



Office of
Mary Jo Spino
Clerk of the County Legislature

Jackson County Missouri

JOURNAL

Jackson County Courthouse
415 E. 12th Street, 2nd floor
Kansas City, Missouri 64106
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County Legislature

Theresa Cass Galvin (6th) Chair, Dan Tarwater III (4th) Vice Chair,
Jalen Anderson (1st AL), Crystal Williams (2nd AL), Tony Miller (3rd AL),
Scott Burnett (1st), Ronald E. Finley (2nd), Charlie Franklin (3rd),
Jeanie Lauer (5th)

Wednesday, December 30, 2020

10:00 AM

Special Meeting

K.C. Legislative Assembly Area, Kansas City, Missouri

Theresa Cass Galvin, Chairman, called the meeting of the Jackson County Legislature to order.

1 ROLL CALL

Present 9 - Jalen Anderson, Crystal Williams, Tony Miller, Scott Burnett, Ronald E. Finley, Charlie Franklin, Dan Tarwater III, Jeanie Lauer and Theresa Cass Galvin

2 THE PLEDGE OF ALLEGIANCE

Recited.

3 APPROVAL OF THE JOURNAL OF THE PREVIOUS MEETING

A motion was made by Dan Tarwater III, seconded by Charlie Franklin to approve the journal of the previous meeting held on December 21, 2020. The motion passed by a voice vote.

4 HEARINGS

None.

5 COMMUNICATIONS WITH AND REPORTS OF THE COUNTY EXECUTIVE

None.

6 PERFECTION OF PROPOSED ORDINANCES AND REPORTS OF COMMITTEE

None.

7 FINAL PASSAGE OF PROPOSED ORDINANCES

None.

8 RESOLUTIONS IN COMMITTEE

None.

9 CONSENT AGENDA**10 INTRODUCTION OF PROPOSED ORDINANCES AND ASSIGNMENT TO COMMITTEE**

None.

11 INTRODUCTION OF PROPOSED RESOLUTIONS AND ASSIGNMENT TO COMMITTEE

None.

12 COUNTY EXECUTIVE ORDERS

None.

13 UNFINISHED BUSINESS

Theresa Cass Galvin, Chairman, read a statement in response to the County Executive's signing statement regarding Ordinance #5461. "When the signing statement on Ordinance #5461 for the 2021 budget came back to the Legislature on December 23, 2020 with line-item vetoes, I consulted the Legislature's legal counsel and the State Auditor's Office for clarity on a path forward as time was of the essence to resolve any issues by December 31, 2020. As a result, the best thing we can do is have a public conversation as a matter of record. When the Legislature requested the State Auditor conduct a performance audit of Jackson County in 2018, I took the request seriously knowing full well the revelations and reports might not be glowing. We requested the audit reports be conducted by the State Auditor's Office to better our practices and increase transparency. Those audit reports revealed that Resolution #10950, allocating the Anti-Crime Sales Tax Fund, had not been updated since 1995, and it had not been followed. Our budget practice of underestimating beginning fund balances, underestimating revenues, and overestimating disbursements regardless of actual activity for the funds, resulted in poor budgeting and misstating our financial position. The audit report on budgets and transfers gave the County a "poor grade," the worst on the grading scale. The Legislature's response stated, 'The County Legislature supports the report's recommendations and is committed to taking actions to strengthen oversight efforts of County operations and internal controls through policymaking measures to establish best practice standards.'"

Since November, the Legislature had discussions on the amount of under spending in the Anti-Crime Sales Tax Fund for 2020. In discussions with the County Executive, Chief of Staff, County Administrator, and Legislative Auditor, all agreed for the second straight year the Anti-Crime Sales Tax Fund balance would grow to nearly \$13 million due to under spending in 2020. Add to that the \$24 million in sales tax that is collected each year.

