

No Standing News

Since we have no standing, we stand with those left standing

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Hi Point -The Black Hole of Tax Assessment – part 6

Avoiding the constitutional question

July 3, 1995 – Public Hearing for the 1992 “Float” Loan for the Incubator Project – The Rolla City Council held a public hearing required by the terms of the federal Economic Development Administration (EDA) Business Incubator grant to: *“Discuss past performance on the City’s 1992 Float Loan for the Incubator Building. City Administrator Merle Strouse noted that the City has reached the 30 month point on the City’s 1992 DED Float Loan to pay the remaining costs of the incubator building. The incubator contract consisted of a \$540,000 loan from EDA and a float loan of \$380,000+ thousand to complete the building. The contract requires that the loan be paid either at the end of 30 months or when the incubator building has obtained at least 60% occupancy, whichever comes first.”* No one had anything to say. It would be 2005 before anyone on the council asked what RCDC was doing with their rent money.

July 3, 1995 – The same night as the Incubator hearing the Rolla City Council voted a budget adjustment to spend \$775,000 for their share of the Briggs & Stratton project. *“City Administrator Merle Strouse explained that the additional \$775,000 shown as a revenue [item] is a result of Rolla Municipal Utilities’ (RMU) portion of the closing costs for the Briggs and Stratton project.”* RCDC wouldn’t even pay the closing costs! City Counselor John Beger then read the ordinance once by title only. Ayes: **Light, Painter, Daily, Rothwell, Smith, Owsley, Kordes, J.D. Williams, Magdits, Krueger and Hoevelmann. Councilman Rolufs** was absent. Owsley had never abstained from a council vote to enrich RCDC and he wasn’t going to start now. The Briggs & Stratton price tag was up to \$1,550,000 out of the city and RMU’s pocket plus the \$700,000 from UE but that wasn’t the end of the fleecing of city taxpayers.

August 2, 1995 –The Incubator that Didn’t. The Incubator was finished, the ribbons were cut, all the right people had their pictures taken for posterity and Rolla’s Incubator was open for business. We could now “grow our own jobs.” If any new businesses were ever incubated in the building, it’s been a well-kept secret. For years it’s been used for a warehouse for Brewer Science. In fact, the sign on the building says it’s their shipping dock. Brewer Science was not a new business start-up and a warehouse is not what the \$906,000 incubator was supposed to be. MoSci, also not a new business, may have spent a short time in the incubator before they built their own building, but no one - least of all the city council - know how much was paid to RCDC in rent by either company.

(Note: As are working on this series, the City Council, on July 5, 2005, agreed to give the building to RCDC seven years early. Why? Because RCDC didn’t want to tell the city what they had been doing with the rent money for the last ten years and what they had been doing with the excess that was supposed to go to the city. To avoid the financial disclosure some council members were insisting upon, RCDC offered the city **\$81,250** in cash and **14.5 acres** of land they owned out by Can Tex they said was worth **\$7,500** an acre (total of \$190,000) in exchange for the **\$906,000** building. RCDC will still not be paying property taxes on the building thanks to the apparently unlimited, 100% property tax exemption they were granted in 1967 for *everything they own in Hy Point* which now includes this \$906,000 building. The land RCDC sold back to the city is land the city bought and *gave to RCDC in 1987*. RCDC merely marked-up their free property and sold it back to the city claiming it now had a value of \$7,500 an acre!) Our examination of the deeds, however, *indicates that 10 acres may be missing from the deal*. We have asked what happened to the other 10 acres but there has been no reply.

January 8, 1996 – Four years after the EDA grant for \$543,000, was awarded to the city on the 1992 Incubator Project the City finally signed the *Management and Maintenance Agreement and Assignment of Rents* with RCDC. The original 1992 ordinance *didn’t* give away the building to RCDC but the 1996 management agreement did. Why? Apparently the only way the city council could get RCDC to turn over the deed to the 2.79 acres so they wouldn’t default and have to pay back EDA the \$540,000 grant was to bribe RCDC with a gift of the whole damn thing! There was no reason for the city to agree to give the building to RCDC at the end of 20 years just because RCDC owned the *free* unimproved property they built the \$906,000 building on, but the city did. Why did the city agree to give RCDC the whole building when they could have just given RCDC 3¢ back for the 2.79 acres? Because that’s what the city council was trained to do – give RCDC whatever they wanted. For 29 years, instead of building up a solid inventory of city economic development assets, they had been building a portfolio of valuable property for RCDC.

