

Hamilton County Commissioner's Court  
Regular Session  
Monday, February 14, 2011  
9:00 A.M.

Hamilton County Commissioner's Court met in Regular Session on Monday, February 14, 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.

The meeting was called to order and Judge Mills opened with prayer.

Richard Layne stated in public comments that there was no emergency in Precinct Two, therefore no need for emergency funding. Mr. Layne said (1) Trailer issue-purchase trailer here in Texas and that there was no need to travel out of state for a haul trailer; (2) Humvee-get over it, use a common sense approach. There is no option for a recall election.

Damon Chumney stated that he didn't know if the emergency declaration issue was founded. He believes that the commissioner had been blind-sighted regarding maintenance and environmental issues in the precinct that he has to deal with. Continuing Mr. Chumney listed the following: (18) bank reconciliation-spent monies for this situation to be resolved, (19) Resolution for Leon River Watershed Protection Plan-supportive of this issue and "Thanked" Mr. Clary for his work on the project (20) State budget woes-supportive of the resolution not to issue unfunded mandates to the county and (22) has a question about this as it is city property and why would the county be responsible for the city building.

A motion was made by Clary and seconded by Boatwright to approve the minutes of January 19, 2011 and January 24, 2011 but correct the spelling of Pete Gaduary's name to Pete Gadoury. The motion carried unanimously.

Texas AgriLife Extension Agents Shirley Gerald and Chelsea Ferris were present to give the court the annual report; overview of both the previous projects and the future projects. Judge Mills asked if they had any hints regarding legislation and state funding for their agency. Ms. Gerald responded that they did not have any indications at this time. (Recorded in Commissioner's Court Papers Book 38 Page 511)

Commissioner Mark Tafel explained that this issue (Item Four) and agenda item number nine were related issues that Mr. Haas had given his hands some money which he wanted to donate to Precinct Two. Tafel explained to the court that Mr. Haas had contacted him stating that he wanted to maintain the portion of CR 304 /county low water crossings where wash outs occur as he had the equipment to do so but would require a stock pile of road base material in order to maintain CR 304. Henkes clarified that the low water crossings were county road low water crossings and not private property low water crossings.

County Attorney Mark Henkes stated that he had some practical concerns of non-county employees maintaining county property more particularly if the work is not done correctly and therefore causes some accident then the county would be liable for that. I have some problems with that and encouraged Tafel not to undertake that risk. Although, Mr. Henkes stated he was not aware of a reason which states that a private citizen cannot maintain a county road. The issue of road base material as long as it is county road base material being used on county property only is a non issue. Henkes issue is who is doing it and the accountability of it.

This topic was open to the court for discussion; for public notice; although Commissioner Tafel does not need the courts approval for this action. Therefore the court took no action.

Commissioner Tafel informed the court that he had discussed the agenda items five, six and seven with Texas Association of Counties (TAC) and had received help with

the guidelines and wording of each of these items. Mr. Tafel stated that all of these were unforeseen items. Judge Mills added some wording to that to define the declaration of emergencies. Tafel explained that he has scared the public with him moving fast and that he manages the money as if it was his own. When taking office Tafel didn't expect rumors, gossip and hearsay to pass like wildfire. My colleagues took the brunt of this (my actions) by receiving the phone calls. It is my judicial responsibility to keep everyone of the citizens safe. There is a difference between an emergency and a wish list. What I have repaired I have felt that these are things that must be addressed and addressed now. Everything that I have done is with our own people, local people. I believe that spending money is spending it where the people are paying taxes for my salary. I am so inundated. I have made some mistakes. I am fallible, no doubt of it. What I am trying to do is for the betterment of this community. I requested \$175,000.00 January 10<sup>th</sup>. We are done and we have spent a little under \$70,000.00. These are not additional cost. Now that we have got these done we can get out and do what we were brought in the office to do. Now that cost is \$70,000.00. We have little over 8000 people in this county which figures out \$8.50 per person spent in this county. I think this is a pretty fair price. I am safety first and I have always been. If that is not acceptable then you have the wrong man for the job. These three items that are next in my lap; I will give a dollar amount for each of the items for what I am requesting from the court.

Tafel stated define and declare Hamilton County Precinct Two emergency as it relates to parts, maintenance, tools, repairs and equipment. Tafel said he has spent a total value of \$41,388.00 which includes \$20,850.00 trailer; the only piece of equipment that he has put under any of these emergency guidelines.

Tafel stated define and declare Hamilton County Precinct Two emergency as it relates to structural and mechanical building repairs. The building repairs have totaled \$10,788.00. These were emergencies. There were electrical shorts in the building where paint and fuel is stored.

