

No Standing News

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

Volume II

October 11, 2006

Number 55

The Anti-Pork Amendment and the myth of “Public/Private Partnerships”

We need to get Article VI, Sec. 23 spray painted on the back wall of the council chamber where some council members can read it over and over, maybe then it would sink in. *Missouri Constitutional Article VI, Section 23* prohibits every political subdivision from “**lend[ing] its credit or grant[ing] public money or thing of value to or in aid of any corporation, association or individual...**” That includes corporations like the Chamber and RCDC and even the nice Audubon people. It includes giving away land, money, or loans to pay rent and, in the case discussed August 21, the “donation” of city employee time and labor. Yes Virginia, it still oinks even when it’s just “helping” the nice Audubon people put in a handicapped nature trail. No matter how it’s disguised by the verbiage of “partnerships” or “contributions” or “loans” or “donations” or “economic development,” pork is still pork.

Article VI, Sec. 23 is the Missouri Constitution’s **Anti-Pork amendment**. It was designed expressly to *protect the public from having their money doled out to political cronies, private and non profit corporations or special interests no matter how benign the excuse or how popular the cause.*

At the August 21st council meeting the **Ozark Audubon Society** asked the council to “help” them make a concrete-paved nature trail for the handicapped on their property by having city workers “contribute” the labor. On the surface it was a benign request for a worthy cause, easy to agree to and the council immediately agreed to it. During the discussion every council comment declared it to be “a good thing.” We think it’s a good thing too. How could anyone be opposed to it? It’s just not **legal** to do it with public money—in this case about \$10,000 worth of city-paid labor.

John Butz explained that “partnerships” save the city money in the long run. Why? Because, as Butz explained in his muddle-headed Butz way, with a “partnership” the city would only pay for the labor but without the “partnership” the city would have the much greater expense of hiring a contractor to do the whole project. It never occurs to Butz that the other choice is not doing it at all and using the money for things like...oh, paying city bills or bailing out the Rec Center deficits.

C. Wiggins, who adores any kind of “partnerships” said it was a “Great Partnership” and pointed out that the Audubon land is private property but it was okay to “help” them because, she rationalized, it was “open to the public.” Another muddle-head heard from. Access does NOT make it less of a constitutional violation. Mayor Jenks added the big clincher that they’re a not-for-profit AND a 501(c) 3

corporation. Wow, a trifecta of worthless excuses. Jenks, a board member of RCDC, the private corporation that habitually drains the city’s money under the excuse that they’re a “not-for-profit,” seems to think all non-profit corporations are the legal and moral equivalent of the Salvation Army. None of these excuses exempts this project from Article VI, Sec. 23. However worthy the cause or project, however much we all want to do it, the public doesn’t pay taxes so government can subsidize local corporate ‘clubs’ or build private parks, nature trails or mow private property.

What do you know! This one is actually legal. The city is collaborating in another “partnership” project with the Rolla School District. Butz and Hargis call this a “cost-sharing” project. How sweet. The city will put \$7,000 in the project and the school district will put in \$28,000 to improve a school parking lot. Surprisingly this is *not* a violation of Article VI, Sec. 23, because it’s two *public* governmental bodies spending *public* money for a *public* facility that the *public* uses. The only problem with this “cost sharing” project is that it doesn’t make much sense for the city, with a budget of only \$24 million and 15,000 people to take care of, to give financial help to the school district which has a budget of over \$49 million and only 4000 kids to spend it on. A very lopsided “partnership” but at least it’s a legal one.

The PPP slippery slope. There’s another reason for not handing out money to “Great Partnerships” or even very worthy causes. About 20+ years ago the city council was in the habit of handing out matching money to help worthy causes such as Meals on Wheels, Sr. Citizens, Red Cross etc. get federal grants. At the time everybody was doing it because **President Reagan**, and later **Pres. Bush Sr.** with his “Thousand Points of Light” slogan, invented this “Public/Private Partnership” crap so the feds could cut back on funding the multitude of social welfare programs politicians in both parties had invented and used to further their political careers. The city council believed they were doing good works for the community. They were ‘good works’ but it just wasn’t wise, practical or legal for city government to do it. The United Fund is supposed to do the ‘good works’ and they should have been giving these worthy causes the “seed” money to leverage federal grants, but at that time the United Fund was one of those things **Big Ed Owsley** controlled so he could hand out “his” United Fund money to those who supported Big Ed Owsley.

