

Hamilton County Commissioner's Court  
Regular Session  
Monday, March 28, 2011  
9:00 A.M.

Hamilton County Commissioner's Court met in Regular Session on Monday, March 28, 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.

There were no public comments.

A motion was made by Clary and seconded by Boatwright to approve the minutes of Hamilton County Commissioner's Court of March 11, 2011 and March 14, 2011. The motion carried unanimously.

A motion was made by Boatwright and seconded by Bonner to approve the following budget amendments: Sheriff's Office (5) from Law Enforcement Liability Insurance to Overtime, from Capital Equipment to Prisoner Transport and Housing, from Worker's Compensation to Investigation, from Vehicle Repair and Maintenance to Auto Equipment Liability, from Worker's Compensation to Capital Equipment, Precinct Two (1) from Non Capital to Temporary Employee and Courthouse (1) from Debt Service Principal to Auto Equipment and Liability. The motion carried unanimously. (Recorded in Commissioner's Court Papers Book 38 Page 734)

Commissioner Tafel prepared an itemized list and presented to the court the following:

**Emergency Budget Amendments for Unforeseen Equipment Repairs and Safety:**

<b><u>*Tractor Supply</u></b> -New pickup fuel tanks and pumps, replacing leaking dented tanks	\$2649.79
<b><u>*Holt Cat</u></b> -Replace too severely leaking ripper rams, cracked pins severed bushings	\$4507.51
<b><u>Ingram Concrete</u></b> - 6 bag mix for safety floor only (no building or steel) approx 16' X 60' to allow for safe jacking of equipment in for repair	\$1936.00
<b><u>*Rush Truck Center</u></b> - Peterbilt speedometer, sending unit tranny speed gear all electronic	\$1267.11
<b><u>*Jimmy Davis</u></b> - Electrician to remove all bad electrical & replace to current code	\$1500.00
<b><u>*Home Depot</u></b> – Power box, breakers, wire, fixtures, conduit, all electrical components to bring building to current code	\$2597.99

**Higginbotham's** – Destroyed chainsaw & bench grinder replaced with new including for safety hard hat and safety chainsaw chaps \$1035.44

**Osborn's and Associates** – 50, 911 signs that are not in place or location mandatory for safety of ambulance & fire \$ 916.00

**Farm Plan** – Break off hydraulic filters (seized) No Maintenance in Over Three Years replaced filters on four machines hydraulic, trans, hydrostatic Burn special torching of pivot pin \$2686.07

**\*UTP** – Replaced frozen pin on 644 loader and turn driver seal on 670C grader \$ 533.53

**Sears** – Replace all stolen, and broken or missing ratchets, wrenches, screw drivers, drill, etc. \$1287.81

**Richards Auto Parts** – Gear puller, taps, dies, retainer rings pliers internal & external \$ 271.21

**Bottlinger Grain** – Safety inspections for Peterbilt \$ 62.00

**\*H.T.W.** – Nuts, bolts & misc for repair of 670C & CAT 963 ripper, cab hydrostat, engine leaks and doors. J D 310 & Dodge pickup \$ 462.18

**Total: \$21,712.64**

**Employee's salary for 4 weeks to repair all** – Emergency items and safety issues

	<b>Salary</b>	\$9913.00
(Does not include temp employee)	<b>FICA, Health, Ret, W K Comp</b>	\$5607.00

Work includes draining all red die fuel from 6 wheelers fuel tanks, install three tarps, over head lights, weld cracks, install speedometers and safety equipment, fire extinguishers first aid kits, broken glass, doors, fuel tanks, tires, cracked pins, concrete, torch bushings, severe oil leaks, shocks, breaks, transmission, safety inspections, electrical, and dozens of miscellaneous items

**Total \$15,520.00**

**Grand Total- \$37,232.64**

(Recorded in Commissioner's Court Papers Book 38 Page 751)

Commissioner Tafel stated the only thing in question is that the employees (all five employees) were used for two months and he only billed for one month labor including FICA, health insurance and worker's compensation.

Judge Mills stated the first thing that we need to discuss is the money and that is that part of the money the unencumbered funds or whatever you want to call it, reserves. You are not going to have that much money in there.

Clary asked if Commissioner Tafel have you done all emergency repair work. The bills for all those have been paid and this is strictly reimbursement?

Tafel responded, "Yes". There are no more unforeseen issues except for our environmental thing and we will address that at a later time when we have the monies to do it. All these bills are actually from January and the first couple of weeks of February."

Mills stated, "As you know Mark we are not completed with our audit, FEMA."

Tafel replied, "Yea, I do understand that but that is a different issue."

Mills added, "That money is coming out of this pot. If we approve it and pay it back then the money will have to come out of the general fund."

Bonner said, "That ain't happening."

