

# No Standing News

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

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## RMU's PONZI SCHEME

At the March 20th "Workshop", the kind of council meeting where they said, "no business shall be transacted," the business they transacted was to let RMU plunge the city into a \$6 million bond deal for three generators. These are not the generators they've already purchased to keep the water on when RMU's stuttering electrical system fails. These are three much bigger generators, which RMU claims will generate their own electricity. Sounds great if they could prove it will work but they're not sure it will work. Five council members asked a few questions but most were passive in their examination of this huge expense. Then on March 3rd administration switched the ordinance that had already had the first two readings, for another version. The Council obediently approved what was actually a new ordinance without the legally required public access to the new text and two readings before the vote. **If challenged before the bonds are sold, that bait and switch ordinance and its \$6 million obligation could be void.\*** But after the state bonds are issued and sold, Rolla will be forced to make good on them. You can't stiff the state bond authority and get away with it no matter how bone ignorant your actions were. Haste makes waste and you can always tell when the Mayor and his confederates are in a hurry to get the Council's rubber stamp and hustle some rank-smelling deal out of sight.

Councilman DeFriese, the only one who voted against this scam, tried to get his fellow legislators to slow down

long enough to get some answers before they committed the city to \$6 million in new city bond debt. There is no emergency here; would taking another 30 days cause the city to collapse? No it wouldn't. But your other eleven diligent public servants weren't the slightest bit interested in finding out whether they, and you, were being taken or not. As Morgan and Jimmy Dale Williams are fond of saying, "We have to trust the experts." The "expert" in this case was Dan Watkins who is both buying and selling this scam.

**Another Council Ho-Hum.** The council did get a lot of real POSITIVE management-speak from Watkins. They also got a copy of the lease purchase contract WITH BLANKS WHERE ALL THE \$ AMOUNTS WERE SUPPOSED TO BE. When they voted they didn't know, and didn't even ask, what the real cost of the \$6 million bond issue would be! That's literally signing a blank check. The council's lethargic attitude about this deal reminds us of their limp oversight as \$11.7 million has been squandered on the recreation project. Unfortunately, council members have been carefully conditioned to think that whatever RMU does is no concern of theirs as long as the cash cow continues to pass them \$6 to \$7 hundred thousand a year which **RMU board members: Dain Ward, Maurice Alfermann, Bill Jenks and James Stoffer** skim off the utility bills for them. The skim this year is \$625,000 in the RMU budget but in past years (1995) it has been as high as \$1.3 million.

**The Stench of Conflict of Interest.** It would be hard to distinguish the new

odor of conflict of interest arising from Watkins and this contract because the RMU board reeks of it anyway. But this wins some kind of prize even for Rolla. Watkins is the 2nd Vice President on the Missouri Association of Municipal Utilities (MAMU) board. That's the board the \$6 million bond contract is with. Watkins is also the Vice Chairman of another utility lobby organization called the Missouri Joint Municipal Electric Utility Commission (MJMEUC). These two non-profit corporations - and a third one, the Missouri Gas Commission - own the Missouri Public Utility Alliance (MPUA) but MPUA is a for-profit. **All four corporations have the same address (2407 W. Ash, Columbia, Missouri) and two of the four have the same executive director.** A typical smoke screen of non-profit shell corporations used to disguise their for-profit activities. Watkins didn't voluntarily disclose to the council that **he was an officer of the other party to the contract;** DeFriese brought it up. Watkins said that his conflict of interest was a matter of "interpretation". A classic 'Clinton-esque' evasion. To make this conflict of interest stew even worse, the last-minute ordinance switch **gave Dan Watkins the authority to sign the final version of this contract.** The contract the council approved was only a draft. Watkins is now signing a contract for the city to do business with himself as a board member of MAMU! Now they have given Watkins the power to approve any contract changes and even increase the bond amount and sign the final version without further council knowledge or approval. The council won't even see the final version of their contract for this huge debt or an

even larger one! When did city employees begin signing contracts? If Morgan, the council and the RMU board (Ward, Alfermann, Jenks and Stoffer) think that not having their name on the contract gets them off the legal hook they're more gullible and their "legal" advice is more miserable than even we thought it was.

