

# No Standing News

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

Volume II

May 4, 2007

Number 64

## More Lies and the Lying Liars Who Tell Them

**The MoPEP-Debt-Doesn't-Affect-Our-Rates lie.** At the February 20<sup>th</sup> council meeting **Councilman Gary Hicks** asked RMU manager **Dan Watkins** if our rates were paying for MoPEP's coal-fired plants. Watkins said no. Watkins lied. Contracts like ours, added to those of 30-some other naïve communities who also didn't read what they were signing, are *the only revenue MoPEP has to pay off those bond debts*. Of course MoPEP boosted their wholesale rate for power to pay off the massive debts for their coal-fired plant investments. Does Watkins think they're getting the money printed at Area 51?

Watkins has been a token member of one or more of MJMEUC (i.e. MoPEP) boards for the last few years since RMU got into this MoPEP mess. He's currently the Chairman of their Budget and Finance committee and also Chairman of the MPUA Joint Operating Committee. These corporate boards are made up of small town utility guys but they're just facades like western movie sets. The real decisions for the mother corporation and all its little corporate spin-offs like MoPEP are made by **Duncan Kincheloe**, Executive Director of Everything. Did Watkins lie out of ignorance because when he was chairing the MPUA Budget and Finance committee meetings where they voted for the MoPEP bond investments for coal-fired plants that caused our rate hikes, he didn't have a clue as to what they were talking about? Did he lie because he really doesn't get it that MPUA/MoPEP has added their bond debt service to the base wholesale rate they're charging us? If Watkins, our RMU manager, really can't figure out that all that bond debt is behind these massive wholesale rate hikes he needs to be replaced.

For MJMEUC Ex. Dir. **Duncan Kincheloe**, building the MJMEUC/MoPEP power empire depends on puffing up the egos of all the small town Dan Watkins' by giving them seats on important-sounding boards but boards that really only rubber-stamp decisions made by Kincheloe. It doesn't matter that guys like Watkins can't really comprehend what Kincheloe tells them to do as long as they do what they're told so Kincheloe can continue to expand his energy empire by roping in more dumb little towns with council members and utility boards who don't read contracts before they vote. Cape Girardeau just took the bait and as usual the citizens were shocked and horrified that their rates jumped 40%.

The guys like Watkins, the so-called representatives of MoPEP's small town suckers, sell us out so they can keep going to the annual resort golf tournaments, keep wearing their matching Polo shirts with the MJMEUC/MoPEP corporate logo and keep hobnobbing with state politicians at legislative lobbying dinners. They love that crap it makes them feel like big shots and they probably never know they're

being used. Whatever their motives, or even if they're so clueless they have no motives, the result is the same – we've been sold down the river and we're paying a horrible price for it.

MJMEUC/MoPEP's empire depends on keeping a bunch of "we-don't-read-contracts" council members in 30 some small towns and their lazy country lawyers living in denial with the MoPEP contracts they still haven't read. Like Mayor Jenks and the Rolla council, when the angry citizen's of MoPEP's slave towns come waving their outrageous bills and demanding explanations, the council and the utility board get hostile and defensive and tell them they need to turn down their thermostats. They can't afford to tell the truth, that the night the MoPEP contract was put before them they had checked their brains in the cloakroom and didn't know what they were voting on.

**Can we prove these are lies? Yes, easily.** When **Fitch Ratings** give MJMEUC's revenue bonds issues to purchase a 22.1% share of the **\$263.75 million Plum Point Project** a rating of "A-" [only "adequate"], they pointed out in the public rating report that the "bonds are *secured* through power purchase contracts with seven of MJMEUC's [MoPEP] member distribution systems." The bonds were priced and sold the week of May 8, 2006 by Goldman, Sachs. MoPEP's own newsletter, a publication that Watkins and the rest of the board get every month, makes a very big deal out of their coal-fired plant investments. In addition, when RMU issued one of their several price increases last year the letter they sent to us cited these same new investments in coal-fired plants as an excuse for their rate increases. There is absolutely no doubt about any of this; MoPEP's slave contracts like ours are MoPEP's only source of revenue to pay off the huge debts for their investments in coal-fired plants and that's a matter of federal record. It's also in their financial statements on their own web site. In addition to the MoPEP bonds there's also the \$6 or \$8 million in revenue bonds the city approved for RMU to buy all those diesel units. We're paying off those bonds also. The "Cost-of-service" twins, **Watkins** and **Stoffer** have lied about it twice when questioned by members of the council. Why do they keep lying when there is so much proof they're lying? How many times do Watkins and the RMU board members get to lie to the public and the council before the council replaces them?