Mills responded, "I don't think that would be a very good thing to do."

Bonner continued, "You are going to have to live within your means. Sorry."

Tafel added, "It's either I go into the red now or I go into the red later."

Bonner stated, "I told you in the beginning that your precinct would not be able to sustain the number of employees that you have with the revenue stream that you have. Now it is fruition here you're wanting to draw down your fund balance. When the FEMA audit is finished we may have to replace some funds there and the only place to get the funds is the general fund and that is just not right."

Tafel responded by saying, "Let's clarify a few things. First of all, I was never informed of the FEMA audit until exactly four days ago. Now if that was told to me and that was known then everything would have sat and one or two pieces of equipment would have been on the road once there safe. So since that wasn't my problem at the time then that is not my problem today. These monies have been spent."

Mills replied, "But you are going to make it the county's problem. The ripple will hit us."

Tafel added, "Until we have an order from FEMA paying back those monies it is not a problem. If it was a problem I should have been told about it in November or whenever it was discovered before I even took office. So right now as far as I'm concerned that is not an issue at hand. According to what I'm hearing they might be reducing it anyways. So that is not an issue at hand right now. This is."

*Tafel made a motion to approve for Precinct Two the unforeseen equipment repairs of safety and unforeseen conditions.*

Boatwright added, "I would like to discuss this a little further. There are some items on here that I could probably say yes they are and there are some on here that I could say no there not. We are looking strictly at getting your equipment back into shape to run so it safely on the roads. I would think that Item 2, 4, Farm Plan, UTP, Holt, Rush, and HTW."

Tafel asked, "Do you agree or disagree?"

Boatwright answered, "I agree with those. Some of the others, I just can't."

Tafel responded, "The leaking tanks that were on the pick ups; the ones that were banging around. You don't foresee those to be unforeseen safety risk?"

Boatwright said, "I'm looking at that. We replace some of ours too normal wear and tear."

Tafel replied, "Ours were because they weren't bolted, banging around on the bed. That's not normal wear and tear but I see what you are saying."

Clary added, "I think that I can agree with Commissioner Boatwright. This is tough trying to separate what you or the former commissioner would have had to be done anyway; trying to get everything up and running in proper operating conditions. However you have done what the court asked you to do previously was to go ahead and make the repairs and put together a list of cost associated with those repairs and bring it to the court and we can decide how to deal with that. I think we are right on course with what the court previously has said. We are talking about an emergency budget amendment. As I have already said before I don't take that lightly. The emergency to me has to be clear, evident and something that meets the criteria in the statutes for justification of this emergency. I guess I have a question. You have already answered one of them. You have already done the repairs. You have already spent the money. If you look at where your precinct is at as far as the amount of money left in your budget, you got twenty thousand dollars more today than Precinct One and basically have the same amount of money as I have in Precinct Four. The only precinct that has more is Precinct Three so I am having trouble coming to terms that if we declare this an emergency at this point in time then certainly Commissioner Boatwright has an even greater emergency because he is shorter on funds than you are. I guess my question ultimately would be is that you don't feel like you can make it the rest of the year with \$175,000.00 left in your expense budget?"

Tafel replied, "No I can not. It will not make it from where we are at. We are under on fuel but as everyone knows with fuel escalating at such a rapid rate, we are not going to be under on fuel at the end of the year; even though we have used fifteen percent less so far."

Clary continued, "And picking up on that I am not here to argue management philosophies and the way we go about it. I have got the same amount of monies as you do basically with just a few hundred dollars difference. I am going to make it. I am going to make sure that I make it."

Tafel stated, "Correct. If I didn't do these I would make it too but he has balanced his to consume the money at the rate he announced in his budget. What I'm saying is because I did go about these in the first month in office with approval; now I have put myself in a position which I've known since the first meeting which is

detrimental to the budget. Until I can balance it off, I am going to be and I don't want to pull an emergency down in another six months from now. I want this issue addressed. That is why I itemized this and these are all relative to what we are talking about. If Jim disagrees with the concrete that is understandable but like with the electrical; that was a serious problem. It has been rectified. The total cost of the electrical install was \$1500.00 on the install and approximately \$2600.00 on materials. We are now completely to code with a 200 amp service. We have no more arching or blowing of outlets or any type of problems of that nature. I mean every one of these I have tried to... you wouldn't believe how many weren't on there, but they were what I considered normal maintenance, wear and tear and part of our operating budget."

