

# No Standing News

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

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## The Trick Is in Knowing How Not to Report It.

By Phil

This bland little item was on page 2A, w-a-a-a-y at the end of the Rolla Daily News coverage of the Tuesday, October 6, 1998, city council meeting.

"The council approved providing a 60-acre tract of land at the Hy-Point Industrial Park to the Rolla Community Development Corporation for development."

Sounds quite ordinary doesn't it? Here's how the report could have read.

'At last night's meeting the Rolla City Council gave 60 acres of city property away to the Rolla Community Development Corporation (RCDC), a local private business group. The land, which was owned by city taxpayers, will be added to RCDCs' property inventory at Hy-Point Industrial Park, located on Interstate 44. Hy-Point Industrial Park is owned and operated by RCDC. During the rapid council transaction, John Beger, attorney for the Rolla City Council sat in his customary silence while yet another violation of the Missouri Constitution took place. Article VI, Section 25, of the constitution specifically bars any governmental entity from giving credit, public money or property to a person, corporation or association.

'The city practice of using taxpayer money and property to subsidize RCDC's industrial park was among the actions cited in the State Auditor's report No. 98-19, issued March 23, 1998. The state audit revealed that Rolla Municipal Utilities, the city-owned utility, had given the city approximately \$1.3 million during the past five fiscal years to promote economic or industrial development and to pay general city expenses for Rolla.

'The audit report gave details on three of the questionable fund transfers, one of which was a June 1995, 'contribution' of \$775,000 by RMU to the city toward the purchase of the Switzer building located in the RCDC Hy-Point Industrial Park. After extensive remodeling, the building was given to Briggs & Stratton, a multinational company, as part of a so-called 'incentive' package. The incentives reportedly included the building, long-term tax abatement, generous annual utility rebates and a promise not to recruit a similar industry for at least 10 years. At the time the announcement of the Briggs & Stratton move to Rolla was made, Dain Ward, Ed Owsley and John Williams, a local attorney, were given credit for negotiating the deal with Briggs & Stratton. All are on the board of directors of RCDC.

'At the March 1998, public meeting held to announce the audit findings, Margaret Kelly, State Auditor, emphasized that the practice of siphoning off city utility profits for non-utility purposes could cause "utility rates and charges to be set higher than required to recover actual costs." She explained that this is a type of hidden, double taxation and that city utility customers are unknowingly

subsidizing the promotion of economic or industrial development and general city expenses through the payment of their utility bills. Kelly's report 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."

'In their written response to the auditor, the city declared that it was their intention to continue this questionable practice and to prove it, they and RMU would consider "establishing a percentage of gross receipts for (future) internal fund transfers." The Rolla Board of Public Works, in their written reply to the auditor, said that they believed that they had "the same rights and powers as the city and additional rights" (they didn't specify what those "additional rights" were), and therefore would continue to use utility receipts in this way. RMU went on to point out that the 'contribution' to the city of \$1,025,000 for the five-year period found by the state auditor was an incomplete figure. They voluntarily revealed that: "The actual contributions to the city of Rolla for the same period (1992-1997) which includes the specific items noted in your (auditors) report, equals \$4,494,112, which is approximately 5.8 percent of gross revenue." The RMU board gave their opinion that this would "not be deemed excessive in most municipalities in the state of Missouri."

'The Rolla Community Development Corporation (RCDC), is a private, nonprofit corporation organized under Missouri law, Chapter 355. These corporations should not be, but usually are, confused with another type of public benefit organization or Benevolent Association formed under Chapter 352. Most people believe nonprofit organizations can't, or somehow aren't, allowed to make a profit. In fact, nonprofit corporations can and do make profits which,

in this case, could be distributed to RCDC investors or shareholders.

'Many communities in Missouri have industrial development authorities or boards that are formed under Chapter 349, "Industrial Development Corporations." This is a special type of public industrial development corporation law enacted in 1953. RCDC is usually confused with the public or city-owned industrial development corporation. Chapter 349 allows city or county governments to own and develop industrial parks for the purpose of attracting manufacturing firms to create jobs for the community. If an industrial park is owned by local government, property tax revenues may then legitimately be spent to improve, maintain and market the facility without violating Article VI, Section 25, the constitutional prohibition against a public entity giving money, credit, guarantees or property to any individual, corporation or organization such as RCDC or Briggs & Stratton.

'Unlike RCDC, the board members of a publicly owned, industrial development park are accountable to the public. They must be appointed and, if necessary, can be removed by the city or county governmental body. RCDC board members are "perpetual", which is to say they can only be invited to join or be removed by other members of their board not by any public body. Other significant differences are that the members of a community industrial board must make a public report to the appointing authority at least annually, they cannot be paid a salary and cannot pay dividends. RCDC has no similar obligations or restrictions. When RCDC sells this latest 'gift' of 60 acres adjoining their industrial park, the land could bring as much as \$10,000 to \$20,000 per acre. The profits could then be distributed to RCDC stockholders or used in any way the RCDC directors wish.

Longtime RCDC officers: Dain Ward, president and Ed Owsley, secretary/treasurer (Owsley is councilman for Ward 2. Dain Ward (RMU board member and community developer for Rolla), refused to comment on this potential windfall for RCDC stockholders. Executives of two local banks, Don Castleman (Chairman of PCB), and Bob Thompson (President of Mercantile Bank of Phelps County), both members of the RCDC board could not be reached for comment.'

Well, that's how the story might have read if a few facts had been included. I suppose a journalism degree is required to fabricate a benign sounding story from a fascinatingly illegal event, oozing with conflict of interest. Remember this when you pay your next utility bill or read one of those insignificant sounding little reports in the RDN.

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**FREE MAYBERRY!!!**

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