Fitch Ratings, the bond rating company, noted the importance of this long-term guarantee and its requirements in this part of their official rating document. **"Power Purchase Contracts:** The unit power purchase contracts are valid and enforceable, extend through the life of the bonds

(2036) and require each participant to pay its proportionate share of all costs of operating the project, including debt service. Under the step-up provision each system is obligated to a 200% step-up in the event of a default by another participant.” MoPEP’s contracts with suckers like RMU are the guarantee that MoPEP will make these bond payments. Worse if someone gets out of their MoPEP contract the rest of us have to pay 200% more to make up for the missing payments! So part of the jump in our wholesale rates is due to this contract which Watkins as Chairman of the Budget and Finance committee and also Chairman of the MPUA Joint Operating Committee (MoPEP), voted for. WHEN DID WE GIVE WATKINS PERMISSION TO GO TO A MOPEP MEETING AND VOTE TO COMMIT US TO INVESTMENTS AND DEBT SO RADICAL THAT IT WOULD NEARLY DOUBLE OUR UTILITY RATES? Watkins is just a former repairman, who gave him the legal power to vote us into debt? When did we exchange democracy for this third-hand corporate autocracy?

Here’s the bottom line. All these facts provided from the bond rating company and other sources prove that every time Stoffer or Watkins have denied that the high utility rates are due to paying off MoPEP bonds and our bonds for the diesel generators, they have lied. They didn’t “mis-speak” as the politicians say, they didn’t dissemble, prevaricate, or

### Let’s Get Something Straight About RMU...

**“RMU is separate from the city. We have no control over them”** If it’s true that the council is as helpless as they claim they are to do something about the high electric rates then how did the council pass an ordinance last fall and take 5% of all RMU’s money over the protests of this so-called “separate” RMU board? Obviously the council is exaggerating their helplessness. They demonstrated last fall that they can mug RMU any time they choose, but when angry rate payer’s put the council’s backs against the wall they whine that they have no power over the RMU rates and the board members they appoint. Give us a break. The “We have no control...” excuse is pure hypocrisy.

Consider this: The council cast the deciding vote in 1999 to buy power from MoPEP, they voted in 2002 to issue \$6 million in revenue bonds so RMU could buy those useless diesel generators that benefit no one but MoPEP, and in 2005 the council voted to amend the 1999 MoPEP contract which obligates us to pay for MoPEP’s investment in coal-fired plants and keeps us from getting out of the contract without a five-year notice. It was the council, not the RMU board, that had the power to do all those things because the *city owns the utility department* and RMU isn’t the autonomous independent ‘business’ organization they like to pretend they are.

**How autonomous is the RMU board?** In the absence of city ordinances telling them what to do and how to do it, the RMU board makes the day to day decisions on running the utilities. **RSMo 91.480** says is their duty is to, “enforce the performance of all contracts and work, and have charge and

quibble - they just flat-out lied. You can’t pay off \$6 million in revenue bonds for diesel generators (another bad MoPEP idea they fell for) and pay more millions in revenue bonds for coal-fired power plants and not have it affect your pricing. If Watkins and Stoffer really can’t understand this simple cause and effect they need to be removed, not just for their incompetence in managing the utility but for failure to admit what’s right in front of their noses. During the easy years they were able to maintain the status quo but for the years ahead we need a smart manager and smarter board members.

**Why don’t they sue MoPEP and get out of the contract?** The RMU board didn’t hesitate to spend our time and money suing Ameren UE in the late 90’s because they didn’t like the contract UE offered so finally UE kicked them out and that’s why we’re victims of MoPEP. The RMU board didn’t mind taking UMR to court to keep them in the corral when UMR wanted to hook up to Intercounty’s cheaper rates and better service and they didn’t hesitate to hire lawyers to sue Intercounty to try to get all their Southside customers and infrastructure on the cheap. Now here’s a really good reason for hiring lawyers and taking MoPEP to court to break this awful contract. Why aren’t they doing it? What are they getting out of defending MoPEP? Why are they so determined to stick with MoPEP?

custody of all books, property and assets belonging or appertaining to such plant or plants.” However, it doesn’t say they get to do all this without any oversight, accountability or rules the council may see fit to impose upon them. **RSMo 91.490** goes on to clarify the chain of command and states that the council holds the ultimate rule-making power. “Said board shall also exercise such other powers and perform such other duties in the superintendence of public works, improvements and repairs constructed by authority of the common council or owned by the city *as may be prescribed by ordinance.* Said board shall make all necessary regulations for the government of the department *not inconsistent with* the general laws of this state, the charter of such city *or the ordinances thereof.*” That law has been there since 1939 and it means that the Board of Public Works (RMU) may make their own rules unless what they want to do is contrary to a state law *or an ordinance passed by the council.* In the absence of city ordinances telling them what to do and how to do it, the RMU board just does whatever they want to do including raising rates to 10.3¢ kWh without a public hearing. Our problem is the city council has never made any rules for RMU.

