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Washington County takes forfeiture funds after failed attempt by Haff

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Washington County supervisors accepted a somewhat mysterious \$225,000 Friday, after a lively debate over the source of the funds.

The county regularly receives hundreds of thousands of dollars in “forfeiture” money from the U.S. Marshalls, because the Sheriff’s Department participates in the regional drug task force. Generally, funds are seized during drug arrests, and are later forfeited by the owner during court proceedings.

But the funds could include money from civil forfeiture, in which someone is stopped by law enforcement but not charged with a crime. Often, people are stopped for minor traffic violations, and law enforcement officers discover a large amount of cash but no evidence of drugs or other criminal possessions. The cash can be seized on the theory that it is the proceeds of illegal activity. Those who want the money back must hire an attorney at their own cost and prove in civil court that their money was earned legally.

Civil forfeiture is becoming more and more controversial, and Hartford Supervisor Dana Haff said those seizures are so wrong that the county should not accept any forfeiture funds.

Over the course of the last month, he peppered his fellow supervisors with emails in an attempt to persuade them not to accept the money at Friday’s vote.

He gave them links to news stories, pointed out that both the conservative group Cato Institute and the liberal ACLU were against forfeiture, and questioned the source of each dollar coming to the county.

He didn't quite win over his colleagues, but they said they were assuming the funds they were accepting were from criminal forfeiture.

Later, the county treasurer provided the case numbers he had received for each payment from the U.S. Marshalls. But the numbers did not link to any court cases, criminal or civil. With the exception of one local case, the others were all sent with Consolidated Asset Tracking System numbers.

The U.S. Department of Justice runs that system to track every dollar seized, from the point of seizure through the entire court process. But the agency doesn't let the public — or even the county supervisors — see any part of that database.

Law enforcement can look at it, but officials from the Sheriff's Department did not return calls regarding the system.

That left the supervisors in the dark.

Haff said they should assume the worst.

"We have no idea the source of this money," he said. "I can't say yes for this. I think this money is tainted."

He argued that seizing cash during a routine traffic stop in which no charges were filed violated the Constitution.

"The Fourth Amendment of the U.S. Constitution says that you have to have warrants to seize property ... I think this is unreasonable seizure," he said. "It really helps our budget to take this money. But I think it's against the Constitution."

Other supervisors said they were certain the county wouldn't be given civil forfeiture funds.

"It's a criminal forfeiture, not a civil forfeiture," said Fort Edward Supervisor Mitch Suprenant.

Fort Ann Supervisor Richard Moore added that in criminal cases, the defendants choose to forfeit their money.

"I believe the monies confiscated is forfeited by the individual," he said.

Haff noted that civil forfeiture funds are placed in the same pool of money as criminal funds, and are divvied up under a federal equitable sharing arrangement to all local law enforcement partners. That would suggest that some of the funds going to Washington County come from civil forfeiture.

Some supervisors took a more pragmatic approach.

“Would it change anything if we did not take the money?” said Hebron Supervisor Brian Campbell. “I bet it’s not going back to the person they took it from.”

Kingsbury Supervisor Dana Hogan agreed, saying that rejecting the money would only be “symbolic.”

“But it would have very real consequences on the sheriff’s ability to fight the growing drug problem,” he said.

Haff voted no. White Creek Supervisor Robert Shay was absent; everyone else voted yes.