

Hamilton County Commissioner's Court
Regular Session
Monday, January 24, 2011
9:00 A.M.

Hamilton County Commissioner's Court met in Regular Session on Monday, January 24, 2011 at 9:00 A.M. with the following members present: County Judge Randy Mills, Commissioners Jim Boatwright, Mark Tafel, Jon Bonner and Dickie Clary.

Judge Mills called the meeting to order and opened with prayer.

Dave Gustafson stated in public comments that after the events of the past fall, winter when emotions were high that we consider being more civil and addressing each other in a more considerate tone.

A motion was made by Boatwright and seconded by Tafel to approve the minutes of January 10, 2011 Commissioner's Court minutes. The motion carried unanimously.

The minutes of January 19, 2011 were passed as they were not complete for the court to approve.

Connie White and Jack Drago were present to request the court to approve the plat of the platted Cedar Hills Acres Subdivision in Hamilton County. Ms. White informed the court that she had driven out to the sight and looked at the road. Continuing she stated that it was fifty feet wide, nice road. Mr. Drago was present to answer any questions and added that the road was crowned off with a seven to nine inch base and that he had added water flow culverts to each lot to bring the subdivision into compliance. Circle J was the vendor that Mr. Drago hired to resurface the road. Mr. Drago also stated that there is a potential for fourteen homes. It needs to also be noted that this subdivision was created before the establishment of the Hamilton County Subdivision Rules which were adopted in 2000.

A motion was made by Boatwright and seconded by Bonner to accept the plat of the Cedar Hills Acres Subdivision in Hamilton County. Mills, Clary, Bonner and Boatwright voted to accept and Tafel abstained. The motion passed by a majority vote.

County Treasurer Debbie Eoff submitted the following budget amendments for *Precinct Two* (3) from Road Materials and Supplies to Unemployment Compensation; from Equipment Repair and Maintenance to Emergency Safety Repair; and from Road Materials to Temporary Employee, *Precinct Four* (1) from Debt Service Interest to Debt Service Principal, and the *Sheriff's Office* (2) from Worker's Compensation to Unemployment and from Non Capital to Vehicle Repair and Maintenance.

Mills stated, "You are going to have to help me out. How can we create a line item?"

County Auditor Marliessa Clark said, "Didn't we have this discussion last week? We are doing a line item transfer and we are not creating a new line item. It is repairs.

County Attorney Mark Henkes added, "It's a nice, kind of a gray area that you may line item transfer to a budgeted item. There is also a provision following that, that I don't have the number on it right now. I believe it is two sections down that indicate that the county court may make such budgeted transfer as it finds necessary for county purposed. I can see an argument both ways. There hasn't been an argument made by anybody to give us direction whether you can create a new line item. This technically is still equipment and maintenance it is just relabeled for accounting purposes into another title to trace the filings. There is one line of thinking that says you can't do it and that is what my predecessor told ya'll because that is a budgeted line item and this other one didn't exist. There is this second line of thinking that is really the same budget line item it is just renamed and that is to transfer for county purposes. End of the day I have a hard time saying one is definitely right and one is definitely wrong because there is no

guidance from any court or any Attorney General's Opinions on it. It makes sense for me from a county attorney's standpoint to do it that way because I feel like I can defend it that way. I certainly feel like I can defend it the other way if ya'll choose to go that direction. It is still essentially the same budgeted line item. So what would the harm be if anyone would ever want to file a suit? It would still be used for the same purpose; character is not changing of those dollars. The character of the money designated for repairs is still going to be used for repairs as that transfer is made. It is just going to be booked slightly differently for accounting purposes."

Mills said, "I am going to ask because I can come up with some synopsis..."

Henkes interjected, "May I but in as well. The fail safe way is if you do declare an emergency that you do have specific authority to create that line item. That takes it out of an area of gray. It is up to ya'll. It's like you said the facts that necessitate the support of vote of an emergency are not going to change from last week to this week to the next week. It is up to ya'll if you are going to do that. It certainly would take it out of the gray area."

Mills stated, "When we do an emergency, when we had the flood we knew what it was. It was defined by each commissioner's precinct. We have roads washed out, highway signs, and road signs. I have spoken to Mark about this. If we do an emergency I am going to suggest that we have a clear definition of what the emergency is, not a broad definition. But to create a new line item. I don't really have a big problem with this but I think it ought to be approved by the court to create this new line item because what if it was a new line item for a specialized personnel? If I had enough money in my budget to go out and hire somebody and I wanted to create a new line item let's say flooding. That is a perfect example. Come in and hire an additional person, declare an emergency; I can think of a lot of reasons not to create a line item. I want your input as to why. As far as emergency I think it should be defined as to what the emergency is otherwise you just increased a budget."

Commissioner Boatwright asked, "Can this not be kept on a spreadsheet somewhere else?"

Clark stated, "No!"

Boatwright continued, "Run it through your regular."

Clark interrupted and asked, "Why?"

Boatwright added, "So you don't have to create a new line item."