**But only the RMU board can set the rates, right? Wrong.** When it comes to setting utility rates the RMU board doesn’t have exclusive power to do that either, they’ve just convinced everyone they do. **RSMo 91.540** “The assessment and collection of rates for water, electric power, electric light, gas, or for the product or service of any other plant or works which any such city, town or village may own or operate,

shall be under the control and supervision of the board of public works, when such board has been established as herein provided, *subject to the ordinances of such city*, town or village.” There it is again, ordinances the council passes will dictate what they do and how they do it but the Rolla city council has never passed any ordinances telling RMU when, how and by how much they are allowed to mess with the rates, fees and policies.

In fact, if we interpreted that section the way RMU wants us to they are the only ones who should be setting our sewer rates too but they never have done that – why not? The city council votes on sewer rate changes whenever Hargis tells to them to or whenever they have to raise rates to pay off sewer bonds. Hargis’ department does the sewer but not the water work, water is done by RMU. (Is this town screwed up or what?) Why the difference? Because there’s no profit in sewers, at best it’s a break-even operation so RMU has always left the city with the sewers. If sewer rates have to be raised the council to have to deal with the cost of getting sewer bonds approved and raising rates, not RMU. The RMU board only wants total control of the electric operation, that’s where the profit is – or was until the city raked off 5% of their fat annual profits.

**The council should vote on electric rates.** In most third-class cities that have their own utility companies the council votes the electric rates just like they decide all other rates for public services. Rolla, as far as we can tell, is one of the few

that got this wrong too. The statute doesn’t say the public works board can “set” the utility rate it says the board must “assess” the rate. The definition of “assessment” is to “to estimate the value of (property etc.) as a basis for taxation” i.e. pricing. The county assessor estimates the value of land but he doesn’t decide what the tax will be. That’s done by the county tax commission and they may vote to accept or reject his “assessment.” Other Missouri third-class cities just like ours, long ago passed an ordinance that requires any rate “assessment” *recommended* by the board of public works will not become effective until the city council votes to implement or reject the rate they have “assessed.”

The key words in the law are “as may be prescribed by ordinance.” When it concerns the electric rates has Rolla always had a hands-off policy, they decide sewer and all other rates but leave electric and water rates to the RMU board. Why is that? Until last fall, they had passed no ordinances since 1945 which imposed any rules or restrictions on the RMU board. For 61 years they’ve just appointed and reappointed the same guys who were also on the boards of the Chamber and RCDC. The city let them do whatever they wanted as long as they crossed the city’s palm with silver every year.

After decades of this the city utility board is so ‘above’ the city that they even buy separate insurance instead of putting their employees in the city insurance pool which might give city employees better insurance rates. Now that’s really selfish! **(to be continued...)**

## The Butz Charity Raffle

**Charity begins with city employee’s payroll.** In November, shortly after Butz and the council shifted more health insurance costs on city employees and had given them more bad news about their pay increases, (they get 1.4%, Butz gets 4.4%) **City Administrator John Butz**, who is running this year’s **United Fund Campaign**, told city employees in the November newsletter that only 10% of them gave to United Fund last year and this year he wants at least 50% participation. At his pay grade it probably hasn’t occurred to Butz that the majority of our city employees are eligible to *get* charity but on what he pays them they can’t afford to *give* charity. He announced the Butz Bribery Plan: He will bribe more employees to ‘donate’ to United Fund by giving out prizes paid for by taxpayers. The prizes will be things like 8 hours of personal leave, \$20 gift certificates and donations from Wal-Mart. Think about that one. Someone asks Wal-Mart for a donation so employees will be rewarded for....making a donation???