Mills stated, "I guess I probably I need to clarify. We are going to need an update on where we are at with our audit, our FEMA audit. Before we approve this before we approve this the other thing is we need to establish right now that if there is no money there and we had to pay back the FEMA audit, the money from that; where is that money going to come from? Is it going to come out his budget? He's got six months of operating budget to pay his people to operate with or we going to pull it from the general fund? If we have to pay back 100 and something thousand dollars and he doesn't have it in his account where is it going to come from because we are going to establish that today; basically by approving this? I would suggest that before we approve it we establish where that money is going to come from. We need to look farther down the road than right now. I've said it and I will stand by it this is a conservative court. You've always been conservative. I don't care which member you've been ones more conservative than the other...just 1, 2, 3, 4, there is just not that much space between most of you. This is too short sided and I understand where Mark is coming from. What this does at this point and this is always been my contention and for almost any elected office here, you run it the way you want it to until it starts affecting somebody else. Friends this is going to affect every other office because if that money dries up and Mark no longer has money to pay his hands and it affects pulling money out of the general fund then we will have to declare it an emergency and it will no longer be isolated to that precinct."

Bonner interjected, "Do we have a print out of where he stands right now? I would like to see a copy."

Clary added, "I can cut through the chase. I crunched the numbers for everybody's precincts. Based on current cash positions because we are talking about Precinct Two, have you done this? Have you projected to the end of the fiscal year what your financial situation might be?"

Tafel replied, "Approximately \$30,000.00 upside down."

Clary said, "That's basically what I came up to as well. That's after you pay back... Did you include the \$129-130,000.00? Just for a little bit of explanation for the court to kind of explain where I'm at. I took the cash position as of last Friday and subtracted this court's cycles expenses which gives us the current cash position to date,

took the revenue that's anticipated to be received for the rest of the year and added that in and subtracted out all the budgeted expenses and after having done that I do show that Precinct Two will be at zero money and that's after taking out the \$130,000.00."

Tafel asked, "That's not including this (referring to the budget amendments he was currently requesting from the court)?"

Clary continued, "Yes, not including the amendments you are asking for."

Tafel answered, "Same number I concur with."

Clary responded, "That does bring up my major concern whether or not we approve the emergency budget amendment today. We have to pay back FEMA funds and I think there is a high likelihood that we are going to have to do that. I really feel like that since those funds were received they were put into the precincts, that is where they need to come out of. That's just fair to do it that a way. In light of that drawing the budget down to basically zero at the end of the fiscal year gives you absolutely nothing to work on for the next three months until you get new tax money back. That is a huge issue. That is a huge problem. Save every penny that we can right now and I guess the court will be basically asking you to look at your budget and manage your budget in such a way so that you can make it for the rest of the fiscal year. It will be a request."

Bonner interjected, "It's not just this year it's the next."

Clary continued, "It affects this one and the next one."

Bonner answered, "Yes, that's what's kind of hard to grasp about it. You have to have some carry over. That is all there is to it. There is no sentiment on the court or I don't think from the public to put a whole lot more money in these precincts or get a whole lot more money in taxes. We are going to have to live with what we got. You are going to have to make drastic changes right now to make it work."

Tafel replied, "Well the drastic changes have already been done."

Bonner responded, "No. No. No. They are not. There is no way in my opinion and that is just my opinion that we are not in a flood situation, we are not in any kind of an emergency situation. We have had more work done on the roads than in many, many year's previous history. There is no way you can justify the number of employees that you have. It is dragging you down every month. Some point you are going to make that hard choice and it is going to be a hard one, but you've got too many employees."

Tafel stated, "What's dragging me down is not the employees it's when we took back you guys in 2009 whoever was privy and the gentleman sitting before me in the seat to take and put on the budget that everyone has under line item 330-337 public assistance grant of \$129,852.00 and then under yours there is a grant of \$60,245.00 when we very

well knew we were paid for these; that the money was put in as a hoax and pulled out again one day.”

Mills interjected, “That’s what I wanted to butt in when I let Jon finish. We need a refresher and I am going to rely upon Clydell and the auditor to give a refresher on FEMA situation that we’re in because it looks like a vast oversight. It was not an oversight. We knew that these pilot programs projects were touchy. We knew it from the start. Again, I visited with Mark a little bit last week. I know that you cannot come into this office and I don’t care which office it is. If you don’t spend some time with your auditor before you come into office you are in poor, poor condition to not know what is going on in any office. You should go and visit with your auditor to get a clear, clear picture of where you are at. This is new information to you but it is not new to anybody at this table. It’s not new to the auditor. What are you told? Well it’s kind of what you ask; the information and background that you need. These have gone on for a long time and we need an update. We knew these pilot programs, FEMA kept telling us from the beginning well lets wait and see how it washes out. The auditor and Clydell both knew that there was some iffiness here. Jon will sit there and tell you that is why he hasn’t spent his money, that’s why he hasn’t budgeted his money. Anyway the fact that you don’t know it because there was a replacement is not our fault. You owe it to yourself to sit down with that auditor and pick her brain forever and ever. Now let’s get and update and where we are at on this FEMA. Clydell would you mind giving us a little...he’s suppose to call back.”