The evasive, vague non-answers DeFrieze and the council got from Dan Watkins, RMU manager, were very like the answers Ken Kwantes gives. Vague answers are the first clue when a Ponzi scam is being laid on. You don't think this is a Ponzi scheme? Compare the Great RMU Generator Scam to the definition. **Ponzi scheme:** (PON-zee skeem) noun. An investment swindle in which high profits are promised from fictitious sources and early investors are paid off with funds raised from later ones. Named after Charles Ponzi, Italian-born speculator who organized such a scheme in 1919. There is a slight difference in this case. We don't think this will work nearly as well as most Ponzi schemes. RMU is proposing to lease-purchase generators for \$6 million. They will pour expensive diesel fuel in one end and get kilowatts out of the other. They claim to be able to sell the results and make big profits. The exact words of Dan Watkins, RMU manager were "... I assure you, we will be selling that power for much more than what we are paying for our own supplies." When something sounds too good to be true, it probably is. Watkins also claimed, "the RMU board had "studied" the project and "have a professional consultant on board who has made some recommendations." Does that mean there is a study? If there is one why didn't the council see it? It's now public record because your money paid for it. Call Watkins and ask for a copy.

**Make a Profit from Whom?** Did Watkins mean they would sell the diesel-generated power back to some electrical wholesaler "for much more" or did he mean that they were going to

give it a big mark-up and sell it to Rolla ratepayers "for much more"? This quickie generator scheme smells like the reckless act of a board whose bad judgment chickens are beginning to come home to roost; a board that has been more interested in what they could siphon out of this utility than how they could build it up. In the 2000 RMU budget, adopted just seven months ago, there was nothing about these generators which, Watkins says, are "...part of the board's overall business plan to position RMU to provide low-cost, reliable services to the citizens of Rolla well into the next decade." This is something that has come up recently; probably peddled at one of Watkins' MAMU board meetings. It looks like a desperate gamble by the RMU board and Watkins who have backed themselves into a corner with bad service, lawsuits, broken promises, arrogant attitudes and who are now anticipating large losses from the inevitable state deregulation of utilities. RMU board members don't play well with others. They have had contract problems with UE (and been in Federal Court about that another story not covered by local media) and they have gone out of their way to burn their bridges with Intercounty - their logical backup in the event of another big power failure. Is this why the council was hit cold with this contract and why they were given no substantive information such as a cost/benefit analysis? Wouldn't you expect a much more detailed report and more than a few minutes of questions by the council before they approved anything that involves a city debt of over six million dollars?

**Didn't ANYONE Read this Contract?** Who does the council think (if they think at all) will be obliged to pay off the \$6 million if RMU defaults on the contract? The city is still responsible for the debt, of course. It says so right in the contract. RMU may have a management board but the reason the council appoints those board members is because the whole thing,

down to the last fuse belongs to the city, i.e. the city taxpayers. This debt is now yours. Due to the last minute ordinance switch the mayor won't sign the contract. Now Dan Watkins, the RMU manager (and new King of Conflict in Rolla) will sign this contract to create a city debt - that means if anything goes wrong it's still your problem because Watkins is only an employee and only certain elected officials can legally sign debt instruments.\* If RMU can't come up with the annual payment will they tell the city to pay it out of the skim City Hall and RCDC depend upon? Will City Hall be able to make the payment out of general revenue? How many millions have to be at stake before the city council will give more than a few perfunctory minutes in examining what's going on? Is reading really that difficult?

Councilman DeFrieze asked: "In the event of RMU funds not being available, is the city liable for note?" This was Watkins non-responsive, response: "...It's a lease purchase program. If you no longer want to participate in the lease, you can let it go." Watkins was either doing a "Kwantes" or he hadn't read the contract he was pushing. On page 32 it describes the "EVENTS OF DEFAULT AND REMEDIES." Rolla has no remedies and if there is the slightest default for more than 30 days the generators will be repossessed and RMU (read the City of Rolla) will still owe, at the very best, all the payments for the rest of that fiscal year and at worst, can be sued for breach of contract to get the rest of the \$6 million! Even worse, the city blindly agreed to pay all the litigation bills for the people who will sue them if they are taken to court for default on the contract! They also agreed to pay all other expenses of any kind connected with the contract for all the other parties. What a great deal everybody else got! Didn't our Business Mayor read the contract? Are Butz and Beger asleep? When asked by Councilman

DeFriese if he had read the contract, Beger replied, "I believe the contract is a legal contract. I'm not making a recommendation one way or another as far as a policy issue: that's up to the council. I'm asked to review it for legalities."

The question should have been, "Is this a stupid thing to do?" The answer is: yes, it was stupid but it's quite legal to sign stupid contracts. They are all counting on the fact that if RMU's grand plan fails they will just raise the rates of homeowners and small businesses to pay off the remaining millions. Does anyone remember Rolla's Great Incinerator Scheme? The trash incinerator, which was going to solve our garbage problems was never used because the council forgot to ask one simple question: 'How will it be fueled?' After it was paid for and dragged here from the east coast they discovered that the million-dollar beast was powered with natural gas. That was years before we had natural gas in Rolla. What's left of the beast is rusting in a field over by Old St. James Road. Years later, same story, except these beasts cost six times more.