This is not just idiotic and illogical it’s also illegal. You can’t use the taxpayer’s money as bonuses or incentives of any kind and you can’t give public employees their paycheck and then strong arm them to make a “contribution” so some ‘suit’ can look like a successful community fund raiser. That’s called a “kick-back” and it doesn’t matter whether the money goes into the boss’ pocket or goes to a charity the boss is running it’s still a kick-back. Making your

subordinates give back any of their pay in any way or for any purpose is a violation of the **Missouri Constitution Article III, Section 39**, and a large number of state and federal labor laws. “Contributions” of labor, materials or money by employees given under any *express or implied management duress* is an abuse of power; it’s exploiting people who need their jobs so they can’t afford to tell the boss to go to hell. That’s why long ago the Supreme Court said bosses had to knock it off. John Butz, who claims to be a *professional* public administrator, should know this. If Butz didn’t learn it in PA school, it’s only been eight years since former **State Auditor Margaret Kelly** (R) pointed out in the 1997 special petition audit of the City of Rolla that the city can’t use public funds to give Christmas bonus’ pay for Christmas parties or even to send flowers to sick employees. Raffling off a day of paid leave, gift certificates and other goodies paid for by the taxpayers is the same thing and it’s totally out of line. Besides being illegal, isn’t it cheap and demeaning to have to bribe your employees to contribute to a charity to make yourself look good? It means Butz really doesn’t believe in the United Fund and can’t effectively ‘sell’ it’s worthiness to city employees - he has to bribe them to donate.

Is the council aware that this is going on? Probably not. The council exercises no personnel oversight for fear of getting a public scolding for the crime of micromanaging but Charlotte won’t be there any more to shake her finger in their

faces. If the council knew that shortly after they let Butz put our employees at the bottom of the city budget list, he was twisting their arms to give their meager little raises back to him so he can look like a hero to the United Fund, would they be outraged? No, they probably wouldn't see anything wrong with it at all. After all, isn't the United Fund a good thing? Shouldn't everyone give to the United Fund? Don't all members of the Rolla City Council and all city department heads set the example for city employees by giving a

generous monthly payroll deduction to the United Fund? Well...don't they?

How many members of the council do make a monthly payroll deduction to the United Fund and how much do they give? If the 'bosses' aren't setting the example why are they allowing Butz to use our taxes to bribe and pressure our employees into "donating" to his cause?

**That smell? It's the TIF corpse and it needs to be buried**

**Guffey starts Non-TIF construction.** Take a look at the corner of 72/63, that's not a Kaplan building or a Sansone building going up. Guffey is building something but he couldn't do it without getting a building permit from the city. If they issued him a permit to build in what was supposed to be their TIF project which they gave Sansone exclusive right to develop, then it means their second TIF project is dead. Why haven't they admitted that it's dead? It's time for the council repeal the TIF ordinance for that corner, its time for them to take a vote to void all the resolutions, premature contracts and repeal all the other things they did for this twice-failed TIF project. The last the public heard on this last fall when Councilman Ruck asked what the progress was and Butz said he was expecting to hear from Sansone any day.

patience." Maybe if they had to publicly apologize for these flops - what Butz calls his "Creative Development Opportunities"- where they run roughshod over the rest of us, where they announce the amazing results but leave out the details like condemning our property and raising our taxes, maybe if they had to apologize the pain of the experience would cause them to be more cautious, less reckless and less arrogant in the future.

Whenever one of their "save-the-day" economic development projects flops they just quit talking about it and pretend it never happened. It's time for the TIF promoters, the whole **RREC** gang, **Butz, Petersen**, ex-mayor **Morgan**, etc. to all stand up and say, "We were wrong and we're sorry. Next time we think we've found a clever way to get more taxes out of you without your vote so we can spend your money on our projects, we'll look into the details more carefully so we won't waste your time, money and your

Look at what Guffey is doing. He's using his own money, or money HE has borrowed from a bank and which HE will have to pay interest on, to build something that will add value to a couple of acres of land. A year after he's done he will start paying property tax to all taxing entities at a much higher rate than they are getting now. They won't lose their taxes for 23 years as they would have with the city's TIF. Our schools, library, the handicapped and the city and county will GET NEW PROPERTY TAXES and it will happen without taxpayers being forced to shell out to subsidize the developer. Isn't it amazing? This is actually the way things are supposed to work in a non-socialist country.

Thanks Mr. Guffey, we hope you make a nice profit. You're entitled to it because you risked your own money and didn't ask us for a handout.

**Next issue: "RMU and the Electric Rates; the Source of Rolla's Political Pork."** The remedy for our out of control power costs.

**P.S.** Intercounty Electric has alerted their customers they can expect to get a dividend check in June.

**P.P.S.** After you open your tax bill but before you faint, read the back of the notice. At the bottom County Assessor Rasmussen has provided a chart of how much in property taxes the city and county and school board are giving away in Enterprise Zone taxes and that's not the whole list! **He also warns us that if we continue to be lazy citizens and ignore the annual public hearings this fall to set tax rates which are held by each taxing district (school district, city, county, library, disabled board, and fire district) board we may not get our tax rates rolled back to keep them from getting a windfall from this AV increase. More on this in the next issue.**

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