Tafel stated define and declare Hamilton County Precinct Two emergency as it relates to inspections, safety equipment and environmental clean up. The total amount spent for this item is \$17, 571.00. The 3 agenda items should total a little under \$70,000.00. Those items included are strobe lights for vehicles, employees will be wearing safety vest and employees will have fire extinguishers inside the cabs.

Tafel stated these are the dollar values that I am looking to be approved.

Judge Mills asked about item seven, a little more information on what are the environmental issues, environmental clean up? What is this issue and have we defined it well enough? Could you elaborate on this?

Tafel responded that this is the lowest of his concerns right now. Tafel will be exposing it with an excavator. He believes that it is strictly rubber from what he has been told. Rubber is an easy thing to get rid of today. Until I have a piece of equipment which I can dig down 16-19 feet I will put it on the back burner; until I can have the appropriate equipment. There is no definitive answer until we can open it up and see.

Mills stated that this was his concern that we didn't have it defined yet until we do something exploratory. If determined there is an emergency then that can come later.

Bonner asked Tafel, why can't you just use your backhoe?

Tafel added we can strike off the environmental clean up right now; it has been there for decades. Tafel responded that he is off to school tomorrow because it is mandatory that he is there. The whole object of this work is efficiency. This is not as efficient and this is one of the things that we have drifted away from over time there is a correct way to do things and an incorrect way to do things. This is not as efficient. Efficiency is what puts money in the bank. Continuing, Tafel stated that I can utilize my own equipment and can begin on Friday or Monday.

Clary stated that his comments were directed more at the nature of the emergency declaration and what is required to meet statutory requirements? Tafel presented the information well on what you inherited and the unforeseen conditions that nobody knew was there; except possibly the previous commissioner. I am going to refer to our county attorney to answer this question because I think it is a statutory language requirement that requires this to meet a grave public necessity that was unforeseeable at the time the budget was prepared.

Henkes interjected and stated Texas Local Government Code, Section 111.010

*(c) The commissioner's court may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the court amends the original budget to meet an emergency, the court shall file a copy of its order amending the budget with the county clerk, and the clerk shall attach the copy to the original budget.*

Henkes continued, additionally if the determination is not based on the facts on the record or it appears to be arbitrary or unsound the county auditor has the duty not to sign off on the amendment. If there are facts to support it then she has a duty to sign off on it. One concern I have today as to item five (define and declare Hamilton County Precinct Two emergency as it relates to parts, maintenance, tools, repairs and equipment) we discussed what changes were made but we have stated the facts on the record that were wrong to begin with and how they were unforeseeable. It might be prudent for the sake of the record which the county clerk is taking to go through items five, six and seven and itemize the facts to which they are based. I realize that we have talked about this in previous meetings but it might be prudent to have all on the record today.

Judge Mills added, "I think that Mark has that broken down."

Henkes added we certainly have discussed in prior meetings; itemize today what was wrong and how it was unforeseeable.

Mills stated that commissioner's court is the sole determinant of.

Tafel went back over the items:

- 1.) Trailer without brakes,
- 2.) Tractors-fuel tanks, three of them that were not bolted down grave public danger,
- 3.) Tires the threads were showing on them ready to blow,
- 4.) Leaks, leaks and more leaks. These are environmental hazardous and we did not have hydraulic hoses on the equipment
- 5.) Speedometers, no working in large trucks nor pickups
- 6.) Inspections, not of the trucks were within DOT inspections
- 7.) Broken Glass-six wheelers all had broken glass on them. Not acceptable especially when broken glass in the line of the driver
- 8.) Fuel tanks not furnished by the supplier
- 9.) Hazardous clean up: ISI dropped by dumpster \$1300.00 cost but it is filled with chopped up tires that they will take to landfill
- 10.) Chains

Structural Repairs:

Supplies \$1500.00 Simple Lean to and Concrete Slab

Hope this defines and once again we are finished.

Boatwright asked that out of all of these items is there anything that could be paid out of your normal budget?

Tafel answered yes. I have approximately \$18,500.00 labor that will come out of the standard operating budget; which would take us from \$70,000.00 to \$88,000.00.

Bonner stated tires are standard operating procedures.

Tafel added I need rubber on everything.

Bonner stated that trailer was the least item used in the precinct. We could make the rest of this year by working together.

Tafel said, that was a point. Well spoken. Now let me tell you why that will not work for us. Nobody here works a precinct like an actual excavating company. Day in and day out there will be a piece of equipment moved out of the yard. It will be utilized literally three, four, five days a week. That is how you run an efficient operation. I have a different way to doing things and going about things to operate more efficiently. I need a trailer.

A motion was made by Tafel to define and declare Hamilton County Precinct Two emergency as it relates to parts, maintenance, tools, repairs and equipment. The motion died for lack of a second. Mr. Tafel presented to the court a figure of \$41,388.00 which includes the price of a trailer for \$20,850.00 for the expenses he has incurred as he believes them to be relevant to this agenda item number (5).