Clydell replied, “Yea, he’s supposed to call back Friday. We were going to go over each one of those pilot programs. As a matter of fact it was suppose to be a conference call. but I never received that call. He’s still looking at those pilot programs and the numbers and we are trying to come up with some additional fees where it will balance out. I don’t know where we are right now until he calls me back so that we can sit down and crunch the numbers.”

Mills added, “Each court member knows but maybe everybody else doesn’t know. Jim didn’t have any pilot programs. Dickie didn’t.”

Clydell stated, “No, it’s only Precinct Two and Precinct Three.”

Mills continued, “Mark you had two in your precinct and”

Clydell corrected, “Mark had three and Jon had five.”

Mills replied, “No body else had those.”

Clydell added, “The ones in question about right now are the ones in Precinct Two. It has to do with the blasting and the rock crusher. That’s the two issues that they are in question about.”

Boatwright asked, “Why is that? I thought that was set in stone the cost on that.”

Clydell replied, "We did too."

Boatwright added, "They are going to try to change it. I thought FEMA worked that out with us."

Clydell stated, "They did. That's what I told them FEMA worked all that out with us. If they crushed the rock, blasted the rock. What FEMA is doing is that they are trying to come back and say that we are restocking our inventory. There was no inventory. That's why we had a disaster because we had no crushed rock or road base to fix these roads with. Everything that was crushed or blasted went on the roads. We don't have any inventory."

Mills added, "There was a small amount of inventory."

Clydell asked, "How much?"

Mills answered, "I don't know, but I remember us discussing it because they were going to pay us because did we want to be paid for that inventory at one rate or another. It was a small amount. It wasn't the massive project that we had. Something that we need to remember too, rough numbers what has FEMA paid us on this project?"

Tafel replied, "\$4, 629,296.82."

Mills continued, "We are talking about a relatively small amount. That tell you how small our budget is. When you are talking about \$100,000.00 plus and it affecting your budget this way. You are talking about the projects being \$4.5 million roughly. You can see how we operate on a fine line. What \$100,000.00 will do to you? We operate on a pretty tight budget and as a result when we get something like this it is pretty tough to swallow. We don't know the full numbers yet and it may not be as bad as they are telling us. I say as bad as they are telling us it's not that \$100-50-60-70,000.00 off between the two precincts for a \$4.5 million project. It is not that far off. If I knew the money was there and it was not going to affect, I don't really particular have a problem with this. You get into some management issues. At this point we don't know how much money is going to be there. How much money is in that fund balance?"

Boatwright asked, "Did they ever say when they were going to finalize this audit?"

Clydell responded, "No."

Boatwright asked, "Do you have any ideal, a wild guess?"

Clydell stated, "They have been here since September."

Boatwright said, "They have completed the audit though haven't they?"

Clydell replied, "No. There still working on these pilot programs. That is all they're auditing is the pilot programs."

Mills said, "Knowing what I know I still stand by the fact that we are doing a pretty darn good job."

Tafel responded, "I disagree with you. They are not going to cut their losses. If social security will chase \$10 for ten years on a person believe me when they pay \$192,631.88 extra they are going to get it. What is really irritating again about this is you are insinuating that I should have been in and audited everything. If I have to go back four years and look at federal funds that were acquired during an emergency and make sure that everything was legitimate; I think that is a little bit for fetched. When all of our checks for 2007 flood came in they were direct deposit into our account. Now when Marliessa received this check for \$192,631.88 that was a physical check, that should have lit light bulbs off for everyone. I am sure that the people involved knew that these roads were paid for. They were PN 484,490,861. So when we took this money and deposited it we knew that these roads were already taken care of. So they are coming back because they are the ones that made the mistake paying us twice, but bottom line this money should have never entered our account because we knew it wasn't ours. Now as I've been enlightened to this over a week ago or last week Thursday, now I'm told they are going to be reaching into my account to pull out the balance. You ask the question earlier and I think that we can put it to a vote. I believe that all precincts evenly can pay for this or the ones that are that far ahead because this is residual money which is more or less a gift in reserve fund and everyone does run a very conservative budget. The bottom line to that conservative budget is that thou who has can help with the others. This is not a Precinct Two problem. This is a county problem."

Bonner interjected, "You can stop your discourse right now. I am not going to pay off your problem. One of the reasons you don't have the money that I have is because a lot of machinery was bought and paid for. You are sitting on the best inventory of paid for machinery in the county. You got it. It's all paid for. Now that was a decision that was made by the previous commissioner but you are certainly benefiting by it. Yet you want me to take my money out of my reserve and help you pay. Tafel interjected, "It's not your money Jon."