Henkes continued, "The statute that says budgeted line item appears in the emergency statute. I left it on my desk. The statute that provides for the declaration of emergency also I believe that it is Sub (d) says the commissioner's court may without an emergency transfer from one budget line item to another budgeted line item. The argument behind you can't create a new budgeted line item without an emergency is that it already says budgeted line item; into a previously budgeted line item. The arguments for doing so is a subsequent section that says ya'll may make those transfers for legitimate county purposes. That legitimate county purposes doesn't circumnavigate the emergency rules. There is an Attorney General Opinion that says that. You can't use that to get around the emergency declaration because of the rules of statutory construction if it is not constitutional capable to giving it meaning. It has to be assigned something. It can't be just some worthless sentence that doesn't have anything to do with it. The only logical argument that I can come up with is if the character remains the same its still for county purposes you haven't in essence created a new budgeted line item just changed the name of it for tracking of it. Those funds, those designated in this instance for maintenance, vehicle maintenance they are still going to be used for vehicle maintenance. They are just going to be accounted for slightly differently in a different column. I can defend that. The way I look at a problem as a lawyer is: Is there a clear cut answer, yes or no? If there isn't can I defend it? Can I defend one position or another? In this instance I feel like I can defend both positions whichever ya'll choose to

take. Now if you change it from vehicle maintenance to purging new computer equipment, that is changing the character and I think my ability to defend that change is more compromised. I don't feel as strongly about that because the characters of those dollars designated has been changed to computer equipment from vehicle."

Mills added, "My point is I think we are going to have to define what emergency is; otherwise it is equipment repair and maintenance."

Henkes continued, "That is the safe way to go. That is clearly black and white. It says you can create a new line item if a declaration of emergency is made. It is supported by facts. There has to be some facts to base it on. If there are some facts then ya'lls determination is presumed to be accurate."

Clark stated, "Admittedly, this is a huge gray area. I want if we are going to declare an emergency that these expenses to be clear-cut, identifiable expenses for this emergency. If we have a spreadsheet, the spreadsheet is not part of the court records, not part of the minutes; it is not part of the real bookkeeping for this item. Therefore if we have a spreadsheet we can flip flop it all the way. In FEMA, we had a spreadsheet to account for, if we were audited at a later time for ease purposes only. It is the way we calculated it because we could not adequately determine when you fixed a road, whether or not this quarter of a mile, alright: was damaged by the flood that wasn't already a normal operating expense. We would have had to spend every penny. We would have had to have gone through every single time we looked at a road material; the whole gambit of expenses running a precinct. Was this equipment repairs and maintenance that we did at this point in time or road materials and supplies? It got way too much in our business because it was an ongoing thing. This is my way of when Mr. Tafel says this expense is related to the emergency. I want it written on the bill saying yes this goes to emergency. We have an audit trail when the auditors come and I want to see the nature of these emergency expenditures."

Boatwright replied, "Back on the FEMA Grant. Everything was included, incorporated within our own budget at that time, road materials and supplies."

Clark added, "That was a natural disaster which took every line item and every conceivable, I mean that would have entailed us. One of the reasons we didn't do that when Dickie made his trailer, emergency road trailer, built a special trailer, maybe that was Lewis. Half the day they did that and half the day they did FEMA. We would have had to break down the payroll for that to have worked that way. We didn't do it because we couldn't do. We could easily do it here and we could have substantiation, documentation and a clear cut way to determine which expenses are due to this emergency. At some point in time we are going to have to put a dollar figure on it."

Boatwright asked "Is there some means and way to input this in Net Data?"

Clark responded, "This is the means and the way."

County Treasurer Debbie Eoff added, "Underneath the general ledger numbers in Net Data they do not have subcategories. So we have to establish something completely unique."

Boatwright replied, "That's what I mean."

Clary stated, "Technically when you come to a sub-category it is a line item."

Eoff said, "Exactly by giving it a whole other number though."

Clark asked, "Mr. Tafel are you in a position right this minute or within the next week and a half to adequately tell us or tell the commissioners exactly how much money it is going to cost?"

Commissioner Tafel responded, "No."

Clark stated, "That is why we need to do it this way so we can get a little further down the road. He can make a few more assessments before we say...."

Mills replied, "Actually, we are not moving any money out of that yet. That will come later in the event that we are looking at a great deal of money."

Clark added, "It could come next week. We don't know."

Mills continued, "Let's say we approve this amendment and the emergency declaration is not forthcoming. Where are we? No harm, now foul?"

Clark stated, "No harm, no foul."

Henkes interjected, "You have as I stated my prospective on both ways."

Mills said, "I don't think we're looking far enough down the road myself. I would rather do the declaration first before we create a line item that says emergency."

Henkes added, "That's yawls choice."

Mills stated, "I don't know. I will certainly defer to the rest of the court. I don't think it's very wise to put the cart before the horse. I think we can all see it coming, see an emergency declaration coming."

Clark added, "Did we not want to track the expenses? That was the whole thing. We want to track this. We want to test it to see whether or not it qualifies for an emergency position the court has to take to increase the budget."