The 2021 Anti-Crime Sales Tax Fund would have over \$37 million available when we start the new year. As indicated in the state audit report on budgets and transfers, section 50.550 RSMo requires the budget to present a complete financial plan for the ensuing budget year. Section 50.622.1 RSMo allows the Legislature to amend the budget only when additional sources of revenue are received that could not be estimated when the budget was adopted. The County Executive's Recommended Budget on November 15, 2020 only recognized \$29 million for appropriations. It is true, pursuant to County Code, the Legislature cannot appropriate more than 95% of available funds. If we agree that the \$37 million in Anti-Crime Sales Tax Fund is there and does exist, only allocating \$29 million would knowingly withhold available money and misstate our financial position. This contradicts the audit report in which we asked for recommendations for better government. It is also a disservice to our constituents, the people we were elected to represent with a voice. It is a disservice to the taxpayers of this County by continuing our poor budget practices. The recommended budget was generated by the Budget Office in the Finance Department. The budget amendment was generated by the Budget Office in the Finance Department. The 2021 budget was unanimously adopted and recognizes the under spending in the Anti-Crime Sales Tax Fund. The Budget Officer acted upon the recommendation and allocated \$35,800,000. To be clear, there will be another state audit, there will be another COMBAT audit and now there will be a record of the actions taken by the Legislature and the County Executive."

Dan Tarwater III, County Legislator, asked Troy Schulte, County Administrator, if the \$37 million amount under discussion is correct. Troy Schulte said he would walk everyone through the math. During the budget process they assumed across all funds that all appropriations for 2020 would be spent as planned. The majority of discussions were on balancing the General Fund because it was assumed that would take the biggest hit from the sales tax and property tax issues. That is the biggest difference between the submitted budget and the adopted budget. When they went back to look at the COMBAT fund it was determined that about \$6 million was under spent. The County would end up with current revenues and reserves in the amount of about \$37 million as of January 1, 2021. Pulling a 5% contingency out of that, which is \$1.2 million, you end up with \$35.8 million, which is where the budget was balanced with the budget amendment was passed. The County Executive's budget was right as submitted. As the Legislature began to re-examine the COMBAT fund, this \$6 million was identified. Both sets of numbers are right at the point in time that they were submitted. At the time we submitted the budget, the recommendation from the Prosecuting Attorney was to wait to see what the COMBAT Commission recommends. This then becomes a policy question for the Legislature as to how fast the Legislature wants to spend the reserves.

Dan Tarwater III asked if this is a situation where the Administration is deciding to hold these funds. This fund is different than the Road and Bridge or General funds because it has a specific use to fight violent crime and drug addiction. To leave money in the bank does not help those issues. We are trying to recognize that the funds are here and get it back out on the street for the benefit of the citizens of Jackson County.

Troy Schulte said he believes the County Executive's issues are with how this money was allocated and who was involved with the decision-making process. He believes the County Executive is wanting to make sure all stakeholders participate in the process. After the line-item veto there is a difference of about \$6 million. Mr. Tarwater said the veto Ordinance #5440 reverts the allocation percentages back to amounts established in Resolution #10950.

Jeanie Lauer, County Legislator, asked Mr. Schulte if the County should be working with the Drug Commission on this process. There is \$24 million baseline amount allocated to the COMBAT Administration. COMBAT needs to establish and present to the Legislature a plan for spending an additional \$11 million before they receive this additional allocation.

Mr. Schulte said he believes the Legislature has the authority to have the COMBAT Administration come back with a plan and if no plan is delivered by a certain date, then the authority would revert back to the Legislature to allocate these funds.

Theresa Cass Galvin said that the deadline for spending funds identified in 2020, in accordance with state statute, would be the 2021 budget.

Dan Tarwater III said the process is in place for the Legislature to approve any plans for funds. Any plans will require Legislative approval. Ms. Lauer said she has concerns about proposals coming before the Legislature in a piecemeal approach that do not reflect a cohesive plan.

Jalen Anderson, County Legislator, asked about the discussion surrounding Ordinance #5440. When 5440 was vetoed, the allocation policy reverts back to Resolution #10950. Mr. Anderson said with the veto of 5440, the Legislature is attempting to enact 5440 by overriding the budget veto.

Theresa Cass Galvin said 5440 did not change the amount of funds that are in the fund balance, it just defined the allocation percentages. Jay Haden, Chief Deputy County Counselor, said the percentages revert back to the allocation defined in Resolution #10950, although that is a recommendation only and has been sporadically followed.

Jalen Anderson asked Jeanie Lauer about their discussion to propose a resolution to set in place a plan for the COMBAT fund balance. Ms. Lauer said the funds should be allocated to the highest and best use. Mr. Anderson said he believes all COMBAT stakeholders should be involved in discussions regarding how these funds should be spent.