After years of misguided generosity the council realized that as the federal government annually cut back funding a growing portion of the city budget was going to support all these “worthy” causes. Eventually the subsidies got so big they had to cut everyone off. Well, everybody but the RCDC. The sudden loss of city “partnership” funds was painful for the people who depended on services like hot meals. The point is that not only is it illegal to give money or in-kind services to any private or non profit corporations, the City just can’t afford to be the United Fund for every worthy cause in town.

“Public-Private Partnerships” are a Washington D.C. fiction. PPP’s aren’t legal on the state or local level unless there is a specific statute allowing local government to co-mingle public and private funds for a specific purpose. Try to find one of those in Missouri’s statutes. “Partnership’s” are just PC camouflage used by people who want City Hall to be their one-stop-shop for fund-raising. With their depleted reserves, deficit budgets, unfinished park projects, the real possibility of employee cut backs and locked park toilets, the council couldn’t afford a \$1 “donation” to this project even if it was legal.

The other big myth – “Non-profits are like a charity.”

Being a “non profit” or “not for profit” corporation or a “501(c) 3” corporation doesn’t exempt anyone from the Article VI, anti-pork ban. A 501(c) 3 is nothing but the number of an IRS application form to get a non profit corporation exempted from paying federal taxes and to allow donors to take gifts off their taxes. One of the biggest and most persistent lies around is that non profit corporations are just like charities. **Ed Owsley** sold that lie to everyone in Rolla so no one would ask how much RCDC’s city-donated land and buildings were worth in today’s market. Non profits can make millions in “profits” and pay big salaries to their CEO’s and employees, (even bigger than the salaries and benefits the Chamber Executives are paid) they can pay salaries to their boards of directors, have their board meetings in the Bahamas, distribute “profits” to their stockholders and live like millionaires while telling the suckers who give them money, “We don’t make a profit.”

The 700 Club was a non-profit and a 501(c) 3 – remember Tammy Faye’s air-conditioned doghouse? Her diamonds, limousines, furs and mansions were all paid for with the “profits” from the non profit corporation. RCDC owns assets worth millions, all of which the city gave them illegally in violation of the Anti-Pork Amendment, but RCDC doesn’t make a “profit” like a liquor store makes “profits.” They recently bought 127 acres of the Bahr Ranch. The ranch was, at one time, listed for over \$1.5 million. Where do you suppose the “We-don’t-make-a-profit” RCDC got the cash to buy such expensive land? Only the hopelessly dim-witted still buy the story that they’re like a ‘charity’ or that they “don’t make a profit.” So the next time someone in City Hall tries to excuse giving our money to their “non profit” friends, just think Tammy Faye Baker and the 700 Club.

Council shotguns local business...again. The council should be asking themselves this question: Is it the legitimate role of

city government to create a city mowing company that takes business away from private landscaping businesses who pay the taxes the city will use to rob them of their customers? The council is about to create a new business - RCDC’s Yard Boys, Inc. – because the RCDC is too cheap to hire someone to mow their private property at Hy Point. The city put exercise equipment in the Rec Center (after promising they wouldn’t) and it hurt two local businesses. The city is about to use public money to compete with private businesses again for no better reason than to cater to the demands of the stingy RCDC, a private corporation that pays no *city, county or school property taxes on the land they want the city to mow for them!* Butz told the council this spring the city couldn’t afford to do their own mowing around town so they hired state convicts to mow and clean up. Let’s recap. The city *doesn’t* have time, personnel or equipment to do their own mowing but suddenly they *do* have the time, personnel and equipment to mow for RCDC.

The RCDC has been whining for the city to mow their property at the RCDC Industrial Park for years. They’ve always tried to get it mowed free but now they’re willing to “contract” with the city to do their yard work. The reason is transparent; they’re sure they can “negotiate” a deal with Butz for a tiny fraction of the real cost, the rest of the expense will go on the backs of city taxpayers. **Butz, Wiggins and Mayor Jenks** are very enthusiastic about the city doing RCDC’s mowing. **Elizabeth Bax** is positively over the top about it and says we will “get a HUGE return on our investment.” What “investment?” Now we’re “investing” in their mowing? We thought they were *paying* for the mowing.

The RCDC has about 40 unsold acres at Hy Point and **RCDC President Jim Sowers** and **Elizabeth Bax** complained that the private owners don’t all mow at the same time (for some reason non-uniform grass is unacceptable). Sowers said the other businesses at Hy Point will probably want their private property mowed by the city also. Oh swell. Butz ‘guessed’ that it would cost “maybe \$2,000 an acre” for the park department to do RCDC’s mowing. Guessing at the cost is probably how they will arrive at a price. Forty acres at \$2,000 an acre is \$80,000. Can you see RCDC paying the city \$80,000 a year to get grass mowed? If RCDC “forgets” to pay their mowing bills to the city, is **Mayor Bill Jenks**, one of RCDC members, going to hammer his friends for payment?