The management resolution laid out essentially the same financial agreements for the project as City Ordinance #2890 had described in 1992 but oddly it left out the part in Section 3., of the 1992 ordinance which said, *“No part of the \$190,000 set aside in the special fund shall be disbursed to RCDC unless RCDC conveys to Rolla the 2.79 acres upon*

which the Project is located for the remainder of the useful life of the Project...

Instead of that 1992 ultimatum, there were these two interesting statements in RCDC's 1996 Maintenance Agreement: "WHEREAS, a question arose as to whether Rolla has the authority under the Constitution of the State of Missouri to lend its credit or to grant public money to the Project in that the Project was located on land owned by RCDC; WHEREAS, to avoid the constitutional question* RCDC agreed to convey the Project to Rolla for the useful life of the Project at such time as the city's \$190,000 was handed over to RCDC, DED, or Banks." ***The Constitutional question RCDC was avoiding:** "Art. VI Section 23. No county, city or other political corporation or subdivision of the state shall own or subscribe for stock in any corporation or association, or lend its credit or grant public money or thing of value to or in aid of any corporation, association or individual, except as provided in this constitution."

The Constitutional Cover-up. With teeth clenched and backs against the wall, the RCDC was only willing to admit that "a question arose" as to the constitutionality of the long practice of giving public money and property to RCDC. So they pretended they were only giving the land to the city temporarily "to avoid the constitutional question," they were not conceding that it was exactly what it was, an unconstitutional giveaway of public money. This was the RCDC version of "guilty but not responsible."

In 1992 the city had required conveyance of the land back from RCDC because the federal and state government required it, otherwise they wouldn't get federal funding for the project. It had taken four years to get the project finished and for RCDC to comply with this simple provision. It appears that the city was going to deny the rents to RCDC unless they finally turned over the land. Is it possible that the curious statement that they were "avoiding the constitutional question" means there were some members of the council making trouble in closed session because they finally realized that that RCDC had been bleeding the city dry for the last 29 years and they didn't want to break the law again? We can think of a few (very few) council members who might have had the guts to do this – even with Councilman Ed Owsley sitting in the room growling and taking names.

If there are a few ex-council members who deserve credit for trying to get the city off the RCDC train to the Middle of Nowhere it's too bad we can't give them credit for speaking up. That's the trouble with doing city business in illegal closed meetings; no one knows who might have tried to do the right thing. When public business is done in the dark, you can't tell the merely culpable from the very guilty.

The city now held title to the Incubator land and building and were responsible for the success of the project that would "grow our own jobs" for the next 20 years, but they turned the project over to RCDC to manage, no doubt because of RCDC's outstanding record of success. The contract said that all rents would be paid to RCDC "to be applied to the cost of management and maintenance and the reduction of the indebtedness incurred by RCDC for

construction of the project." But it also says even if the \$190,000 debt of RCDC was paid within the next 20 years the city would still let RCDC have "such portions of the rents received from the Project as are necessary for management and maintenance" but the city could "retain the excess" (if RCDC admitted there was any) to reimburse the \$190,000 the mayor and council had filched out of the city budget in closed session for the city's share of the project. Normally a city getting a \$906,000 building by spending only \$190,000 wouldn't quibble about being reimbursed because they would end up with a very valuable property but in this case they weren't really getting a \$906,000 building, as RCDC's skills they were only getting to pretend it was theirs for 20 years. RCDC probably didn't even give them a door key. That's how the City of Rolla turned their eggs over to RCDC to incubate for the next two decades. Those RCDC board members who represented the interests of the three banks were now in this up to their white-collar banking necks. You know you're committing conflict of interest if you have to consult a chart to figure out which hat you're wearing when you're doing something "for the betterment of Rolla."

Now *they*, the three RCDC banker/board members, not only had a lien on all the remaining property in the industrial park but they were responsible for managing what we were promised would be a successful incubator to 'grow our own factories' which would generate the revenue to pay back the RCDC bank debt to *their* bank board members. But if the project was poorly managed, *by them*, there would be no revenue to repay the loan *to their banks* so *they*, as the lenders, could foreclose on RCDC, (*i.e. themselves*) and take possession of the remaining land in the industrial park. Thus the three banks would benefit from either the success or failure of the incubator by their own member/managers on the RCDC board. Only Rolla could have come up with a scenario so grotesque, one where failure had greater rewards than success.

RCDC has never ceased to beat its own drum but the drumbeat to promote the "grow our own jobs" business incubator has been strangely silent. Do you remember, since 1996, any advertising or promoting by the City or RCDC extolling the opportunities available in the Rolla Business Incubator in Hy Point? Do you recall any recruiting of those who might have an idea for a small business that needed incubating?