Jay Haden said during the audit, the Counselor's Office worked closely with the State Auditor and had discussion regarding the County's ability to amend its budget. The Counselor's Office position is that, under the County's Charter, the County has the authority to adopt appropriation ordinances as it has done so for many years. The State Auditor disagreed with that position. Section 50.622(6) RSMo, states, "Notwithstanding the provisions of this section, no charter county shall be restricted from amending its budget under and pursuant to the terms of its charter." He said he does not think the Legislature will run afoul of state law.

Theresa Cass Galvin said she respects Mr. Haden's opinion, but the County paid money for the auditor to examine our practices and if we ignore the recommendations then we are wasting taxpayer dollars. Crystal Williams, County Legislator, said it was unfair to cast those who desire to act more cautiously as ignoring the auditor. Everyone takes the auditor's report seriously, but many want to be more deliberate in their actions and solutions and have the involvement of more voices in the process.

Tony Miller, County Legislator, said the Drug Commission's purpose is to take on this topic. The Commission is represented by a cross section of the County. Their voices are important and whatever they decide will ultimately come before the Legislature.

Ronald E. Finley, County Legislator, said the County has passed a budget. Today there is a veto of certain line items. We are focused on the COMBAT aspect of that budget. There is \$37 million available, but \$35,800,000.00 is available to be appropriated. Ordinance 5440 was passed then vetoed. It was not overturned. That takes us back to the budget that was passed before. The County Executive submitted his budget recommendations and now we have a line-item veto before us. Jay Haden said, under the County Counselor's interpretation of section 532 of the Jackson County Code, the amount available for appropriation is the amount submitted by the Administration and the amount estimated in the Administration's proposed budget, \$29,972,381.00. Mr. Finley asked Crissy Wooderson, Legislative Auditor, if the dispute then is the difference between the adopted budget amendment that appropriated \$35.8 million and the County Executive's line-item veto that rolls the COMBAT allocation back to \$29 million. Ms. Wooderson said that is correct. Mr. Finley said there is a balance being

carried and the discussion then is how to use this fund balance. Ms. Wooderson said the \$35 million never goes away. It is in the bank. It is allocated only if the Legislature overrides the veto. Mr. Finley said we still have not solved the long-term problem of what to do with the \$6 million in the fund balance. Ms. Wooderson said this is correct. But if the Legislature does not budget this fund balance, the County is misstating its financial position. Mr. Finley said at the end of 2021 the County will still have this fund balance in the bank.

Caleb Clifford, Chief of Staff, said the County Executive is not opposed to additional funding being released to agencies, but he is concerned about the process used for 5440. He is supportive of actions taken next year to get additional funds on the street. The law does not allow for appropriation of funds in excess of 95% of the estimated revenues. This comes down to a timing issue and a process issue. The timing is because these discussions happened after the budget recommendation so this allocation cannot be done in this budget amendment. These issues can be handled next year with the involvement of the Prosecuting Attorney and stakeholders. The County Executive wants to be in compliance with both state statute and County code.

Jeanie Lauer said she agrees that something needs to be done to solve these issues, but she understands from Jay Haden that it is not necessary to act on this before the end of the year. The Legislature owes it to taxpayers to fix the process. Mr. Haden said a vote to override the line-item veto will require a separate motion and vote on each line item in the budget, which would be a roll call vote on each of the ten line items.

A motion was made by Dan Tarwater III, seconded by Scott Burnett, to override the line-item veto to budget item 4401, COMBAT Administration. The motion failed by a roll call vote:

Yes: 4 - Scott Burnett, Charlie Franklin, Dan Tarwater III, and Theresa Cass Galvin

No: 5 - Jalen Anderson, Crystal Williams, Tony Miller, Ronald E. Finley, and Jeanie Lauer

14 NEW BUSINESS

None.

15 ADJOURNMENT

A motion was made by Dan Tarwater III, seconded by Jalen Anderson, to adjourn the meeting. The motion passed by a voice vote.

Meeting adjourned until Monday, January 4, 2021 at 10:00 A.M. at the Jackson County Courthouse, 415 E. 12th Street, Kansas City, Missouri, 2nd Floor, Legislative Assembly Area.