Mills replied, "If you don't know you have an emergency then you don't have an emergency, as far as I am concerned."

Clark said, "No."

Henkes added, "Essentially to me it is a cover up for a defect in where they won't put in those categories..."

Eoff stated, "It's a tracking purpose."

Henkes continued, "Because Net Data won't let us do 180 degrees so it makes us create a separate line item to track. Is that what I'm hearing?"

Eoff added, "This isn't taking additional monies out of anything. This is utilizing and taking care of the money he already has in his budget. It is not adding additional money. It is just tracking it."

Mills said, "So my hang-up is probably with calling this an emergency repair."

Eoff stated, "This is just a title given to that line item that this money was strictly used for repairs and stuff for safety issues."

Mills added, "This is also exactly what equipment, repair and maintenance is."

Eoff continued, "Right, but because he had ask for additional funds at a later date we are tracking it separately. Maybe we titled it not what you like for the moment."

Mills replied, "That's what I am trying to establish, you know."

Eoff replied, "It's just titled that way, but we are tracking the money that is already there."

Mills added, "I think it's pretty well established what it is and what it is not now. So I am O.K. with that. I can do that. Jim has got the issue with the spreadsheet."

Boatwright stated, "Whatever it takes to get their job done. That is all I want. I thought spreadsheet would be the easiest way but that is just me."

Again Mills continued, "I have spoke with Mark. I appreciate the direction Mark is taking on this with the equipment and safety issues. You know my background and I know the importance of these safety issues. I support him whole heartedly. We know we are going to have audits We are just trying to figure out the best way to do it, because there are many ways to do. We know we are going to have oversight."

Clark replied, "I don't want everyone second guessing me. This emergency thing does have to have my blessing. When I give my blessing that it is shown to me that this is x number of dollars that is emergency, that the creation of this emergency has caused. I unequivocally want to be able to say to myself that these were for emergency repairs. This was a repair done because it was a grave necessity because it endangered the public and we had to have it."

Clark continued, "While we are on budget amendments. It just occurred to me; do you now have a temporary position Mark that you are funding?"

Tafel answered, "Yes."

Clark asked, "Do you have any money in the budget to fund that position?"

Tafel replied, "Under temps, Yes."

Clark asked, "How much money is under there?"

Tafel answered, "\$1.00."

Clark added, "Then it is not a funded position. So why we are at this juncture; because we probably need to do that because Debbie is going to do payroll on Friday and there is not going to be money in the budget for that line item. Correct?"

Eoff replied, "Correct. So I need to go down and get a budget amendment for it to be done."

Clark responded, "We can add it to one of these."

Clark asked Tafel, "How much money?"

Tafel replied, "Transfer five right now."

Clark continued, "Where do you want it to come from?"

Tafel answered, "Road materials."

Clark requested, "Give me the number for road materials."

Eoff replied, "022-613-350."

Clark responded, "No what's the new number? How much does he have after we do that budget amendment?"

Tafel said, "You need a number? 022-613-350."

Clark asked Henkes, "Does this follow your questions you had earlier about the creation of a new line item?"

Henkes asked, "Was that line item for temporary employee there in existence with just \$1.00?"

Eoff and Clark answered affirmatively.

Henkes added, "That is not an issue for me right now."

A motion was made by Clary and seconded by Boatwright to approve the following budget amendments for *Precinct Two* (3) from Road Materials and Supplies to Unemployment Compensation; from Equipment Repair and Maintenance to Emergency Safety Repair; and from Road Materials to Temporary Employee, *Precinct Four* (1) from Debt Service Interest to Debt Service Principal, and the *Sheriff's Office* (2) from Worker's Compensation to Unemployment and from Non Capital to Vehicle Repair and Maintenance. The motion carried unanimously.

Commissioner Tafel proceeded to inform the court of the need for procurement of trucks and heavy equipment for Hamilton County Precinct Two. Mr. Tafel stated that he needed a work truck, trailer, excavator and a bobcat. He stated that he was not considering purchasing new equipment because he felt like it was wrong for the public.

Tafel stated that he needed to purchase a trailer to haul his equipment because he does not currently have a trailer in working condition. Tafel explained that he had not decided what equipment he might want to sell. It could be a wash.

"I would like to get rid of some of the things. I don't know who would be interested in buying a one ton trailer without brakes. However a farm guy on level land might want it to move some piece of ag equipment around. I have several pick up trucks, possibly move a grader. This could wash completely but I haven't determined if I want to sell one of these maintainers. The fact, I know when I get heavy rains all three of them can be utilized. There are some good rates on buying new or taking out a loan but right now I believe that is not the direction that I want to go. I do not like paying interest on anything, if possible.

The truck that I am looking at purchasing; it is kind of variable at what I am looking at but I am using the guidelines of what a new state procured vehicle would run which would give me a budget of a maximum of \$45,000. probably a minimum of \$20,000.00. I can assure you that I won't be up in the \$45,000.00 because I am looking at used. I am using the guidelines that the other commissioners have done in the past. Where we are at today and the economy is what I need. Of the five trucks that I have only two are adequate for the job. I soon will have three after the procurement of."