To keep from violating the federal version of the Anti-Pork law, the Forestry Service has to charge the city “fair-market price” for the Forestry Land, \$511,000 not \$5, no cozy “deals” off the taxpayers backs. Likewise, to keep from violating Article VI, Sec. 23, (Missouri’s Anti-Pork law), the city has to charge the Chamber “fair-market rent,” \$25,550 not \$25. For the exact same reason the city has to charge RCDC the “fair-market mowing” price. It can’t be less than a commercial business would charge them and because government work is inherently less efficient and always more expensive than the private sector, it probably will cost a lot more. Commercial firms pay a lower hourly wage than the city and we doubt they pay benefits to their seasonal labor. If the city charges RCDC at the “fair-market mowing” price which is the city hourly wage plus benefits, wear and tear and repairs on equipment plus gas and oil and the extra liability of

public employees working on private property – RCDC would find it's cheaper to hire someone to do their mowing like all the common people have to do.

Comedy corner – the Chamber loses a cool million. The Storie decision said: “09/14/06 **COURT'S RULINGS ON QUESTIONS OF LAW** - Comes now the Court and enters the following rulings on issues of law presented in this case.” Etc. etc. We'll give you the short version so we can get to the really funny part. **Translation: 1.** The Citizen's for the Preservation of Buehler Park are taxpayers so this time they do have “standing” and can sue the city. **2.** Storie doesn't think he has the “wisdom” of a “super legislature” (he's got that right) to decide if the city was wise to sell the park (besides it wouldn't do his reelection chances any good to rule against City Hall and the Rolla Chamber of Commerce now would it?). **3.** The city can sell Buehler Park because when the city decided not to use it as a park i.e. sell it to buy the Chamber the land across the street, they could forget their 1958 promise to keep it as a park...FOREVER. The deal was off. Yeah, we know it doesn't make a lot of sense but what do you expect, Beger won this round so he got to write the opinion that Judge Storie put his name on. Here's the funny part. Pay careful attention to the part of Storie's decision we put in italics.

“The language in the 1958 deed from the Rolla Chamber of Commerce or its predecessor did not dedicate the property to public use forever but instead conveyed the property to Rolla for the use of “park purposes only and none other,” meaning that, *if the city ceases to use the property in question as a park, the grantor Chamber may re-enter and claim its interest in the property.* At the point of that transfer and before 04/14/97, Rolla held the property subject to a

defeasible fee retained by the Rolla Chamber of Commerce and *not in trust subject to a dedication* to public use. *Any interest retained by the Rolla Chamber of Commerce prior to its 04/14/97 Corporation Quit Claim Deed, exhibit 19, was relinquished and transferred to Rolla by that said instrument.* Therefore, Rolla may use or transfer the real estate in question for any purpose, and the relief prayed by Plaintiffs is therefore denied.”

Did you catch it? Storie said when the city decided not to use Buehler Park as a park the city forfeited their ownership of the park and it automatically reverted back to the Chamber. That's Storie's theory anyway. If he's right the Chamber, not the city, would be the ones now selling the park and getting the million dollars! However, because the Chamber was drooling for the \$500,000 they were promised from the sale, they connived with the city and signed the 1997 Quit Claim Deed in a futile attempt to help the city quiet public protests. When the Chamber signed the Quit Claim Deed they gave up any claim they might have thus, they screwed themselves out of getting back a million dollar property! Chamber members can thank the late **Ed Owsley** and **Buz Harvey** for engineering the clever Quit Claim trick which snatched a cool million dollar asset right out of their greedy mouths.

The Chamber probably hasn't figured it out yet but when they do you'll hear a great wailing and gnashing of teeth. If this Chamber had been as ethical as the 1958 Chamber members who gave the city the park, if they had protested selling Chief Buehler's memorial park and if they had not signed the Quit Claim Deed, they would - according to Judge Storie – right now be in possession of 3.2 acres worth a million dollars. Would you call that a “delicious irony” or “the wages of sin” or both?

Will the Rolla City Council finally leave the ole' Chamber Plantation?

The council pulled off something we didn't think was possible - they've forced the Chamber to re-negotiate the 1993 Tourism Contract. That contract has been an ulcerous sore on the city for 13 years.

The Chamber contract is a multi-million dollar example of how Rolla's growth has been stunted for four decades by their “plantation” relationship with RCDC and the Chamber. The relationship works like this: We give them land and money and they give us more cotton to hoe so we can give them more land and money. While we lift bales and tote barges ole' Massa keeps telling us “we're working together for economic development” but all we get is more cotton to chop.