Bonner continued, "My money in my precinct reserves, the county precinct, precinct three. The only reason that money is in there is because of my management. You can call it like you want to, but that is what it boils down to. Your poor management in my opinion is leading you down a path of no return. You have too many employees. You are spending too much money. You need to reel yourself in, control your spending and live within your budget, which so far you have been unable to do. You are heading yourself off of a cliff. That is putting it pretty blunt but that is where you are going and I am not going off that cliff with you."

Tafel replied, "I think you better remember what you told me the first week of office. You better learn to count to three."

Bonner said, "Well, O.K. Pull the trigger. Let's go."

Mills stated, "I think I'm going to address one more issue, that's the hard check. Marliessa you want to discuss that just briefly. We have been aware of that. What were we told on that?"

Clydell answered, "To not worry about it."

Bonner added, "That's exactly right."

Mills continued, "We knew that."

Boatwright asked, "Who said it?"

Clydell responded, "Riley Kyle."

Clark added, "The guy that made the mistake."

Boatwright said, "O.K."

Bonner added, "The reason he did partially because in my precinct just like you did I bought every single load. It is well documented. I put out more material than what was actually required on many roads. The deal was that it would all balance out. They would take it into consideration, now they are coming back and telling us no. My only deal is I have always had it in the back of my mind that this was a problem, could be a problem. I have waited. I haven't spent my money. I've got the money to pay it if I have to."

Mills stated, "This is not an epiphany to anybody sitting at the table particularly, but you had the answers when you came in Mark."

Tafel asked, "Answers, when I came in when?"

Mills continued, "You were going to run this outfit. You had money. You were five percent up on your budget. Seventy five percent of the year went down and you had eight-five percent of your budget. I will not criticize your management style period. Only until it starts affecting other elected offices will I ever bow up on an elected official. This has the potential to affect the county as a whole. That is my concern here."

Tafel replied, "I had \$150,000.00 reserve and there was \$130,000.00 hidden..."

Mills said, "You should if you knew anything about county, if you knew what we just went through in August preparing this budget and the bumping and grinding that

went on in this budget to change this budget; it was a controversial issue even the budget we had should have been less by many standards. Here we are changing the budget three or four months after we had that huge, massive controversy and we are adding to it. I'm like Commissioner Clary; you go to adding to this budget, I'm sorry I have a hard time because folks got my attention last August. The really got my attention. I thought we had a good budget and I'm not prepared to add any more to it because we took a pretty good reaming last August for that. I'm sure not going to add anything else to it behind there back without a full hearing on it. That's the problem I've got with it."

Bonner replied, "I just sit here listening to this back and forth, cries of emergency. I remember when Jim and I came into office we had worn out machinery, \$135,000.00 year operating. Jim made it. I made it, sure things cost more now. We only had two hands. I'll be the first to admit it wasn't enough but we struggled along and we made it. You can make it still if you can control this spending."

Boatwright added, "I'm looking at your expense right now and your basically five percent over, that's all your over. Forty eight percent should have been spent so far. Debbie on the last column is that's the percentage that's left. Is that correct?"

Eoff answered, "Yes sir."

Boatwright continued, "There's forty-six and a half percent left in your budget right now."

Tafel stated, "Jon you keep alluding to boy if you just control your spending and guess what. You go into office and you have \$150,000.00 in reserves and nearly \$75,000.00 emergency items and they weren't standard operating maintenance. It does tell you that you have some working room. So you squeak on everything you can and do the bare minimums to get things that are legal and pass safely. But when we take former commissioners take and get double paid on CR 234 and CR 222 and all of the sudden the reserves goes from \$150,000.00 to \$20,000.00; it sure changes attitudes."

Bonner replied, "I don't recall seeing you come but twice to previous meetings to try to learn anything about the budget..."

Tafel interjects, "You're talking about the budget. This is strictly FEMA. If you think I can go in there and find where we took double money."

Bonner said, "You better quit hollering at me. Let's just go ahead and vote on it."

Mills interjected, "I don't think we're getting anywhere. *Mark has made a motion that we approve the emergency budget amendment for Precinct Two as it applies to unforeseen equipment repairs. Is there a second?*"

Boatwright stated, "I think he did the whole sheet I think what he made his motion on."

Mills asked, "Tafel if he wanted to amend his motion?"

*Tafel replied, "Yes, amend this to include Tractor Supply, Holt Cat, Rush Truck Center, Jimmy Davis, Home Depot, UTP and H.T.W. All the other items including the salaries will be struck from the request. The total amount for these items is \$13,518.11 en lieu of \$37,232.64."*

Judge Mills stated that he wanted to hear from the auditor before he called for a vote.