Mills interjected, "I haven't talked with Mark about this line item and I didn't think too much when I went over it. I think as far as bids go from different vendors he is not required to get; are you looking for approval on this because this is part of the emergency or?"

Tafel answered, "Well I am looking for approval because county policy is anything over \$25,000.00 that needs to be passed in commissioner's court."

Mills asked, "Is that trailers, equipment? I thought that was just vehicles."

Clark added, "You guys make the rules. What was your intent?"

Mills said, "So you really only have one piece of equipment that is over \$25,000.00. It's from different vendors, correct?"

Tafel replied, "Correct. Actually there will be two. The personal vehicle, possibly that one over and the excavator; the other two I know I can find under as a matter of fact the trailer should be \$10,000.00 to \$12,000.00."

Mills added, "All I saw was the bobcat, trailer, and excavator."

Bonner asked, "Are you talking about pick ups?"

Tafel answered, "Truck. Yes so basically, I've got \$27,000 for the truck. There are four items that I am looking at to procure."

Clark asked, "What would be the total cost?"

Tafel responded, "Approximately \$80,000.00. Basically, if I sell a maintainer that washes the entire thing but right now I am not ready to do that considering spring rains are about to start."

Bonner replied, "I've been doing this a long time and you cannot get by with less than three motor graders. You will not get the job done. You can do it when it's not raining but when it starts raining you are going to need three road graders."

Tafel asked, "Why do you say that?"

Bonner answered, "I've had fourteen years of experience. I started out with two motor graders I know what it is like to get by. I started out with two employees. I tell you. I've been sitting with my books. I don't look a couple of years down the road; I look five years down the road. Unless ya'll are willing to put a lot more money in the precincts I can run on my budget just like it is; if you do any work at all it's going to cost you over \$300,000.00 a year. You only have revenue coming in of about \$269,000.00. I am telling you we have got to slow down every body and project some expenses out of these next three to five years. See where you are going because the majority of the gentlemen out there I've never seen them interested at all in raising taxes. There is no where else to get this money."

Tafel answered, "I know but efficiency is what it is all about Jon. I don't think things have been done very efficiently in the past. Even though you have been maintaining roads the last twelve years, fourteen, I think there are ways to do it a lot more effectively."

Bonner responded, "I'm just saying when this thing goes down to the ground. The whole shebang. This wild spending. I am going to stand where I am that it could have been done for less. You don't have to have all this stuff and to move slowly until you have a grasp on it. I know you have a lot of experience in construction probably way more than I have but I have a good bit of expense running with very little money. I am telling you that this thing, Dickie do you not see this? A little caution here."

Clary replied, "Yea, yea down the road there is definitely a budget issue \$258,000.00 revenue chasing \$350,000.00 plus in expenses won't work very long without continual money. Yea, come budget time we are definitely going to have to look at that very serious issue on how to keep these precincts funded."

Bonner added, "I can go up to this blackboard right now and in your budget right here; I tried to explain this."

Tafel replied, "But Jon you are using previous information and previous commissioner to determine exactly what is done here. If these concerns are so important why don't they just address my predecessors to kind of file down things actually get them a little more efficient."

Bonner interrupted, "No I am using exactly....."

Tafel continues, "I believe that I can work within my budget next year without reaching within my FEMA. I have already averaged; payroll is going to be the largest nut of the whole thing. As far as maintenance there should be an average of \$5 to \$10 thousand a year in maintenance, not \$35."

Bonner says, "Let's talk about payroll. Let's just stop a minute."

Tafel replies, "Ymhhh."

Bonner continues, "I have added up right here on this print out. Jim, am I wrong on this print out his wages currently \$272,29....?"

Tafel interjects, "\$268 budget, actually I'm in the red right there."

Bonner asked, "Doesn't that bother you at all?"

Tafel replied, "No, because number one I anticipate on bringing back one in the future after all these problems are dealt with. But the largest problem of my budget will by far be payroll which is going to consume health insurance, FICA, unemployment and my second largest budget will probably be fuel. As far as materials there is enough overage right now because I have enough material in three locations and I should have had it in four but sense no one was paying attention to what was done one of my piles which was guessing over 12,000 yards of material. I think it behooves me to see what I'm producing and keep it there; keep the budget to a very tight margin. It can be done as long as I am getting what I paid for. There have been too many circumstances in the past where stuff has just disappeared and it increases my budget. I'm not worried about it. I've got my precinct to work with and you've got yours."

Bonner responded, "As long as it doesn't come back to me. I don't want to hear three years from now we got to have a unit system because we are all broke; that bologna is not going to fly with Bonner so, hey get to it."

Clark stated, "Can I interject something here? Before we move to do anything, I mean we have \$8,500.00 in the budget right now for capital equipment. This capital equipment, you have got to be saying unless, there is money somewhere else in that budget that these items that they are to deal with the emergency. Now an emergency to me is something that when discovered and repaired, it is over."