Rolla is, as the local boosters say, quite unique but not the way they think. We're the only town in Missouri that was stupid enough to surrender our industrial parks to a private corporation. We gave them \$2.25 million buildings, excused them from paying property taxes and gave them 90% of a special tax to spend subsidizing their club. Both these elite corporate clubs refuse to be accountable to the council and the public and now they demand we hoe more cotton for them. We hope the members of the negotiating team for the city can come out with a new “tourism” contract that doesn't

enslave Rolla for another 12 years. The Motel tax should benefit the whole town, not just pay inflated Chamber salaries and buy advertising from the Rolla Daily News. Find another city anywhere that gives away so much to so few and gets so little in return.

Other cities own and run their own industrial parks, they decide how to spend their own taxes and they make their own decisions. After four decades it's time for the Rolla City Council to leave the Non Profit Corporate Plantation and stand on its own feet. They can only do that if they shake off the decades of programming that says our city owes these spoiled organizations our obedience and our money. RCDC has claimed for decades that as a non profit corporation they can “do things” that a mere city council can't do but they never explain what those “things” are. Compare their 39-year record of minor achievements capped off by two TIF failures to the industrial development in Lebanon, Cuba, Hermann, Owensville and dozens of other small towns who didn't hand city assets over to elite corporate clubs. This is the first time in almost 40 years we've seen a sign of independence from our elected officials. We hope it isn't the last.

On the Chamber side of the table will be **Buz Harvey** and some Chamber board members and the

executives we're paying. Our side of the table will have **Terry Harris** and the **Mayor** - both past presidents of the Chamber, and **John Butz** a Chamber member. Then there is **Stan Spadoni** who wants to buy the 9 acres for them because he thinks "it's a good commercial investment." We don't know who told him that lie but it really impressed Stan. City taxpayers really only have **Lou Magdits** and **Gary Hicks** on their side. If the Chamber ends up with more than a \$50,000 annual welfare subsidy and a contract for more than two years out of this renegotiation, it will be just another pork giveaway but with better typing.

It's a chance - maybe the last one - for the people we elected to leave the plantation and tell the Massa' that the slaves have been freed and from now on we chop our own cotton.

Buz Harvey explains the "external publics." In response to public and council critics **Buz Harvey** (not the City of Newburg's Favorite Son) provided **Terry Harris**, the Chamber's new council member, with a three-page, "Talking Points on the Partnership between the City and the Chamber." Harvey's "talking points" reveal that **Executive Director Kuenzie** is paid **\$49,920**, **S. Kearse** gets **\$28,121**, **C.W.** is paid **\$24,502**, **G. Husted** (the new Tourism Director hired right after they confessed Rolla doesn't have anything to tour) gets **\$24,003**, and **G.L.** gets **\$14,144** a year. That's not counting their health insurance and other perks. Not bad pay for gals who pass out brochures, organize golf tournaments, have meetings to define the meaning of "tourism" and then tell the council they've just discovered we don't have any tourist attractions or any tourists.

No tourists? How is that possible? We clearly remember Buz Harvey and other Chamber members, in their sporadic reports to the council over the last 13 years, bragging they were bringing in over 30,000 tourists a year. We knew

they were only counting the number of people who slept in a motel or bought gas and drove on but they shamelessly used these 'borrowed' figures to imply to the council that the Chamber was personally responsible for dragging over 30,000 people to Rolla every year with their billboards, advertising and other stale promotions.

Harvey confessed in his "talking points" that the Chamber Babes work on tourism 61% of the time and on "average" 57% of their salaries are paid for out of the Motel taxes. Every time Kuenzie has been asked for this information she says she doesn't know because "they just started keeping track of their hours" but then Buz pops up a few weeks later with the exact percentages? Come on. The 1993 contract forbids hiring any personnel with the Motel tax money but that's only one of the Chamber's many contract violations. In an attempt to justify using the Tourism tax to support the Chamber and pay for their employees, Harvey pointed out that the Chamber has always "interacted with publics external to the Rolla community" and that even without the Tourism money "they would still be interacting with external publics." Yes, he really calls people "external publics," we couldn't make up something that pretentious.

Harvey says that the 1993 ballot initiative we voted on *prevents* the council from spending the money any other way or for any other purpose. No it doesn't but Harvey and the Chamber are praying that the council doesn't wake up to the fact that they can define "tourism" to mean a lot of different things and *they can contract with any non profit club* - not just the Chamber.

Believe the "facts" in Harvey's three pages of "talking points"? No way. Any council member who does believe them has been spending too much time playing with his "external publics." Don't they say that can make you go blind?

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