

# No Standing News

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

Volume I

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## COUNCIL DEBATES FOLLY AT SECRET "PUBLIC" MEETING - Part 2 of 3

### 2. The Council's Only Way Out: A LEGAL PARK BOARD

**T**here is only one way for the council to get both Kwantes and this rolling calamity under control. They don't have to reinvent the wheel, they don't have to struggle with organizational charts; **THEY ONLY HAVE TO GET OUT THE OLD PARK BOARD ORDINANCE AND PASS IT AGAIN.** It's that simple. Just re-establish the legal park board that Ken Kwantes and Don Brown (on the Park Board then - on the council now) got rid of 19 years ago. They got rid of the statutory Park Board because **IT IMPOSED CONTROLS** over the **MONEY, BUDGETS, LAND USE, PLANNING, ANNUAL PUBLIC REPORTS AND THE PARK DIRECTOR** that Ken didn't like and now hasn't had for 19 years. In 1981, his job was on the line because of a six-month Park Board fight over writing a job description for the Park Director and other Kwantes management issues. Council/Board politics in 1981 resulted in a council vote, which illegally terminated the Park Board - instead of Ken. On the next vote that same evening, Kwantes was offered the position of Parks and Recreation Director (the position was not advertised). All supervision and control of the park system were eliminated and Kwantes became the King of Absolutely Everything. That's when his salary, for what is basically a summer job, started moving rapidly to the top of the chart. The park

budget gets only \$146,000 annually from the 1.7 mil property tax for the park system. More than a third of it goes to pay Ken's \$48,870 annual salary (that doesn't include benefits and his annual \$3,000 cash "car allowance").

That is the council's simple solution for their ham and eggs dilemma. It's even legal! Don't you think that's probably why every other city in Missouri that has a park also has a nine-member Park Board? The council is being "Butz-sawed" - so they won't think of anything that's both logical and legal. By simply passing the state park board statute word for word as an ordinance the problem of which box someone belongs in, who will be under whom and how to keep Kwantes in a box and away from the recreation project, are solved. With a Park Board, all of the project planning, supervision, hiring a center director, public hearings on fees, writing job descriptions - even investigating why Ken can't run a hot dog stand without losing money - all those problems will fall on the Park Board.

The council will not be entirely exempt from helping a new Park Board as they take over and try to sort out the mess. This project wouldn't have festered like it has if they had put their foot down hard about the way the so-called public hearings and meetings were held. If they had demanded reports and information and not allowed a dime to be spent until a sensible plan was presented. Their indecisive behavior created the problem so they can't just appoint a new Park Board, turn their backs and expect a miracle. But at least they will have a group

of nine representative citizens to take over the detail work and help them get the monster under control. A Park Board organized under Chapter 90 must submit to the council an annual budget and a report on the state of the park and recreation system. The council can't spend park funds without the approval of the Park Board but if the Board can't manage the park and the programs well enough to bring the deficit under reasonable control, the council doesn't have to give them more money to cover it. Now THAT'S accountability!

**Not a Guarantee:** A legally constituted Park Board is NOT a guarantee that the board will always be wise, always make good choices or that they will be able to come up with all the solutions this mess desperately needs. But it's far, far better than the Mayor's sham "Business" Board. The quality of a Park Board or a city council still depends on the same democratic basics. Whether it's council candidates or Park Board members, the burden is always on the citizens in each ward to find fair-minded, hard-working people willing to be appointed or run for office. The success of a resurrected Park Board will depend on how willing citizens are to attend Park Board meetings to keep an eye on how their park and recreation system is being managed. It will depend on how willing citizens are to help and let the Board know how they're doing. In a democracy you only get out as much as you put in. Frankly folks, people in Rolla just don't put much effort into getting themselves good government. However, judging from the large numbers of enthusiastic people who showed up at some of the early open house meetings, it shouldn't be hard to find good board members. Morgan's high-handed tactics and the closed attitudes of the Ad Hoc committee quickly turned off those interested people, who thought their ideas would be welcome - so they just tuned out and quit going to meetings - A BIG MISTAKE. Giving up never gets you anything. But if people thought they could work with a new Park Board - one that was open to good ideas and would not use dirty tricks such as 6 a.m. meetings - they would probably respond very favorably.

**Missouri Attorney General Says the 1981 Park Board CAN'T be Abolished!** Once a park board is established there is no provision in state law for eliminating it; therefore, park board ordinances may NOT be repealed by any city in this state! State law makes no provision for getting rid of a park board once a city starts acquiring land for city parks. As you read the mandatory procedure in 90.520 below, it is quite clear that we "**shall**" have one, **must** have one; therefore, the park board ordinance should never have been repealed. Every dollar spent, every fee imposed, every action the council has taken for the last 19 years in the absence of the legal park board has been a usurpation of the Park Board's exclusive authority. That includes the two attempted sales of Buehler Park and the sale of LaGuille Park for one dollar in 1996. In fact, Rolla's original Park Board may legally still exist because the 1981 repeal of the Park Board ordinance was an illegal, and therefore was an invalid act of the city legislative body!