**City Spending Binge.** In less than two years the city has gone into debt for an \$11.7 million recreation issue and a \$5 million sewer issue, which leaves them with only \$8.9 million before they hit their constitutional debt ceiling. They have incurred an unknown amount of expenses for the Southside annexation due to very bad planning (some say it was just plain lying) and now, without blinking, they have added another \$6 million financial liability for generators. If this scheme to make big profits doesn't pan out RMU (read the City) will have another huge liability. What about RMU's other liability; the petition by the Southside residents objecting to RMU's takeover of their Intercounty service? That's one of those NEGATIVE stories the Rolla Daily News has suppressed. If RMU actually WINS the Public Service Commission hearing to take over Intercounty's

290+/- Southside electric customers, it could cost RMU about \$4 to \$6 million. If they lose, at the very least, they will still have to pay for their legal bills and court costs. Is anyone in city hall watching the red ink here or are they just on the same spending binge that Moorkamp and Magdits have had so much fun with?

Because the deal was cooked before it arrived and the Mayor doesn't like to have questions cluttering up "his" council meetings (we've all seen how berserk Morgan, Estey and Magdits get if someone dares to ask a question), we asked for the list of expert questions Councilman DeFriese tried to get the council to take an interest in. Remember UMR, the engineering university? We probably have more electrical engineering experts per square foot than any other place in the country. Were any of them asked for help before RMU dragged the city into another financial sinkhole? Here are just some of the questions that should have been asked, and answered, before the council was even approached with this Ponzi Generator Scheme. See how many of these you want answered before a big honking generator shows up in your neighborhood.

1. What is the purpose of the acquisition? **Is there a specific problem that the generators are supposed to solve?**
2. What is the long-range plan to address the problem, which caused the need for more generators?
3. Can the generators be rented for a year or two to see if this will work before tying the city to an experiment with a \$6 million bond obligation?
4. Are there any plans to replace the proposed generators with a more permanent solution?
5. Where are these units to be located? Give the specific locations.
6. What are the anticipated hours of operation ( 6:00 a.m. -9:00 p.m.?) and what is the decibel level?

7. Has an environmental assessment of the diesel emissions been done? Are copies available?
8. Have the affected neighborhoods been informed? Have public meetings been held?
9. Will the generated power offset power purchased by RMU from other sources?
10. Will these units be available for emergency service on demand? (the hospital for instance?)
11. How is this program to be funded - repayment terms - repayment amount? What is the real cost of money? Why was all this information left blank in the contract the city council approved?
12. Has a cost/benefit analysis been performed? If so, what were the assumptions? Who performed the analysis? What were the breakeven point(s)? What was the anticipated rate of return? When will the study, if one was done, be available to the public?
13. What impact will the repayment of the \$6 million have on utility rates charged by RMU?
14. Why doesn't RMU acquire some of these units through its current cash reserves? (**ed. note: because their budget says they will have only \$5.3 million in reserves by 10/1/00.**)
15. Under what authority would RMU be allowed to move from a distribution level provider to a generator? Federal, State, City?
16. If RMU becomes a power generator will they be subject to federal and state requirements to hold public rate hearings and be regulated by the Missouri Public Service Commission?
17. How would the public be protected when these units were operating or were being moved?

Yes, how would the public be protected? You don't have to be an electrical engineer or any kind of "expert" to ask any of those questions, they're just common sense.

**Coming Soon to a Substation Near You?** These generators will be trailer-mounted and have fuel storage

tanks. They will be parked around town next to existing substations. We wonder what a prospective resident or someone looking around Rolla as a possible business location will make of these big generators on wheels sitting around town? Wouldn't it sort of look like bad city planning or an admission of infrastructure problems? Won't it be fun if they park one of these big noisy machines with its own fuel tank on a truck near your house? Remember how far the noise of the now-closed racetrack carried? When they haul one of these into your neighborhood and it starts belching diesel fumes remember, it's a public works "improvement" brought to you by the RMU Ponzi Brothers and your ever-vigilant elected officials.

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**\*Why Watkins new contract signing authority is unconstitutional:** "(1969) Ordinance of the city of the third class which purported to grant to the city administrator the power to promulgate necessary rules and regulations to carry out city ordinances was an unconstitutional delegation of city council's legislative power. **Pearson v. City of Washington (Mo.), 439 S.W.2d 756.**"

**Question:** If just delegating to a city administrator the authority to make some rules is unconstitutional, how much more unconstitutional is it to delegate to an employee of an appointed board the council's legislative authority to approve changes and sign \$6 million bond contract?

**Answer:** A lot more. Whatever Watkins MAMU friends wind up with in that contract, with Watkins signature it's not worth the paper it's written on.

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