Clark said, "There were really two issues with FEMA money: (1) Overpayment. A little bit of history with that is last year whenever the independent auditors did their audit is when they do their audit, they do it on a modified accrual basis instead of a cash basis. We go year to year, whatever we received, whatever we spend, is booked into those years. This was a multi year project. This particular amount of money was discovered by the auditors that we had been overpaid. The minute the auditor told me this, which was news to me, I went to Clydell to check her figures. Clydell immediately called the state and made the state aware of this. We told them that we've been told by our external auditors that there has been an overpayment. At the point in time I did not know that it was a specific check, a specific amount that was tied to the pilot program. Clydell got with the state, the state was completely unaware of it but at the same time the man who had made the mistake told us not to worry about it. We let the sleeping dog lie after we told everyone what the concern was. When they began the actual audit of the program this crept its ugly head back into our consciousness and until last week I was not specifically aware of which payment was in question. Last week we went over it or the week before last we went over it and the auditor that was here showed us the exact payment in which we had received these funds and deduced how it had occurred. The pilot program being a *pilot program* and we were the guinea pigs on to begin with because this was fresh off the presses. The basic premise of the pilot program was that since these were quote, unquote projects these were large projects and here to fore the large projects had been paid differently from the quote, unquote small projects. Small projects were paid for up front based on estimates. Large projects required the governmental entity to carry all cost of the project until it was completed and then seek reimbursement. The pilot programs were paid to us up front because we elected the pilot programs. Now that option that we had making them and following the pilot programs as opposed to the context of the large programs had its shortcomings in the way that, I mean they made up for it in different ways because they had different rules to apply to those individual projects. We elected to go with the pilot programs on these particular things because we got money on these pilot programs along the way. Now when we completed the roads we had to fill out paperwork correct Clydell?"

Clydell answered, "Yes, we had to do quarterly reports on them."

Clark continued, "Whenever we finished the pilot programs, we reported them as finished and gave them all the numbers. Apparently, subsequently we got a check that

I'm still a little confused because the payments through the bank went through Debbie's office, from Debbie's office to me and I would coordinate with Clydell on how the money was to be booked and applied. The check came in; it was completely handled by an individual in Debbie's office and booked into the general ledger. It did not go through the channel, of course this money came in long after we had received all the other FEMA money, in a completely different physical year. It was booked according to the paperwork we got with the check. Went right over my head, didn't realize that we were getting money we had gotten before because this project encompassed a three year period."

Tafel asked, "Marliessa how can you say that? You are tiptoeing around when Clydell told me that when that check came in it specifically said county road 303, 234, and 222 in regards to the PN's that they gave. She knew, you knew and deposited the money anyways; to say that you did not."

Marliessa said, "Mark I am not going to argue with you."

Clydell responded, "I did not receive the checks."

Tafel replied, "Everything has been an automatic deposit except this one when it entered your office two years later, something was odd. You noticed that these were road that were already paid for; instead of turning this check around and having this gentleman say it is going to come out in the wash in the end; to put it in, we took the money, we knew what the money was for. "

Clark replied, "Mark I will repeat, neither Clydell nor I when we got that money, we didn't get the money. Debbie's office gets the money. They get checks out of the mail; they put them in the bank."

Eoff added, "This was a prior employee that did as she was discussing."

Clark continued, "I would not and don't like being accused of knowingly taking money that does not belong to the county and booking it accordingly."

Boatwright asked, "You said that the outside audit showed this. What year?"

Clark replied, "Last year."

Boatwright inquired, "Did it come out in the audit report? Because I don't remember that if it did."

Clark answered, "I'm not sure that they wrote it up in the audit report, Jim."

Mills added, "They didn't because we weren't through, I think that's reason or that would be my guess."

Clark stated, "I can asked them why they didn't but the minute he discovered it, he brought it to us."

Boatwright replied, "That's why I'm wondering why it wasn't included with a signed note or something."

Clark responded, "I reported back to him that we were told not to worry about it and that it was still under audit; the dust had not settled on the pilot program."

Mills said, "FEMA just now doing their audit."

Boatwright answered, "I understand their just now doing their audit."

Mills added, "It was kind of like you have been overpaid but they were telling us, but don't worry about it. We will do it when we do our audit. They have put it off to the very last and that's what they are determining now, why?"

Bonner stated, "Part of the trade off was that as explained to me that some of the roads they didn't give us enough money. We had to go ahead and finish the road. It was all going to balance out pretty close to the end because they shorted us on a lot of those roads that we ended up having to put more on and had to finish the project. It would prove up that we put way over and above what was required by our weight tickets."

Mills replied, "Were it not for Mark's situation right now, we would be sitting here waiting for the audit to be complete and that would be it."