March 23, 1998 – City Petition Audit by State. Missouri State Auditor **Margaret Kelly**, presented the report of the petition audit of the City of Rolla. Kelly exposed RMU's practice of overcharging Rolla utility rate payers in order to siphon the money out to give it away for RCDC's economic development and other spending by the city. She called it a "hidden economic development tax" or double taxation and explained that sucking cash out of the utility for non-utility purposes could cause "utility rates and charges to be set higher than required to recover actual costs." (You think?) Her examination exposed the payment of **\$1,304,000** by RMU to the city in 1995, the year of the Briggs & Stratton deal. Kelly also revealed that "During the three years ended September 30, 1997, RMU reimbursed the city *more than*

\$250,000 related to utility rebates which the city then passed back to industries that qualified within the city's enterprise zone. Utility rebates were not mentioned in any of the contracts we have obtained so there must be other secret contracts containing this utility kick-back agreement between RMU, Briggs & Stratton, Brewer Science and who knows how many others. It's something to think about each month when you're writing out your check to RMU with the city's 5% or 6% kickback.

In addition to Kelly's report of \$250,000 in utility rebates from 1994-1998, City budgets for the Economic Development Department from 1997-2000 show a total of **\$472,760** spent on "Contractual Expenditures" to "Briggs Rebates/EDA/Ad." That's about **\$722,760** in utility rebates in only six years. **Brewer Science** is also noted for utility rebates in some city budgets. It seems there are other secret agreements yet to be revealed containing the details of more giveaways off the backs of RMU's utility rate payers. No wonder RMU has been slapping on 10% rate increases and \$192 annual charges for meter fees and have just announced another 22.5% rate increase to begin October 1, 2005. That's more than a 32.5% rate hike in for electric and water in less than 3 years.

All those years when people thought they were just paying their own utility bills, they were really paying extra with every bill so Briggs & Stratton and Brewer Science could get cash rebates on *their* utility bills and the city could have a 5% cut of gross revenues to spend on things discussed in closed meetings. What State Auditor Kelly missed was that two of the members of RMU's board, [Dain Ward](#) and [Bill Jenks, III](#), were both on the RCDC board and [Councilman Ed Owsley](#) was also on the RCDC board. If she had known about that triad she would have understood why there was an open cash pipeline flowing from City Hall and RMU to, what former RDN Editor Bill Morrison calls, "Rolla's Crown Jewels." We agree they're wearing the "Crown Jewels." Unfortunately, we're still paying for the crowns and the jewels.

Other bailouts by City Hall such as buying the police station from former Mayor Ferrell's bank and other giveaways, she said totaled \$1.3 million. Nonsense, RMU's arrogant board members said in their official reply to the state auditor, we've given away much more than that. We've given away over **\$4,494,112** and we're going to keep on overcharging for electricity and we'll give the excess money away for anything we please! And they have.

October 6, 1998 – "As a dog returns to his vomit, so a fool repeats his folly." The council returned to their folly by giving RCDC another 60 acres of city land bought by city taxpayers and we were about to have four (that's 4) different economic development groups. In December, the newly elected establishment candidate, **Mayor Joe Morgan** had appointed (1) [Dain Ward](#), to be Rolla's Economic Developer with a budget of \$20,000 and promises of a \$200,000 budget to come. Ward was also an officer of RCDC and President of the RMU board. Around that same time the city had created another development group called the (2) Rolla Economic Development Committee (REDC) and they appointed [Dain](#)

[Ward](#), **Dr. Dean Keith** and **Terry Brewer** to it. Now the city had two new economic development boards to do nothing *and* they still had the totally impotent (3) Rolla IDA whose members were: [Don Castleman](#), [Bill Jenks, III](#), [Ed Loughridge](#), [Steve Bowles](#) and [John Z. Williams](#), all of whom were also RCDC board members. Since 1979 the city's IDA had been RCDC's 'neighborhood watch' group. The RCDC members appointed to it 'watched' to make sure no one messed with RCDC.

The real development group was still (4) RCDC: [Dain Ward](#), [Ed Owsley](#), [John Z. Williams](#), [Ed Loughridge](#), [Ray Rucker](#), [Bob Stoltz](#), [Bill Jenks III](#), [Bob Tucker](#), [Steve Bowles](#), [Don Castleman](#) and [Bob Thompson](#), the corporate special interest group that had picked Rolla clean and created economic development stagnation during the 90's industrial development boom.

The more developers the city had the more nothing they got done. The Briggs & Stratton plant hadn't been the catalyst for more factories to rush in to fill up Hy Point as predicted in the 1996 Rolla Comprehensive Plan. So, applying the same tortured reasoning they had used for the last 31 years, the city's solution was to create more industrial development organizations to have more meetings, buy more land, give away more property taxes and spend more money on development.

