

## Mary Jo Spino

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**From:** Theresa Galvin  
**Sent:** Sunday, June 6, 2021 9:11 PM  
**To:** James Youngs  
**Cc:** Darryl L. Forté; Frank White; Jalen Anderson; crystaljoywilliams@yahoo.com; Crystal J. Williams; Tony Miller; trm@troppitomiller.com; burnett.scott@gmail.com; Ronald E. Finley; Charlie Franklin; dan@twinlakesins.com; Daniel T. Tarwater III; Jeanie Lauer; Jean Peters Baker; Bryan O. Covinsky; Jay D. Haden; Caleb Clifford; Troy Schulte; Sylvya Stevenson; Mary Jo Spino; Tedi H. Rowland; Crissy Wooderson; Addison R. Newberry; Winifred Jamieson; Karen Baker; Beth A. Brubaker; Kay Jenkins; Georgia M. Sanders; Dawn C. Hickman; Chris Crawford; Jane A. Cavanaugh  
**Subject:** Re: Anti-Crime Fund  
**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

To my colleagues and all partners in communication,

As partners in communication, I have included the Circuit Court Presiding Judge as a vested party in this joint conversation. First, I greatly appreciate the County Executive's willingness to work on a solution by having the County Counselor research the question raised on May 24th during testimony of **Ordinance 5511** in the Anti-Crime Committee if the ordinance, as drafted, would violate Jackson County's Code of Ordinance Section 532. I am pleased this concern was taken seriously and deemed valid, and if approved as drafted, would indeed result in a violation of the County's Code of Ordinances. While I am further pleased to see the Finance Department has provided a formal analysis (Memo June 7<sup>th</sup> from County Administrator Troy Schulte) and an accounting of the undesignated fund balance of the Anti-Crime Fund, this causes additional concerns.

This review of the undesignated fund balance of the Anti-Crime Fund comes six months into 2021, six months following the adoption of the 2021 Budget and only after legislation is introduced to spend from the undesignated fund balance. This review has now, in June 2021, *found* \$4,334,568.14 in "new revenue" that is eligible for appropriation by the legislature. This is 157% more than<sup>1</sup> what was estimated as the prior year's fund balance when the legislature adopted the 2021 Budget in December 2020. While *finding* 4.3 million in "new revenue" and available to use is seemingly great, isn't this also considered a poor estimate of our beginning and ending fund balances or under-reporting of our financial position? I find it curious that as of November 20, 2020 there was a projected End of Year Remaining Balance for 2020 of \$5,648,190 and now, according to the County Executive's email, there is \$5,832,809 available. A spreadsheet supporting that data was shared with Administration, the Prosecutor's Office and all legislators willing to hear the presentation in November of 2020.

As everyone is well aware, the legislature supported the county's engagement in two different independent audits over the course of 2018 -2020 and the county has worked as partners to implement the many recommendations – one solely of Jackson County COMBAT, Community Backed Anti-Crime Tax prepared by BKD, and another on Jackson County Budgets and Transfers prepared by the Missouri State Auditor as one of several audits.

Both audits criticized the county for under-reporting our financial position. Both specifically included reference to the Anti-Crime Sales Tax Fund. I would like to remind my colleagues and all partners in communication of excerpts below on under-budgeting of revenues and poor estimates of beginning and ending undesignated fund balances from the two separate and independent audits and the County Executive's commitment "to ensuring that revenue projections included in the county's annual budget are a fair reflection of the county's current financial position". The State Audit

report cited, ... “over/underestimating beginning fund balances...does not allow for responsible and transparent policy making”.

How is under-reporting the Anti-Crime Sales Tax Fund by 157% from our 2021 budget estimates now suddenly considered \$4,334,568.14 in “new revenue” that is eligible for appropriation? How is it acceptable that our estimates for where we would be December 31, 2020 suddenly increased by 157% more on January 1, 2021 following a formal analysis and an accounting of the undesignated fund balance of the Anti-Crime Sales Tax Fund by our Finance Department six months after the 2021 Budget was adopted? New Revenue is the CARES Act monies. New Revenue is Emergency Rental Assistance monies. New Revenue will be the American Rescue Plan monies. You will recall I referred to County Code 5 Section 532.1 which specifically states, “the County Legislature may appropriate an amount equal to not more than ninety-five (95%) of the estimated income and revenue from the *new source or sources*.” This is not a new source of revenue in fact these monies were discussed in public legislative meetings in November and December of 2020. Year-end surpluses are an appropriate source for replenishing fund balance, but why were they not taken into consideration with the adoption of the 2021 Budget? Where was the analysis then? Under-reporting our budget by 157% is bad budgeting, not new revenue. If our estimates for the budget can be off this much, how good are any of the numbers in the annual budget? How do we know the numbers provided with the formal analysis are correct? See below for what was reported in the 2021 Budget vs what Finance is reporting now:

	2021 Revenue Budget		Memo 6/7/2021	
	Anti-Crime Sales Tax Fund		RE: Finance Analysis	Comments on
	Page 93 of 2021 Budget		with final numbers following	Finance’s Calculations
			a formal review	
Estimated Revenue	\$ 24,132,000		\$ 24,132,000	
Est Prior Years Fund Balance	\$ 7,409,875		\$ 11,673,189.57	Increase of 157% <sup>1</sup>
<b>TOTAL AVAILABLE</b>	<b>= \$31,541,875</b>		<b>= \$35,805,189.57</b>	<b>Increase of \$4,263,314.57</b>
LESS: APPROPRIATIONS	(\$29,972,381)	95%	(\$29,972,381.00)	95% of \$35,805,189.57
			Balance = \$5,832,808.57	= \$34,014,930.09
			Calculated \$4,334,568.14 more available for supplemental appropriation in 2021	or <b>\$4,042,549.09 more available to appropriate</b>
				NOT \$4,334,568.14
Undesignated Fund Balance	= \$ 1,569,494	5%	Calculated \$1,498,240.43	5% of \$35,805,189.57
			as 5% Required Reserve	= <b>\$1,790,259.47</b>
			(even less than reported in both the Adopted Budget and County Executive’s Line Item Veto of Budget Ord 5461)	NOT \$1,498,240.43
				If we found “new revenue” doesn’t it make sense we have to withhold more in order to keep the 5% Required Reserve

To follow state law, RSMo 50.550 requires our budget to present a complete and accurate financial plan for the ensuing budget year. Regardless of what Ordinance 5511 is proposing to spend undesignated fund balance monies on, aren't we still doing the very thing the audit reports criticized the county for – under-reporting our financial position only to call it new money when we want to spend it? When, if not now, will we stop this practice?

I very much respect the need and have a strong professional and personal desire to fund these programs that will address the underlying issues that harm our communities. To be clear, I believe most of us have the same goal, it is a matter of achieving this goal within the state and county guidelines. It is my responsibility as a legislator to ensure we follow these guidelines while appropriating the taxpayers' dollars.

Thank you,

Theresa

**532. Appropriations, Limitation on.**

The County Legislature shall not increase the total appropriation from any fund as proposed by the County Executive in the budget so that the total appropriations shall exceed ninety-five percent (95%) of the income and revenue as estimated by the County Executive in the budget. (Ord. 11, Sec. 3.59, Eff. 1-1-73)

**532.1 Exception, New Revenue.**

If the County Executive shall propose and the County Legislature shall enact a measure that will provide additional income and revenues, and if the County Executive shall propose additional expenditures, the County Legislature may appropriate an amount equal to not more than ninety-five percent (95%) of the estimated income and revenue from the new source or sources. (Ord. 11, Sec. 3.59, Eff. 1-1-73)

## Jackson County COMBAT Agreed Upon Procedures

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The fund balance is caused by under-budgeting of revenues. We have observed a pattern of Finance under-budgeting sales tax revenue, which appears to exceed the concept of “conservatism” with an average excess since 2015 of 10.2% each year. Consequently, the under-budgeting has created excess revenue that has been used by other County ds rather than being re-appropriated to COMBAT programs. We believe this is contrary to Resolution 10950.

**Recommendation:** We recommend that COMBAT management take over the estimation of sales tax revenue, then provide to Finance for the necessary approvals. All changes to the estimate provided by COMBAT should be approved by COMBAT management.

**Recommendation:** We recommend that Finance ensure that 100% of the prior year’s fund balance be budgeted for appropriations to the entities referenced in Resolution 10950.

### Budget amendments

The poor estimates of beginning and ending fund balances (as noted in section 1.1) resulted in undesignated fund balances that were then improperly transferred by the County Legislature rather than appropriated through the process established by state statute. Undesignated fund balances are the unreserved portion of a fund balance that have not been accounted for in the original budget passed by the county legislature. These funds originate from balances carried over from prior years due to poor budget estimates and zero balance budgeting that were not accounted for in subsequent budgets. During the audit period, the County Legislature authorized \$3,117,328 of transfers from these actual undesignated fund balances instead of properly amending the budget. In addition, public hearings were not held prior to the approval/adoption of any of these transfers as required by state law.

State law allows a county to amend its budget when a county receives additional monies that could not be estimated when the original budget was adopted. However, the following are examples of transfers of undesignated fund balances (not appropriated through the county budget process) performed without the existence of additional funds:

# Recommendations

The County Legislature work with the County Executive

- 1.1 Ensure budgets provide reasonable expenditures, disbursements and ending fund balances, and budgeting and paying departmental and non-departmental appropriations.
- 1.2 Discontinue authorizing transfers from unappropriated funds (not appropriated through the county budget) through budget amendments are only made when revenues and public hearings are held and amendments in accordance with state law.



