

No Standing News

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

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CAUTION! ILLEGAL GOVERNMENT AT WORK

By PHIL (People Helping Individuals Learn)

"The theory behind representative government is that superior men - at all events, men not inferior to the average in ability and integrity - are chosen to manage the public business, and that they carry on this work with reasonable intelligence and honesty. There is little support for that theory in the known facts." - H. L. Mencken

As promised in the last NSN issue, "**It's Not A Tax if It's Not In the Tax Chapter**", we continue with the tale of the five city offices that are without legitimate ordinances and how they got that way-your illegal city government at work.

A Mess of Pottage. The dismantling of Rolla's statutory third-class form of government began in 1986, when ex-Mayor Ferrell and Herr Strouse, (ex-City Administrator and King of the expense account) decided to get rid of the elected offices of City Collector, City Assessor and City Treasurer and make them appointed officers of the city. Having failed in a previous attempt at Charter government, this was their fallback plan. They also planned to snatch the Rolla Municipal Court Clerk along with the court fines and bonds and make the court clerk one of Murphy's clerks instead of a part of the city judicial system. This Plan would be more efficient, they explained. The Plan would save money they said. Mayor Ferrell

and City Administrator Strouse were pretending they were only interested in better management-the council was pretending they had a clue. The council voted as they were told to and our birthright was sold for a bowl of lentils.

There was only one hitch. They didn't succeed in stripping the Municipal Court personnel and money. When Herr Strouse stuck his hand into Judge Mayberry's buzz saw all he drew back was a bloody stump. The spectacular memo battle between Strouse and Mayberry is a legend in some state judicial circles. That story in a later issue.

The Plan relieved city administration (the Mayor and Administrator) of three independent elected officials and put all city revenues, taxes, licenses, and fees directly into their hands. From the Ferrell and Strouse point of view they had pulled off a great political coup. With little effort they got rid of three people who controlled key city records and money-the people who knew what was really going on behind the monthly Punch and Judy Shows. Three legitimate officials who had been answerable only to the voters were now answerable only to politicians. However, the public battle with the Judge made it impossible to adopt the now discredited ordinance creating their All-Purpose Financial Department. So they just set it up anyway and didn't bother with an ordinance.

In typical Rolla fashion nothing happened exactly the way they promised it would. After the blitzkrieg, we wound up with no City Assessor, the empty promise of an appointed City Collector and City Treasurer and, wonder of wonders, one

legally appointed City Clerk. Take a look at the on-line city ordinances in **Chapter 2, Section 2-26. Abolishing the elective offices of city collector and city treasurer.** It is right after the ordinance abolishing the City Assessor. You can see the debris left behind as a result of the raid. They weren't even tidy about cleaning up the evidence. The ordinance tells us that the offices of city collector and city treasurer are "from this date, April 1986, appointive and not elective." It promises that "The requirements and qualification for persons appointed to the office of city collector and city treasurer shall be established by ordinance in conformance with applicable State Statutes." It also says, "Compensation for officers appointed to the office of city collector and city treasurer shall be set forth by ordinance approved by the city council." THERE ARE NO ORDINANCES. Even when they say in an ordinance that they're going to pass an ordinance, they don't have enough sense to pass the ordinance!

Note: The state law they are violating says: "The duties, powers and privileges of officers of every character in any way connected with the city government, not herein defined, SHALL be prescribed by ordinance; and bonds may be required of any such officers for faithfulness in office." The term "officer" includes any person holding ANY situation under the city government or any of its departments, with an annual salary OR for a definite term of office, other than clerical or professional staff." (Professional staff are: auditors, architects and other state licensed professionals hired for limited time and purpose.)

The Office of City Assessor-gone. The office of City Assessor was just abolished-period. Who takes care of assessing city property and collecting property taxes now? We suppose the county does it, but the authority to enter into a contract for assessment and collection should have been in an ordinance-another one they didn't bother to pass. That's what ordinances are for, to explain how things work and to make it legal for

the city council to enter into such contracts. Is there a contract with the county? Did the council approve it? How often is it renewed? How much do they charge?

The Office of City Clerk-going. This office was also stripped of its elected status and, although nobody notices, every four years the office comes up for appointment. They even left most of the original clerk's ordinance in the code book and it does describe most of the clerk's statutory duties. A city (or county) clerk has a number of critical and unique legal duties to perform. Eliminating this ordinance and leaving a large black hole would have attracted the unwelcome attentions of the Secretary of State and Election Commission so they left it alone except for one thing. They made the officer of the third most significant position in Rolla government just another one of Murphy's employees. On the city organizational chart, the office of City Clerk is right there under the Finance Department with all his other clerical staff but spelled with lower case "c" to pointedly diminish the importance of the office and the duties.

The Office of City Collector-gone. Just like the ordinance that was never passed to authorize the appointed position of City Treasurer, ditto for the office of City Collector. There is an employee they say is the city collector (also with a little "c") but that isn't true because there is no City Collector if there is no ordinance establishing the office. Where does this employee work? In Murphy's office-where else?

The Office of City Treasurer-gone. Don't assume Murphy is the city treasurer just because he controls all the money. Because they didn't pass an ordinance to create that appointed office, the council can't appoint anyone to be the City Treasurer. They call Murphy the Director of the Department of Finance. But they didn't adopt an ordinance to create that department, either, so they can't have a director of it can they?