Henkes added, "Under the statute it is an event that was not real or perceivable when the budget was made."

Bonner asked, "Why is it we have never gotten a list of what the emergency is? We want everybody to know that we've got an emergency but where is the list? What is it? Where is it so I could look on it so I could say we are going to spend x amount of dollars here, here and here. I mean I see this...."

Tafel replied, "Part of the capital equipment and the excavator is just to dig up the barrow pit which is \$10,000.00 a month to rent a machine. I can procure one for approximately \$25 to \$30 thousand dollars. So one-third is paid for right off the get go so why would I want to loose it? Plus it is what I need to do the job adequately. So that particular piece is imperative that I have. I can go out and rent it but to me it's flushing money down the toilet. The other items again, I will determine later if I need to offset something by selling a piece of equipment. Everyone here cannot survive without three maintainers. I believe that I'm a guy that can. If that's the case now I just answered my on problem as far as a budget shortfall by bringing the money right back in by releasing a piece. Now I'm going to be picking up three others but that's part of it. The trailer is definitely part of the emergency. I got a trailer that I cannot move any of my large items. I don't have a trailer at all. Period. I have an illegal small trailer that they used to haul pipes on but as far as any piece of equipment that doesn't have tires under it or if driven on location I have no way of moving anything to take it into repair or to utilize it..."

Bonner stated, "Forget all this Democrat, Republican deal, forget all the things with that and sit down and create two budgets of whatever you think you can go on; project this out. Because without more money coming in you can talk about efficiency all you want but do you see how this is going to work without more money coming in?"

Tafel asked, "Jon, how can I project. I cannot project right now. That is why I'm talking about this budget that I'm projecting when I have seven line items that are a dollar. They are all hypotheticals for the future. Until I get through this over the next couple of months...."

Bonner replied, "I don't know what is?"

Tafel stated, "I'm giving myself guidelines to work within and that is why I went from \$175 thousand for emergency repair down to \$100 thousand. Because I know the numbers and how tough it is going to be on the taxpayers; how hard it is going to be for everyone. Thank God that FEMA money is there but I am not looking to barrel through it. In fact, as the new budget year comes on I don't want to look to any of these unencumbered funds to be a part of my budget. If I've got \$260 thousand to work with in taxes by God that's what I'm going to try to hold my budget to; it seems nearly impossible but I think I can. So I'm asking right now for the allocation of funds to purchase the equipment that I need."

Bonner added, "I'm stupid. I just can't figure it out. If you're taking in \$269,000.00 and spending \$270,000.00 just on wages where is the rest of this money coming from? I'd be willing for anybody to tell me that."

Mills responded, "I think at this point we need to go to the request. There has probably been enough discussion. Everything has been disclosed as far as any direction anybody wants to come from at this point. We just need to call for a motion."

Clary asked, "Is there a specific piece of equipment that you intend to purchase? You know their available? You know that they are exactly what you want?"

Tafel replied, "Yes. What I am working on right now. I am looking at different ones to save more and more money; to get the best piece of equipment for the dollar. To say that I'm going to spend \$32 thousand and next week if I can purchase that same thing for \$28 thousand, I want to save that money. Right now in this economy negotiations with these guys is fun because the power of money; right now people are hurting. They need to get rid of certain things to produce their revenue. So I am in a very good position as far as bartering on a piece of heavy equipment."

Clary said, "Just to follow up to make sure that I understand that you do have the money in your budget. Do you feel like you have money to purchase this today or you asking for additional funds?"

Mills added, "That's what we are talking about."

Tafel responded, "Depending how all the moneys is passing..."

Mills continued, "\$10,000.00 in equipment into emergency. We are talking about a substantial amount of money. I am willing to concede later on. We have to declare an emergency. Where is this money? I guess you got it to operate off of? You have it in your budget right now because if you don't-we'll have to consider the emergency issue right now."

Tafel asked, "Marliessa what do I have currently in the bank? \$240 or so of the budget year left?"

Clark answered, "I don't know."

Tafel continued, "It's an approximate but considering we're one quarter through a budget of \$360,000.00 that is where it should be except for a couple of line item transfers recently."

Clark added, "I would be re-missed if I didn't say yes we are in the month when all the taxes are due and by the end of the month we should have the **line's** share of taxes in the bank for last year and what we anticipate. Whether or not we've got the money in the bank is not the real kicker. It's whether or not there's room in your budget that we can do an additional line item transfer to pay for that piece of equipment when we get the bill. I think we hit fuel and other things that we can probably get that money. We are going to have to go back and fund it at a later point in time. I think the issue whether or

not these particular items and this dollar amount that you are anticipating that you are going to say that these items are from the emergency; this number plus this number is how much my emergency cost. I think that the commissioner's have to asked themselves as a court whether or not the purchase of the piece of equipment that you want to purchase will qualify for a hundred percent funding for the emergency? Or is it just a portion of it?"

Clary stated, "That is the real kicker. When we get down to the point to where we have to determine what that emergency is. There will be I think some specific guidelines on what purchases have been that will actually allow to enter that emergency funding budget."

