CWA

is a strict liability statute that imposes both civil and criminal sanctions. This could mean that any discharge into a WOTUS could lead to criminal or civil penalties of thousands of dollars per day and possible prison time.

The Missouri Municipal League

*The Missouri Municipal League will continue to monitor how Waters Of The U.S. is interpreted and will keep members informed. In the meantime, members need to be aware of the rule and the possible implications that may come from it.*

continues to be part of the discussion of the overall fate of the WOTUS rule. There are a number of strategies under study and refinement. The MML will continue to monitor how the rule is interpreted and will keep its members informed. In the meantime, members need to be aware of the rule and the possible implications that may come from it.

#### MAJOR ISSUES WITH WOTUS

The three main overarching concerns that seem to permeate throughout the various levels of

government (federal, state and local) as it relates to WOTUS are:

- 1) Insufficient stakeholder engagement by EPA and the Corps;
- 2) Lack of clarity and increased regulatory uncertainty; and
- 3) The overreach of the federal government's authority on land in Missouri.

The WOTUS Rule will bring with it a host of additional environmental regulations and requirements that will impact municipalities of all sizes. There could be increased permitting requirements. For example, a temporary stream might now be under the jurisdiction of the EPA and will have to meet water quality standards that were not previously in place.

With the increased permitting requirements, there are increased costs. Trying to determine if a water body falls under EPA jurisdiction can be costly and take years. There is a predicted increase for mitigation requirements that, in turn, stresses an already strained mitigation banking system and makes it very expensive to preserve or create sites. Also, there is a potential for increased risk in general to project proponents and landowners due to the WOTUS permit process that may be difficult to obtain and keep. There is an increased risk of citizen lawsuits when it comes to challenging jurisdictional determinations and unpermitted discharges. Finally, with WOTUS there is an increased regulatory uncertainty and implementation challenge.

Although an aim of the rule is to provide increased regulatory certainty, the WOTUS rule does not achieve this goal. Instead, it may lead to: further

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confusion that could lead to landowners not knowing their obligations under the law; citizen lawsuits; inconsistent regulatory application; businesses halting their operations to ensure compliance; and an increase need to ask the Corps for a jurisdictional determination before using a piece of land.

It appears what started out as a federal rule with positive intentions by the EPA and the Corps has caused a firestorm of concern from many local and state agencies and associations. We all want clean drinking water and safe places to swim and fish. The question is, what is the best way to make this happen and is the WOTUS rule the way to accomplish this? □

**Ramona Huckstep** is a Policy and Membership Associate with the Missouri Municipal League. Prior to MML, she worked for the Missouri Department of Natural Resources in the Hazardous Waste Program. Her position as an Environmental Specialist/Community Involvement Coordinator for more than 16 years allowed her to work with communities impacted by hazardous and radioactive waste. In coordination with the Department of Defense and the Department of Energy, she informed and provided opportunities for communities to be part of the decision-making process. Contact Ramona at (573) 635-9134 or Rhuckstep@mocities.com.

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September 28, 2015



Dear Friend,

A lot of hard decisions will have to be made to get our nation's debt under control, but cutting duplicative and wasteful programs within the federal budget should be a no-brainer.

Every year the Government Accountability Office (GAO) puts out a report identifying billions of dollars' worth of waste in the federal budget, and every year these suggestions go ignored. That is simply unacceptable.

Last week, I introduced the *Improving All Government Efficiency Act* in the House. My bill will force federal agencies to implement suggestions for waste reduction identified in GAO's reports. Each agency that chooses to ignore them will face an automatic 1% budget cut every year.

To read GAO's reports, please visit [www.gao.gov/duplication/overview](http://www.gao.gov/duplication/overview).

Sincerely,



Sam Graves

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**Yes, please periodically send me e-mail updates.\***

**CLICK HERE**

\*By subscribing to my e-mail updates, you are authorizing me to send regular e-mail updates from my office to your e-mail account.

Dear Robin and Aquatic Center Staff,

I wasn't quite sure what to expect when the outdoor pool opened for the summer. I'm certain is not easy to juggle energized children, water aerobics, and lap swimmers all under one roof but you do a wonderful job.

I just wanted to say thank you for all the hard work from your courteous employees. You are appreciated!

yay!

Denise B

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September 22, 2015

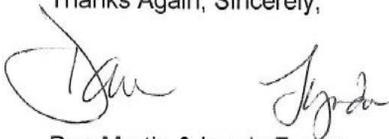
City of Kirksville  
Ashley Young  
201 S. Franklin  
Kirksville, MO 63501

Dear Ashley,

Thank you for your support of the 31<sup>st</sup> Annual Northeast Missouri Triathlon. On behalf of the administrative team, we are grateful for your help! We had another successful event; glowing post-race reviews by triathletes and USAT; and a safe/fun/fitness event (along with a beautiful day).

We appreciate you working with us and providing so much support in so many areas. We just couldn't do everything that needs to be done without sponsors like you. We are planning for the same weekend after Labor Day again in 2016. We'd like to count on your help again. We attribute help like yours to the tremendous success of this race. Thank you for adding to the quality of our triathlon here in Kirksville. We look forward to working with you in the future!

Thanks Again, Sincerely,



Dan Martin & Lynda Furney



THANK YOU!

THE SET-UP w/ RAY'S GUYS?  
THE SUPPORT ON THE LAKE WAS TREMENDOUS

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ON THE TRI.

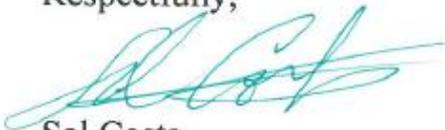
\* THANK \*  


Dear Mari,

I want to thank you so very much for helping me out with my neighbor issue. They cut down the trees, cleaned up the weeds and the grass and it looks so much better. I know that you are a very busy person and I certainly want to let you know that I sincerely appreciate you taking the time out of your schedule to help me. If there is anything that I can do to repay the favor, please do not hesitate to ask.

Thank you so much.

Respectfully,



Sal Costa