**FRANK WHITE, JR.**  
Jackson County Executive

November 6, 2020

Robert McArthur II, Senior Auditor III  
Missouri State Auditor's Office  
P.O. Box 869  
Jefferson City, MO 65102

via email: [robert.mcarthur@auditor.mo.gov](mailto:robert.mcarthur@auditor.mo.gov),  
[pamela.allison@auditor.mo.gov](mailto:pamela.allison@auditor.mo.gov)

Dear Mr. McArthur,

In response to your request for my office's response, please see the information below:

## 1.1

The Administration is committed to ensuring that revenue projections included in the county's annual budget are a fair reflection of the county's current financial position and that the county's annual budget is compiled in accordance with financial accounting best practices.

The Administration will review all recommendations made, and in collaboration with the County Legislature will make any changes necessary.

State Law also noted in the State Auditor's Report: Section 50.550 RSMO requires the budget to present a complete and accurate financial plan for the ensuing budget year.

Section 50.550, RSMo, requires the budget to present a complete and accurate financial plan for the ensuing budget year and outlines the various information to be included in the budget. Realistic projections of the county's uses of funds and fund balances are essential for the efficient management of finances and for communicating accurate financial data to county residents. Underestimating revenues, overestimating anticipated disbursements, significantly over/underestimating beginning fund balances, and budgeting and coding actual departmental disbursements to non-departmental object codes does not allow for responsible and transparent policy making.

## State Law

Section 50.540.4, RSMo, states, "an amount e percent of the total estimated general fund revenue each year as an emergency fund."

Section 50.550, RSMo, requires the budget to p plan for the ensuing budget year and outlines th included in the budget.



## Jackson County Budgets and Transfers Introduction

Section 50.622.1, RSMo, allows budget amendm revenue are received that could not be estim adopted. In addition, Section 50.622.6, RSMo, sta be restricted from amending its budget under and charter."

<sup>1</sup> 2021 Adopted Budget, Estimated Prior Year's Fund Balance of \$7,409,875 vs. \$11,673,189.57 Undesignated Fund Balance as of 12-31-2020 in Finance's analysis referenced in Memo from County Administrator dated June 7<sup>th</sup>, 2021 and County Executive's email on June 4<sup>th</sup>.

On Jun 5, 2021, at 12:44 AM, Darryl L. Forté <[DLForté@jacksongov.org](mailto:DLForté@jacksongov.org)> wrote:

I agree to the condition and look forward to working with everyone.

Darryl

Sent from my iPhone

On Jun 4, 2021, at 4:06 PM, Frank White <[FWhite@jacksongov.org](mailto:FWhite@jacksongov.org)> wrote:

All,

During the most recent meeting of the County Legislature, Legislator Cass-Galvin raised concerns regarding Ordinance 5511 and the possibility that it might result in a violation of the county's code of ordinances. Legislator Cass-Galvin asked if the ordinance, as currently drafted, would violate Jackson County's Code of Ordinance Sec. 532. This Code section prohibits the County Legislature, in certain circumstances, from spending more than 95% of the projected available revenue in a fund. The County Counselor's Office has looked into the matter and has confirmed that Legislator Cass-Galvin's concerns were valid, and if Ord. 5511 were to be approved as drafted, it would result in a violation of the County's Code of Ordinance.

However, the County's Code does provide a singular exception to this code section:

*"532.1 Exception, New Revenue.*

*If the County Executive shall propose and the County Legislature shall enact a measure that will provide additional income and revenues, and if the County Executive shall propose additional expenditures, the County Legislature may appropriate an amount equal to not more than ninety-five percent (95%) of the estimated income and revenue from the new source or sources."*

In the hopes of addressing the concerns raised by Legislator Cass-Galvin, while also providing the funding recommended by the COMBAT Commission and the Prosecuting Attorney, I asked for an accounting of the undesignated fund balance of the Anti-Crime Fund. As you will see, when factoring in the actual tax collections and the departmental underspending in 2020, there is \$4,334,568.14 in "new revenue" that is eligible for appropriation by the Legislature following my recommendation, while still leaving a 5% cash flow reserve:

Undesignated Fund Balance	\$11,673,189.57
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Less amount appropriated in Fiscal Year 2021 Budget <i>FY 2021 Adopted Budget (Revenue of \$24,132,000 less Appropriations of \$29,972,381 = \$5,840,381)</i>	(\$5,840,381.00)
Adjusted Prior Year Fund Balance (Available Fund Balance at 1-1-2021)	\$ 5,832,808.57
Less Cash Flow Reserve <i>FY 2021 Est.. Revenue of \$24,132,000 plus Available Fund Balance at 1-1-20210 of \$5,832,808.57 multiplied by 5%.</i>	(\$1,498,240.43)
Available for Supplemental Appropriation in 2021	\$4,334,568.14

**I am willing to recommend the expenditure of up to \$4,334,568.14, under one simple condition:**

**The Prosecuting Attorney, Sheriff, and a majority of the County Legislature must agree on the usage of these funds.**

I am confident that this is not only possible but will result in a better outcome for the County and the many communities we serve.

Frank White, Jr.  
Jackson County Executive