Clark added, "Like for example you gave an example of the clean up that you needed to do where the piece of equipment cost \$30,000.00. O.K. It was going to cost you \$10,000.00 to rent it. I would think that the court could look at that and go O.K. \$10,000.00 would be the actual amount that could have been attributed to the emergency. We did a similar thing with FEMA in that and I hate to give this example; is that we bought another piece of equipment with FEMA dollars because it was smarter to do it and the dollar amount that we spent on that equipment was not necessarily how we equated the emergency funding was for the purchase of that equipment. Did that make any sense?"

Mills answered, "Yes it makes sense. Another way to look at it is that this court is acting as FEMA, it is acting as a county, it is acted as all these things because we are declaring the emergency. We are doing all of this in this particular case. You deal solvently here and then you go up to the next step. In the middle of something-that is what concerns me as chairman of this getting out of step of the sequence of what we should be doing. To me we have to identify the problem. I have talked with Mark two or three times about this. I have talked with TCEQ. They hit me every time, identify a problem. You can't. Mark and I have talked because it is hard to do it without putting the cart before the horse. It is hard to do without doing some exploratory work."

Bonner said, "I can see the trailer but the excavator, the skid steer loader, maybe you need a pick up, I don't know. We had an excavator one time here before and it sold. It wouldn't dig the rock in the caliche. We've been down that road. A skid steer, we've never owned one of those that I know of. Everywhere I look everybody else is cutting back, scared to death but we seem like we're ready to shoot for the moon. I hope you boys are ready for some taxes."

Boatwright added, "Do not scare the public with that."

Bonner continued, "I ain't scaring them. It's a fact. I'm just saying."

Tafel asked, "Did you ever think possibly things might have not been doing it the right way the last few years? That is the one thing that I do not need in this particular field to tell me what I do or do not need. What I do need though is the ability to pay for this stuff, figure out where the monies are coming from, know what is an emergency, what is not and to produce a product that is done correctly the first time and not going back. That is where I see the biggest problem with my precinct is that from what the guys told me they literally come back to the same problem four to five times a year to readdress never answering the question or the problem and just making it part of the daily routine. The same thing with multiple maintainers, by talking with the guys how often do the machines run and what they are doing and why is it creating barriers when they are only running an average of ten days out of the month. Why not have one or two full time designated operators that are working all the time to cover every square foot of the road through out the county monthly. I have a different way of going about it and I can understand your concern but you've got to give me a chance. If I get into a position where monies are bad then I won't have a choice. I will all of a sudden release a piece of equipment and bring monies in because I'm not going to take it out on the taxpayer."

Bonner replied, "Well I think the first thing you better learn in this line of work is how to count to three. If you can get three people to go along with you, or two people,

I'm sorry and yourself, then you can do what you want to. I am just throwing up a little bit of caution. It makes me a little nervous. I can always learn something."

Boatwright asked, "Do you actually need everything that you requested right now?"

Tafel answered, "No."

Boatwright continued, "What do you need right now?"

Tafel replied, "Trailer, truck, excavator and then the bobcat. Actually to have each piece of equipment working effectively together I need those pieces. I might have a lesson to learn myself if I let go of one of these graders. I have an older one that would bring a pretty good dollar right now because out here in the county graders are well desired. But I have a grader in the county, the newest and you have to change a few things to get it completely up to specs. To me I have about the second nicest grader out there in the county, we have two very new motor graders, maintainers. My third one is the older one I think it is in the mid nineties but it is clean enough and its sale would just about offset the four pieces I'm looking at. Maybe that is the way I will go about it. But yes actually to answer your question I actually need all of these pieces. Otherwise I will be spinning my wheels and not do what to do what I preplanned to do. Then I go rent another one to fill the gap or what?"

Boatwright added, "I can see where Commissioner Bonner's coming from on the revenue side of it. Let me make a suggestion. Take the trailer and the pick up, declare the road grader as surplus material, get rid of it and go out for bid on these."

Tafel asked, "When you say go out for bids on a piece of equipment. What predicates for sure I'm going to use this for back up?"

Boatwright interjects, "Does he have the money? If he doesn't have the money in the bank and he sold a piece of equipment then it wouldn't go into his budget until next year."

Clark responded, "Correct. Do you know what your revenue budget? Well he doesn't really know."

Tafel continued, "So the monies coming off the grader would not enter my budget?"

Clark clarified, "The only way they would enter your budget is if you trade them. They have an effect if you trade that piece of equipment for another."

Tafel said, "So if I found a vendor who had two or three of these pieces that I want and they would take the grader, O.K. That is possible."

Clary replied, "That is going to be my suggestion I guess. It makes me more comfortable to raise my hand to vote on something when I know the facts that we are talking about. You got a certain pick up that cost a certain amount and you bring that to the court because it's over \$25,000.00. Then I know what I'm raising my hand up for to vote; same way with some of these other pieces of equipment."