Clark continued, "The other thing that I need to bring to your attention; the audit that Clydell is talking about with the crushed road material, the crushed rock and the calculation. Even though FEMA approved, we had work sheets out the wazoo. I mean we calculated what a work hand makes per hour based on his benefits, the truck usage that we kept, the hours on each machine and how they were rated. I mean all these work sheets. We were also told how to calculate the crushed rock. We had FEMA's blessing on the calculation. Well, FEMA has guidelines, the state disperses the moneys, and the state is the one that has to audit. I am sure that they get an administrative fee for all this that is neither here nor there. They say that the calculation for the crushed rock is incorrect. What I am saying is this overpayment we received may just be a portion of what they want back from us."

Boatwright said, "I think during that time we calculated a number and sent it to FEMA and they sent it back said it was O.K."

Clark stated, "Jim I agree with you."

Clydell added, "Along with the rock crusher."

Clark replied, "Now the state is coming back to us saying that there is a problem with that calculation. So I am putting you on notice just like I did when the auditors came to us the first time and told us about that overpayment; that there may be more that they want back from us based on that calculation."

Boatwright said, "And that will affect what precincts?"

Clark answered, "Any body that crushed their own rock. So that would be two and four."

Clydell added, "It's not the ones that bought the rock. They don't have a question, because there's weight tickets. They have a copy of every weight ticket that ya'll did. It's the ones that crushed their rock"

Clark continued, "I really think it was new to them that we went through and dug holes, put dynamite in the ground and blasted, scooped it up and crushed it. I don't know if they weren't familiar with the process or what. There may be a problem with that."

Mills replied, "They knew about it because they discussed and said no other county has done that before."

Bonner said, "To me the prudent thing to me is to err on the side of caution and hold funds back here and be prepared."

Tafel responded, "In all reality all there coming for is what they have been paid twice on. They can do their calculations on dynamiting and crushing and that is not where the problems are. We are getting away from the issues. FEMA sent the letter that is addressing what the audit is showing. They paid twice. That is what they want. To assume that they want other monies is completely wrong and inappropriate at this time. They want the monies they paid twice on. That is what they are looking for."

Boatwright replied, "We don't know what the final results are going to be on any of this. This is well documented right now and but let me tell you what I would like to see. I know we have a motion in t front of the table right now. I would like to see that this is documented in this court for the record what he requested. You're seventy five percent over on your budget right now. Let's see what happens with FEMA. You may not have to pay it all back; you may have to pay part of it back. Let's wait till we find out what is going to happen with FEMA, we can always bring this back up. I agree with you. There is a good bit on here is what I consider an emergency; because it left your trucks and some of your equipment, a need for safety to be put back into them. That's what I would like to see right now."

Mills stated, "How long are we anticipating-Clydell, trying to get some direction for the court on the time that Mark is looking at."

Clydell replied, "Surely the next month."

Clark added, "We are not trying to push them very hard because we are still holding out for the possibility that the pilot projects on an individual basis and the evaluation of whether or not they fell within the percentages that were required. We put more rock like Jon said on the roads that were necessary."

Bonner clarified, "Not necessary but it just took more rock than what they allowed in a lot of situations. That is why we put it out there."

Clark continued, "But we've talked with the auditor and we have got him looking in that direction in order to minimize the damage as far as the amount of reimbursement they are going to ask for ultimately."

Mills stated, "We are not in a unique situation again. Other counties are faced with this same situation."

Clary said, "Feel free to pass along my willingness to discuss precinct four rock crushing operation with the auditor should it be something he is inquiring about. I would be glad to visit with him; in fact I would prefer to visit with him."

Clark added, "You might look at the way we calculated it to see whether or not. He worked a lot with Mike I think on the formula in the beginning at least FEMA did on how to calculate this. You might look at it to see if you think it was a reasonable calculation."

Boatwright asked, "So the audit is looking back at this and it could be a possibility that every bit of the material that precinct two and four put out on the road was calculated wrong? There will have to be paybacks on this on every bit of it?"

Clydell replied, "No. Jon bought all of his."

Boatwright said, "I said two and four. They are the only ones that really did the rock crushing."

Bonner stated, "There is a question about how much the rock crusher drew and hour? There is a question about how much was paid out on blasting?"

Tafel asked, "Where is the letter coming in from FEMA requesting the audit and the payback of the 192?"

Clark and Clydell replied together, "We haven't gotten one."

Tafel asked, "Then how were we enlightened that we owe \$192,000.00? A fax? Phone call?"

Clydell answered, "Last Friday...the fourteenth, yes."

Clark also stated, "The fourteenth."

Tafel continued, "On the fourteenth and the reason we came up with these numbers is because he specifically said PN numbers 484 which is County Road 303, 496 which is CR 234, and 861 which is CR 222. Correct?"

Clydell replied, "Right."

Tafel said, "So that is the point at hand. The other as far as how many tons we crushed, how many we blasted, what was the conversion from tonnage to yards vice versa..."

Clark interjected, "Same conversation."