A motion was made by Tafel and seconded by Boatwright to define and declare Hamilton County Precinct Two emergency as it relates to structural and mechanical building repairs. Tafel and Boatwright voted for; Clary and Bonner voted against; Mills abstained. The motion died from lack of a majority vote. Mr. Tafel presented to the court a figure of \$10,788.00 for the expenses he has incurred as he believes them to be relevant to this agenda item number (6).

A motion was made by Tafel and seconded by Boatwright to define and declare Hamilton County Precinct Two emergency as it relates to inspections and safety equipment. Boatwright asked if the environmental clean up was included. Tafel clarified that environmental clean up was not part of this. Mills asked if any part of \$17,571.00 was part of the environmental clean up? Tafel stated no. Mills ask if number seven included the DOT (Department of Transportation) inspections? Tafel replied yes. Mills, Boatwright and Tafel voted for and Clary and Bonner voted against. The motion carried with a majority vote. Mr. Tafel presented to the court a figure of \$17,571.00 for the expenses he has incurred as he believes them to be relevant to this agenda item number (7).

Item Nine-Accept Private Donations for Entry in Hamilton County Precinct 2 Budget-No Action-Passed Item.

A motion was made by Tafel and seconded by Mills to approve the Emergency budget amendment for Hamilton County Precinct Two and authorize Hamilton County Auditor to issue checks for emergency budget amendment in the amount of \$17,571.00. Mills, Tafel and Boatwright voted for; Clary and Bonner voted against. The court needs to order this amount to be added to Precinct Two budget and the clerk needs to attach a copy to the original budget. The motion carried by a majority vote. (Recorded in Commissioner's Court Papers Book 38 Page 532)

The Court recessed at 10:30 A.M. and reconvened at 10:45 A.M. and moved to Agenda Item 17 – Procurement of trucks and heavy equipment for Hamilton County Precinct Two.

The Trailer is on hold for Precinct Two.

Commissioner Tafel discussed his desire to purchase a pick up truck for Precinct Two. Tafel distributed to the court a chart based on Kelly Blue Book facts that he drafted with various options and comparisons for the purchase of a pick up for Commissioner Tafel which he asked for the court to review and consider. Commissioner Tafel stated that he was looking for a line item transfer to purchase Vehicle A for \$33,000.00. (Recorded in Commissioner's Court Papers Book 38 Page 561)

This budget amendment will have to wait until we get Net Data up and rolling. The court will postpone this item till the end of meeting to see if Net Data comes up. Judge Mills stated that the court might tell Commissioner Tafel their feelings regarding the purchase of this vehicle so that he will know if he can move forward or not. A straw vote was taken from the court and all members of the court except for Tafel were not in favor of the vehicle. No official action taken –Passed on this item.

This item completed at approximately 11:05 A.M. Tafel announced he was done for the day and would not finish the meeting stating that the court did not need him.

Net Data was down and the court needing to wait for it to be up so that the court would have accurate numbers to know exactly where the budget amendments and bills accounting stood before the court could approve the items. County Auditor Marliessa Clark requested that one bill be approved because that bill had to be paid and wired to an account today and that was the payment for the county's first interest payment on the Certificates of Obligation. A motion was made by Bonner and seconded by Clary to approve a bill for \$7,381.29 (to ZFNB Corporate Trust) amount of wire transfer for the first interest payment for the Certificate of Obligations. The motion carried with a vote of four ayes. Tafel absent did not vote on this issue.

Item Nine-Accept Private Donations for Entry in Hamilton County Precinct 2 Budget-No Action-Passed Item.

A motion was made by Bonner and seconded by Boatwright to approve the contract for web-site maintenance from Hamilton Technologies for \$200 per month. Mills stated because of the additional entries on the website that basically Hamilton Technologies would be maintaining two web-sites: (1) for the county's financial transparency and (2) the other for the county's regular business. This contract can be terminated at anytime should we find someone else to maintain it. The motion carried with a vote of four ayes. Tafel absent did not vote on this issue. (Recorded in Commissioner's Court Papers Book 38 Page 563)

Judge Mills recognized County Auditor Marliessa Clark as she had received the Texas Comptroller Gold Leadership Circle Award as it relates to the County Financial Transparency. Mills thanked Ms. Clark for her hard work (which was entirely and exclusively hers) on this endeavor. (Recorded in Commissioner's Court Papers Book 38 Page 564)

County Clerk Debbie Rudolph presented to the court a copy of the agreement for renewal with Election Systems and Software, Inc. Rudolph explained that this is the normal agreement with the vendor who provides the services for the equipment that is used for county elections. The agreement was the same basic agreement with a thirty day out for both parties and the price for the cost per ballot would lower one cent. A motion was made by Clary and seconded by Boatwright to approve the Election Systems and Software, Inc. Election Service Agreement and Renewal. The motion carried with a vote of four ayes. Tafel absent did not vote on this issue. (Recorded in Commissioner's Court Papers Book 38 Page 566)