Tafel stated, "Dickie if I don't have the monies in hand. I'll be departing on Wednesday I'm going up north two of them are there that I am going to look at. If I don't have a check on me then I driving another 1200 miles up there and another 1200 miles back and I'm well I need the funds to be able to make the decision when I'm there. That is what I am asking for."

Clark responded, "To begin with because we are saddled with red tape and we're a county we cannot quote, unquote give you a check. We write checks twice a month and that is the way we have to do business. I cannot sign a blank one, Debbie can't sign a blank one and we can't have approved it unless we have..."

Tafel replied, "You would not be signing a blank one. I would tell you the amounts. From what I understand this is not going out for competitive bids. If I know the number and I request a check, after today when it's been approved by court according to county policy, I would like to take a check with me to procure what I know I am going out to get. So I will have a definitive number in an hour or so when I make some phone calls and I am done with it."

Clark asked, "Is that why we are putting bills off?"

Eoff answered, "No."

Clark added, "Back up a minute. I guess we got lucky in this instance because we were waiting to approve the bills but the way this works is that; in court we have to have that ready and approved with a vendor and for them to approve it as a court to pay the bill. It's got to be in the check run with the voucher run. I know it sounds silly."

Mills stated, "Hold your thought. Mark, hold your thought and we are going to recess for ten minutes."

The court recessed for ten minutes.

Judge Mills reconvened the court to continue the discussion on Agenda Item Six-Procurement for trucks and heavy equipment for Hamilton County Precinct Two.

Tafel stated, "I want to ask the court about the procurement of a pick up truck. It is obviously my decision on what I feel is correct and what I need to fulfill on the court. I have a personal pick up truck that is still under warranty for nearly four years and zeroed it out dollar deductible, it has about 25,000 miles on it and I paid \$61,000.00 dollars for the truck. What I understand from our county attorney I found a wholesale bluebook value of it at \$41,000.00 and I knocked off a couple of more thousand off and sell it at \$38,000.00-\$39,000.00 which is nothing but a benefit to the county. I cannot do so because of the law, is that true or can the law over rule? It's the same truck that I designed for myself."

Henkes replied, "The problem with the statute doesn't really approve the logic that if you sell it for \$125,000 or \$1.00 it is still a self dealing action. I don't believe there are any provisions or any court case that permits the commissioners court to waive that. It is what it is and I don't think anyone in the room has the power to change it."

Tafel asked, "Because of that simple law..."

Henkes affirms, "Because of that-self dealing laws..."

Mills added, "It makes too much sense..."

Tafel replied, "It's very upsetting because here I am trying to give advantages to the county."

Mills added, "If you were selling it for \$10,000.00 there would still be somebody out there that would still be talking. First of all you raise all kinds of issues whether it was working. Well you knew the transmission was going out. Probably to prevent problems."

Boatwright stated, "I am ready to approve the procurement for a haul trailer. I am going to suggest that we table the rest of it."

Tafel responded, "I would like to get procurement of a pickup also. Those are the two things that I need."

Mills replied, "We got cost on your trailer. What about the pick up?"

Tafel replied, "\$31,900."

Bonner asked, "What's the deal on these pickups? You have five pickups right now and only two of them work?"

Tafel answered, "I have 2 that, yes."

Bonner asked, "What's wrong with the three?"

Tafel responded, "Ones had a some sort of electrical fire and short, the other one has a blown transmission and a rattling differential, the other one doesn't run just been setting there. Now these are all 1979 and 80 trucks and every penny that goes into them is a lost cause. The ones that have not been functioning have been insured through the years and they are coming off the insurance immediately."

Bonner continued, "You have the commissioner's truck (the gray pickup) and you have a dodge pickup?"

Tafel added, "Correct."

Mills asked, "Mark are you going to trade those out, sell them in surplus?"

Tafel continued, "I want to think that we can get something for them because they are salvageable for the engines and certain things?"

Bonner asked, "How many pickups do you need?"

Tafel answered, "I want a total of three; one for myself and two that are fueling and parts runners."

Dickie added, "I need more details."

Tafel said, "I have looked at six trucks. This is where I can have the people who got me into office very upset because what I'm looking at. I am looking at a military Humvee. I am looking at a vehicle that can service in a disaster that can take me yet into places that no other vehicle can. When we got our FEMA flood there were several impassable areas not to say they can't but it is a military vehicle and today the dollars it can be secured for is less than the amount of other pickups out there; additionally it is the only one in the last five years that hasn't lost money in resale. So again that is a very strong point that when you purchase a new truck or you get a use truck at the point it depreciates briefly if not yearly on them and over five years since they stop being produced in the building market in 1996. They are one of the highest depreciating vehicles out there. I am looking at putting money into something that I can get my money out of; to me that was probably one of the biggest determining facts. In the public's eye it becomes a, probably a, prestigious view, why does someone need something like that? Well, anybody that knows me that mechanics and equipment are pretty well most of my life. I am not into sports. I am into turbine reciprocating engines and if I can feel that I can get something for the county that is going to help me pay for their investment, I don't think I could make a better choice."