Tafel continued, "This is what is at hand. This is what I believe they are after? They are after what they paid twice on. They want their money back. As for as going back four years ago and try to reopen calculations to tonnage applied to roads it is almost irrelevant. They're not going to do that"

Clark stated, "Mark that is why they are doing the audit. That's why they are here. They are looking at all the calculations."

Tafel replied, "Marliessa they are doing the audit because they paid twice."

Clark said, "No Mark they are doing the audit because it is required by FEMA. That is why they are here today instead of last year when we told them it had happened."

Tafel asked, "You don't think they're here for the \$192,000.00?"

Mills and Clark replied simultaneously, "No."

Mills added, "No they're not. This is their own audit, but the independent audit is a type of audit that we have to do as you guys know because we take grant money. There are obviously some differences on how we think of our government agencies. We were here for the flood of 07 and you all know where we would be if we didn't have that money. I am not going to dump on FEMA. If they paid us twice we need to give their money back to them. Jim wants this on the record. I think that is a good ideal so later when the dust settles and we are capable of doing this, I think it will give a totally different look. I think there is too much uncertainty."

Bonner stated, "I have no doubt that there is going to be some funds paid back. It's going to happen."

*Amending his motion made by Tafel and seconded by Boatwright to approve an emergency budget amendment for Precinct Two as it applies to unforeseen equipment*

*repairs in the amount of \$13,518.11 en lieu of the original total amount of \$37,232.64. The motion dies for lack of a majority vote with Tafel and Boatwright voting for the issue and Mills, Clary and Bonner voting against.*

A motion was made by Bonner and seconded by Clary to approve \$233,738.02 amount of bills submitted for payment. Of the amount submitted \$176,986.01 is RBR Construction and \$56,752.01 is regular bills. As Judge Mills was discussing the bills he informed the court about sealing the annex and had received a bid in the amount of \$8,260.00 to repair the seals. The inspector who looked at the building believed that this would fix the leaking. The court did not proceed because there were no funds available in the courthouse fund and it would need to come out of debt service. Commissioner Boatwright stated that the funds needed to stay in debt service. This business item was laid aside till a later date. The motion carried unanimously. (Recorded in Commissioner's Court Papers Book 38 Page 755)

The court recessed at 10:20 A.M. and reconvened at 10:50 A.M.

A motion was made by Boatwright and seconded by Bonner to table the order exempting Hamilton County from Texas Health and Safety Code 829 relating to Animal Control Officer Training as provided in 829.0015 of the same code. The motion carried unanimously.

A motion was made by Tafel and seconded by Bonner to approve the use of the southwest corner of the courthouse parking lot for Mother's Day May 8, 2011 for 5:00 P.M. on Friday. This is a request made by the Lutheran Church for their annual Bar-B-Que Chicken sale for Mother's Day. They will be able to use the corner parking lot Friday at 5:00 and all day Saturday. The motion carried unanimously.

The court discussed the Emergency Action Plan for Pecan Creek Watershed SCS Site 2 Dam Inventory No. TX04467.

Judge Mills recessed the court at 11:10 A.M. to allow him time to go downstairs to get a copy of the city's flood plain map and to verify the inventory number. The court reconvened at 11:15 A.M.

A motion was made by Clary and seconded by Bonner to approve the adoption of the Emergency Action Plan for Pecan Creek WS SCS Site 2 Dam Inventory No. TX04467. The motion carried unanimously. (Recorded in Commissioner's Court Papers Book 38 Page 769)

A motion was made by Boatwright and seconded by Bonner to approve the policy for statues, monuments, fountains and other site features on the Hamilton County Courthouse Complex. The motion carried unanimously. (Recorded in Commissioner's Court Papers Book 38 Page 791)

A motion was made by Clary and seconded by Bonner to table the appointment of the Site Features Advisory Committee for the purpose of assisting the Commissioner's

Court relating to the review, acceptance and screening of appropriate site location of landscape features. The motion carried.

A motion was made by Tafel and seconded by Boatwright to authorize the Hamilton County Treasurer to work with Mills County State Bank to set up direct deposit for Hamilton County Employees. The motion carried unanimously.

Judge Mills advised Komatsu Architecture that Hamilton County would not be requesting supplemental funding to the Texas Historical Commission for the Hamilton County Restoration Program.

The Minutes of the County Finances Treasurer's Report was submitted to the court as part of the departmental reports stating that Hamilton County has \$2,729,827.60 amount of cash and other assets on hand. A motion was made by Boatwright and seconded by Bonner to approve the departmental reports which included the Minutes of the County Finances Treasurer's Report. The motion carried unanimously. (Recorded in Commissioners' Court Papers Book 38 Page 795)

A motion was made by Boatwright and seconded by Clary to adjourn. The motion carried unanimously.

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County Judge

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