**Why You Can't Abolish a Park Board!** In 1995, Representative Sheila Lumpe requested and received Attorney General Opinion #181-95, on behalf of a constituent city. The question was whether a "park board created under Sections 90.500 through 90.570 continues to exist if no property tax for parks is levied as authorized in such sections." In other words, if you funded the park system with sales tax money instead of a property tax levy or had no funding for it at all, do you still need a park board? The answer she received was an unequivocal YES! This was how the AG explained: "**There is no provision in Sections 90.500 through 90.570 that causes the park board to be abolished even if no property tax for parks is levied. Therefore, it is the opinion of this office that a park board created under Sections 90.500 through 90.570, RSMo 1994, continues to exist even if no property tax for parks is levied.**" Rolla has been collecting and spending the property tax for parks (park tax levy) for the entire 19 years since they "abolished" the park Board! The Rolla Park Board "continues to exist" - it has just had nine vacancies for the last 19 years!

The Attorney General's opinion bursts another suppurating boil on Rolla's rump. The same AG's opinion addresses the provisions of (what was in 1995) House Bill 88, which was passed and became RSMo 644.033. That is the very same law used by city hall to authorize the 1998 half-cent sales tax for the recreation project, more properly called the "Local Parks and Storm Water Control Sales Tax Trust Fund." The Attorney General points out that this sales tax "shall be deposited in a special trust fund" which, if deposited to the credit of the park fund - and it was - can only be spent as described in 90.550 of the park board statute. **"All moneys received for such parks shall be deposited in the treasury of said city or town to the credit of the park fund and shall be kept separate and apart from the other moneys of such city or town and drawn upon by the proper officers of said city or town upon the properly authenticated vouchers of the park board."** It is the "abolished" Park Board that should have been authorizing every dime of the expenditures for the aquacenter and recreation center, NOT the mayor and the city council!

**It IS the LAW:** The following are the state statutes - the state laws - for a park board. This text can be used exactly as it appears below to pass in ordinance form, with one important modification. In all caps we added the wording necessary to ensure that board membership fairly represent the entire community. **If that safety feature is not included, the park board will wind up being three members from the Mayor's neighborhood and six from Oak Knoll.** If we had a correctly organized and accountable Park Board, the Board could appoint as many advisory groups or subcommittees as they needed to help with special projects such as the new center. It's time a real Park Board included, on park and recreation project subcommittees, a few people from contiguous areas outside the city limits. **Sales taxes now contribute five times as much revenue to the city budget as the city property tax!** People outside the city have been paying the sales tax that supports the park system for years and now they are paying the new

sales tax for the recreation project just as city residents are. Why not let them help make it work?

\*[http://www.rollanet.org/~rwnash/op\\_181\\_95.html](http://www.rollanet.org/~rwnash/op_181_95.html)  
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### **THIS IS A LEGAL AND ACCOUNTABLE PARK AND RECREATION BOARD:**

[90.520.] **Park board--appointment.** When any incorporated city or town shall have decided to establish and maintain public parks under sections 90.500 to 90.570, the mayor of such city shall, with the approval of the legislative branch of the municipal government, proceed to appoint a board of nine directors for the same, **THREE MEMBERS WILL BE** chosen from the citizens at large **AND ONE MEMBER FROM EACH VOTING WARD OF THE CITY** with reference to their fitness for such office, and no member of the municipal government shall be a member of the board.

[90.550.] **Park board--organization--powers.** Said directors shall immediately after their appointment, meet and organize by the election of one of their number president, and by the election of such other officers as they may deem necessary. They shall make and adopt such bylaws, rules and regulations for their guidance and for the government of the parks as may be expedient, not inconsistent with sections 90.500 to 90.570. They shall have the exclusive control of the expenditures of all money collected to the credit of the park fund and of the supervision, improvement, care and custody of said park. **All moneys received for such parks shall be deposited in the treasury of said city or town to the credit of the park fund and shall be kept separate and apart from the other moneys of such city or town and drawn upon by the proper officers of said city or town upon the properly authenticated vouchers of the park board.** Said board shall have power to purchase or otherwise secure ground to be used for such parks, shall have **power to appoint a suitable person** to take care of said parks and necessary assistants for said person

**and fix their compensation, and shall have power to remove such appointees;** and shall in general carry out the spirit and intent of sections 90.500 to 90.570 in establishing and maintaining public parks.

[90.560.] **Park board--annual report.** The said board of directors **shall make, on or before the second Monday in June, an annual report to the city council stating the condition of their trust** on the first day of May of that year, the various sums of money received from the park fund and other sources, and how much moneys have been expended and for what purposes, with such other statistics, information and suggestions as they may deem of general interest. All such portions of such report as **relate to the receipt and expenditure of money shall be verified by affidavit.**

[90.570.] **Public park--private donations.** Any person desiring to make donations of money, personal property or real estate for the benefit of such park shall have a right to vest the title to the **money or real estate so donated in the board of directors** created under sections 90.500 to 90.570, to be **held and controlled by such board** when accepted according to the terms of the deed, gift, devise or bequest of such property; and as to such property, the **said board shall be held and considered to be the special trustees.**  
(emphasized)

See also more sections with other details of Park Board management and powers at:  
<http://www.moga.state.mo.us/STATUTES/C090.HTM>

90.010. Parks, acquisition, funds, how obtained-tax, how levied and collected-amount of tax. 90.020. Park lands-condemnation. 90.500. Parks-petition-tax rate-election-form of ballot (certain cities). 90.510. Public parks, maintenance. 90.540. Vacancies, no compensation, etc.

Coming Next in Part 3:

**IF WE DON'T HAVE A PARK BOARD - WHY DO WE HAVE SO MANY PARK BOARDS?**

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