Clary responded, "Well, I guess I know that the requests are important. I have to be honest with you. I agree with Jim, Commissioner Boatwright. I think the trailer is obviously something that every precinct needs to take care of business on a day to day basis. You definitely have a need for an upgrade there. The rest of this I'm not sure that I can vote on that today without having a specific item. *So I would move that we table this issue to the next court meeting.*"

Mills added, "Let me just interject this. We will be having a workshop this afternoon where this maybe..... Can be discussed and you may want to table this. I don't know that time is going to solve anything....."

Clary reiterated, "It may not get seconded but *my motion is up to table it.*"

Mills replied, *“I have a motion here to table item six until the next meeting.”*

A motion made by Clary and seconded by Boatwright to table item six (Procurement of trucks and heavy equipment for Hamilton County Precinct 2) until the next meeting. The motion carried unanimously.

The court moved to item five-approve payment of bills submitted.

As the court moved to this item discussion continued about the procurement of equipment (Agenda Item 6), County Auditor Clark did not feel that Commissioner Tafel did not yet have a good understanding of the process so the court allowed her to proceed.

Clark continued, “Mark if there is a trailer that you want to buy. You know how much it cost. What would be required for you to get a check to take with you where you go would entail us with the bills we are paying today, for you to submit an invoice and for it to be approved and included with the stack we are paying today. Otherwise, you will not have another opportunity to get a check written until the next commissioner’s court meeting, which would be February 14th. So you have a timing issue here that I am trying to help you out with that if you anticipated that you are going to be in a position when you got through here to carry you a check somewhere; I just wanted to make sure that you understand we need to not take care of signing bills right now. If there is a bill, technically if it is under \$25,000.00, if the court is willing to let us go through this process we can get you a check today but it has to be for a specific item, for a specific serial number, specific vendor, for a specific amount that we have and invoice for.

The court continued for a short time trying to inform Commissioner Tafel of the procedure required in making purchases. Then the court proceeded to the next agenda item.

A motion was made by Bonner and seconded by Boatwright to approve the amendment to the bond for Justice of the Peace, Precinct One Deputy Clerk Debbie Bocks amending her name to Debbie Hurst. The motion carried unanimously.

Judge Mills reported that Wednesday RBR Construction, Komatsu Architecture, Texas Historical Commission and Hamilton County completed a Schedule of Values for Phase II.

Hamilton County Historical Commission does not currently have a presiding chairman. Judge Mills is serving as interim chairman to allow time for them to find someone to serve in that capacity. Judge Mills stated that if indeed they do not find someone to serve in that capacity then there are two options (1) to dissolve the commission or (2) the states takes it over and basically then the commission sits there.

A motion was made by Bonner and seconded by Clary to approve CenturyLink Telephone Company to install buried communications cable upon and along the right-of-way of county roads in Hamilton County, Texas, in Precinct Three. The motion carried unanimously.

Commissioner Clary stated that he wanted to know the status of the bank reconciliations. It is important to me, important to all of us at the table because one of the primary duties of court members in conjunction with the other offices is to account for the county’s money. I am not here to assign blame nor find fault. I want to acknowledge the hard work of Dicie Moyers, Assistant to the County Treasurer. Clary continued stating that he wanted this fixed and that today he was prepared to make a motion to place a deadline on this issue.

After a brief discussion and considering the request of Ms. Moyers to allow her thirty days because she was diligently preparing the 1099’s and W-2’s for the county in January.

A motion was made by Clary and seconded by Boatwright to set a deadline of February 28, 2011 for the bank reconciliations to be complete. The motion carried unanimously.

A motion was made by Boatwright and seconded by Mills to approve the departmental reports as submitted. The motion carried unanimously.

The court recessed at 11:15 A.M. until 1:00 P.M. for the workshop for hiring, accounts payable and benefits.

The court reconvened at 1:00 P.M. for the workshop to discuss hiring, accounts payable and benefits but needed to approve the bills before beginning this discussion.

A motion was made by Clary and seconded by Boatwright to approve \$292,345.33 amount of bills submitted for payment. Of that payment \$213,756.69 was paid to RBR Construction for the courthouse preservation and \$78,588.64 amount of regular bills. The motion carried unanimously.

County Auditor Marliessa Clark touched on items that would be helpful to the county treasurer and county auditor to process paperwork in various areas. (1) Submitting bills and invoices, (2) Be sure that we received the services before payments are made to vendors, (3) Insurance on our vehicles and equipment, (4) Non county employees charging to county's accounts (5) Charge Accounts (Opening without the treasurer and/or auditor knowing about) (6) Internal Control Issues – Consistent Practice (7) Regarding long distance phone bills and/or cellular phones (8) Timesheets and (9) Hiring where there is a position and/or making a new position-Temporary Position vs. Permanent Position with \$1 in the budget

During the discussion the need for consideration of uniformity regarding our IT or possibly a lack thereof was discussed.

A motion was made by Boatwright and seconded by Clary to adjourn. The meeting adjourned.

County Judge

Attest: _____
County Clerk