Daniel Murphy - Alleged City Finance

Director. So we have a pretend Finance Director of a pretend Finance Department but what does Murphy really do? It isn't possible to list all of Murphy's actual, though illegitimate, powers because they conveniently aren't described anywhere. We recently found that one of his duties includes writing city laws. Well, somebody has to write laws-why not a bookkeeper?

In both public and private finance, it is dangerous to have one person in control of all of the different steps in handling money prudently. Murphy, the "Finance Director", can't legally assess the taxes, collect the taxes, keep accounts on the taxes, deposit the taxes and write the checks to spend the taxes all at the same time-but Murphy does. In handling all public funds the law requires that there be a strict separation of duties to reduce the opportunity for losses by dishonesty or carelessness and also to protect employees. We are NOT implying that any employee in Murphy's office is not doing their job honestly, but if anything did go wrong, the problem for those employees is that they might NOT be able to prove their honesty. Without clear separation it's easy to lay blame on the blameless. It is not safe or fair for any employee to be placed in a position where there either is, or may be, a conflict between his employer and his duty to the public. But because Murphy can hire, fire and re-label them at his whim, because they have to take their orders from him or lose their jobs, there is no actual separation of duties. There is only the pretense of compliance with the regulation for separation of duties by parceling out different functions to several employees.

Another bad result of all this "improving" is that Murphy's clerical staff, who are doing the same Treasurer and Collector work that they would do as legally appointed officials, aren't getting the salary, car allowances and perks that other city "officers" receive. If the required ordinances for the collector and treasurer had been passed, as legally appointed city officials they could only be

dismissed by a 2/3 vote of the city council, and then only after a full due process hearing by the council to determine cause for dismissal. During such a hearing many things can come to light. Such risks, inherent in any due process hearing, tend to keep everyone on their toes.

Rolla city administration can now be described this way: **We have a Mayor, an Administrator and a Murphy.**

Notice that in discussing Administration, we never include the City Council. They ARE NOT part of Administration. The Council is still the Legislative Branch of the tattered remnant of our three-branch city government. Their practice is to lump the Council in with Administration (on the city web page for instance) to reinforce the illusion that they are merely a rubber stamp committee for the Mayor and City Administrator. Morgan frequently refers to them as his "board." This spin has been so successful that even some Council members believe it. The Mayor and Administrator's worst nightmare must be that our elected representatives will wake up and realize that as the legislative body they have ALL the real power. If they ever do, it will be a real problem-for administration.

H. Dain Ward: Alleged Economic

Development something-or-other. It is hard to tell just exactly what his function really is. Mayor Morgan illegally appointed him but didn't describe what his duties were. Council members illegally voted without demanding clarification, and that was that. In the absence of an ordinance stating specifically what the position entails, everyone gets to make up his own version of Ward's job description. Some say his job is just to make sure that the electric rate money that he, as an RMU board member, passes over to the city always meets or exceeds the amount of money he and Councilman Owsley need for their private industrial park. Even if he works for nothing, as he has allegedly been doing, the council still can't legally use any public money to pay bills for his

staff support, travel, expenses or anything else-as they have been doing. No ordinance: no job - no budget - no expenses. No matter how they try to spin it, with or without a salary - with or without an ordinance - it's a conflict of interest for H. Dain Ward, as the RMU Board member, to pour utility rate money into one end of the pipeline and, as H. Dain Ward the Economic Developer, run to the other end to get it to spend on his own city expenses and Hy Point Industrial Park.

John Petersen : Another Economic Development Director? He gets an annual salary of \$43,826 and another \$4,000 for moving here. This is quite a salary for a new and unproven city "officer" of a newly invented city "office." That is only a few hundred dollars less than Chief Pikka makes but with a difference. Petersen takes a few days off each month to work on his private consulting business. All other salaried city officers should be delighted with this precedent. Now they too can moonlight while taking a full time city paycheck. Petersen's position is as precarious as Murphy and Ward: no ordinance: no job - no coverage.

Head for the Bunkers. Fast forward ten years, change the names to Morgan and Butz and the 1999 version of The Plan for "improving" city government. This will be added to the previous mess, which has now had thirteen years to fester. City Administrator Butz just announced at a budget meeting that he is planning to: "restructure" Code Enforcement to separate it from the Community Development Department, which was formerly part of the Planning Department, which was formerly part of the Engineering Department, which is now called the Public Works Department. None of this reshuffling has been accompanied by the legally required amendments to existing ordinances or the passage of new ones. Once Administration got away with rearranging the municipal furniture without bothering with annoying little legalities they just kept doing it. When Butz is finished with this shell game there may be a lot more

officers, and even some hourly staff in those "restructured" departments, who not only aren't who they think they are, but who are also not supposed to be doing what they think they are doing.

When the process of stripping away Rolla's internal checks and balances began in 1986, one person, Judge Mayberry, fought them and salvaged part of our constitutional system. But Administration has dragged out The Plan again and now they want the Municipal Court Prosecutor to be appointed by the Mayor instead of being elected by the public. The next "improvement" will no doubt be to have the Mayor also appoint the Municipal Judge and then we will have only two branches of government left.

There is no question that large parts of Rolla's government aren't legal. You have only to look in the city ordinance book. The only questions left are these. How many more critical checks and balances can we lose before Rolla's government simply implodes? How long before Rolla falls so far below the state's minimum requirement to be an incorporated city that we are put into receivership? How close are we to that point now? How much economic development will we be able to attract as the "**Outlaw City of the Ozarks**"?

Don't ever say that "government" is taking away our freedoms; they don't have to take them - we give them away.

FREE MAYBERRY NOW!!!

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