A motion was made by Clary and seconded by Bonner to approve the bond for Hamilton County Deputy County Clerk Julie Watson. The motion carried with a vote of

four ayes. ( Tafel absent did not vote.) (Recorded in Commissioner's Court Papers Book 38 page 575)

A motion was made by Bonner and seconded by Clary to approve United Telephone Company of Texas, dba CenturyLink to install a buried communications cable upon and along the right of way of county roads in Hamilton County, Texas. This action related to County Road 243. The motion carried with a vote of four ayes. (Tafel absent during this item-did not vote.) (Recorded in Commissioner's Court Papers Book 38 Page 577)

County Treasurer Debbie Eoff stated that her office was reconciled through July 2010 and Ms. Moyers is working on August 2010. County Auditor Marliessa Clark stated that she too was reconciled through July 2010 and working on August 2010. Ms. Clark stated that Ms. Moyers appears to be out of balance \$3-4,000.00. Judge Mills added that this would be revisited in two weeks. (Tafel absent during this item-no vote on this item)

A motion was made by Clary and seconded by Boatwright to approve the Resolution in support of the Leon River Watershed Protection Plan. The motion carried with a vote of four ayes. (Tafel absent during this item-did not vote). (Recorded in Commissioner's Court Papers Book 38 Page 581)

Texas Association of Counties is spearheading a movement to present to Texas Legislature Resolutions in Support of (House Joint Resolution) HJR 56 encouraging legislation opposing to unfunded mandates to counties. A motion was made by Clary and seconded by Boatwright to approve the Resolution in Support of HJR 56 Encouraging Legislation Opposing to Unfunded State Mandates to Counties. The motion carried with a vote of four ayes. (Tafel absent during this item-did not vote) (Recorded in Commissioner's Court Papers Book 38 Page 587)

The Court recessed at 11:25 A.M. for a few minutes and reconvened at 11:30 A.M.

The court just received word that Net Data was up and running.

Wednesday, February 16<sup>th</sup>, 2011 will be the next Owner's Meeting regarding the Courthouse Restoration Program. (Tafel absent during this item)

The court discussed the request from the City of Hico for payment of utilities at the City Hall building in Hico, Texas. Henkes interjected this is a request that was made during the last budget session. It is not in the budget to pay a third party entity utility bill. It was obviously foreseeable; no way can it be added to the budget as it cannot be construed as an emergency. It can not be considered.

Mills stated at the last budget session we did include an amount for utilities in the budget for the Constable, Precinct Three and Justice of the Peace, Precinct Three and placed it under office rental. The discussion was to be considered for utilities but we put it in under office rental. The intent of the court was for that to be spent in the event that it is asked for those offices for utilities. Judge Mills suggested that at the next meeting of the law enforcement committee that a suggestion from the committee members that the City of Hico submit an invoice for office space for the court to consider and not to pay anything in utilities. Henkes said tell them that this is for this budget year only. It will be addressed again at budget time. (Tafel absent during this item-no vote on this issue)

A motion was made by Boatwright and seconded by Bonner to approve the departmental reports submitted. The motion carried with a vote of four ayes. (Tafel absent during this item-did not vote) (Recorded in Commissioner's Court Papers Book 38 Page 591)

The court recessed until 2:00 P.M. for lunch. Reconvening at 2:11 P.M. the court proceeded to discuss the budget amendments.

The court reconvened at 2:11 P.M. County Treasurer Debbie Eoff read the following (3) line item transfers: *Precinct Four* \$15,000.00 from Capital Equipment to Equipment Repair and Maintenance, *Sheriff's Office* \$500.00 from Clothing Allowance to Uniforms, *Department of Public Safety* \$100.00 from Non-Capital Equipment to Equipment Repairs and Maintenance. A motion was made by Clary and seconded by Boatwright to approve the budget amendments submitted. The motion carried with a vote of four ayes. (Tafel absent during this item-did not vote) (Recorded in Commissioner's Court Papers Book 38 Page 536)

A motion was made by Clary and seconded by Bonner to approve \$215,659.90 amount of bills submitted for payment. Commissioner Clary asked if this amount included \$7,381.29 first payment for the interest of Certificate of Obligations. Yes, it was confirmed that the number was included. The motion carried with a vote of four ayes. (Tafel absent during this item-did not vote) (Recorded in Commissioner's Court Papers Book 38 Page 542)

A motion was made by Boatwright and seconded by Bonner to adjourn. The motion carried with a vote of four ayes. (Tafel absent during this item-did not vote)

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County Judge

Attest: \_\_\_\_\_  
County Clerk