This brings to mind our favorite economic development story. Two guys from City Hall were selling watermelon out of their truck out by the Sears store. Three times they had gone to Arkansas and bought a truckload of melons for \$1 apiece. Ed, (the smart one) had made the sign, "Melons 50¢ each," but they had sold only half of each load. After their third trip Joe was counting their dwindling cash but he couldn't figure out what they were doing wrong. Ed said, "I've been thinking on it Joe, and I know what we need to do. We need to get a bigger truck." Rolla had four trucks and was about to buy truck number five – the RREC.

June 23, 2000 – St. James announced Wal-Mart would build a distribution center in St. James. Rolla, represented by [Dain Ward](#) (RMU board member, also the president of the RECD, board member of RCDC, and Mayor Morgan's economic developer) had tried to get the project in Rolla but St. James beat them out. By 2000, the RCDC image of infallibility had finally begun to crumble. The new generation of city officials had not been indoctrinated to kowtow to RCDC as had their predecessors. They wanted to be players in the development game but they had nothing left to play with - RCDC had all the marbles and had stolen the game board.

Summer 2000 – Mayor Morgan announced a Task Force on ED to bring order to Rolla's "fragmented economic development efforts" (a comment on RCDC and the city's other three development groups). Several by-invitation-only breakfasts were held and the council had a workshop to create a "Vision" and a "Mission" and the usual strategic planning blah, blah, blah. They assigned tasks to all Rolla's many development players including the Chamber and put together an estimated budget of \$250,000. This was all window dressing for a very different purpose – sidelining the RCDC.

The "tasks" RCDC was assigned required accountability to the city and coordinating with others – things they had never done and had no intention of doing. RCDC's failure created the justification for a takeover by a new 'super' development group.

September 2001 – The RREC emerges. **Mayor Morgan appointed another new ED organization, the Rolla Area Economic Commission (later changed to RREC – the Rolla Regional Economic Commission). This was economic development organization number 5 but this one was a real threat to RCDC's long and undisputed reign.**

Members at the time were: Neil Smith, UMR; [Ed Owsley](#), RCDC; Lou Magdits, **Rolla City Council**; Bill Marshall (**At-Large Representative**), PCB; [Robert Thompson](#) (**At-Large Representative and RCDC board member**), MO Enterprise; Robert Larivee (**School District At-Large Representative**); John Petersen, **Rolla Community Development Director, Mayor Joe Morgan, Presiding and City Administrator John Butz.**

RCDC and the Chamber of Commerce hadn't been included at first but were added later. RCDC might not be the popular kid anymore but they couldn't be shut out entirely because they now owned all the city's development assets! The new group agreed that "RAEC (RREC) would keep the City Council informed rather than the council directing RAEC (RREC)." Well of course. City taxpayers were expected to fork over most of the money RREC would spend but why spoil them with accountability when they weren't used to having any.

In 'Ht Point –The Black Hole of Tax Assessment' Part 7: *The RREC's "Creative Development Opportunities"*

Note: Some documents referred to in this series are posted on the NSN home page. Providing them all would take up too much space. All are public record and available at City Hall or the County Courthouse.

March 6, 2002 – The City refused another token option to repurchase one acre of park ground that RCDC planned to sell to Meramec Regional Planning Commission for \$10,000 to construct a day care center for use by the businesses at the industrial park. **NSN Editor, Robert Nash**, asked who would get the cash from the sale of the land; the City or RCDC? Councilman [Ed Owsley](#) admitted that the cash would go to RCDC "to pay their indebtedness." When the acre was later found to be an old contaminated lagoon and too costly to remediate or fill, RCDC offered, for the first time, to donate the contaminated land for the project. The project eventually fizzled for reasons other than the fact that no one minded having children play on toxic dirt.

May 7, 2002 – The council refused another token option to repurchase 10.45 acres in Hy Point so RCDC could sell the land to Terla, Inc., (a Brewer Science holding company) for \$52,250 for their expansion. That sale alone should have paid off almost a third of RCDC's \$182,400 debt to the three Rolla banks for their share of the incubator project if it hadn't already been paid off. Did it? Only RCDC knows.

June 27, 2002 – The RCDC sold another 2.25 acres to Pepsi-Cola Bottling Company for an undisclosed amount. In February 2004, Pepsi Co moved into Hy Point from their former location on Old St. James Road. The City recently gave them 100% tax abatement on all property taxes for 10 years under the Enterprise Zone program for just moving across the highway.

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