COOKING THE BOOKS:
The July 5, 2011 landfill contract audit conducted by the office of the Williamson County auditor, and another auditing abnormality involving the landfill
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INTRODUCTION and SUMMARY

Part A - The office of the Williamson County auditor issued an audit of the county's 2009 Landfill Operation Agreement (LOA) dated July 5, 2011. There is a false statement in the audit on Page 6 which reads: “The Contractor has developed a Master Site Development Plan timely and the Plan is compliant with the requirements of the Landfill Operation Agreement.” Calling this statement “false” is actually a tame way of stating the case. The statement is a bald-faced lie.

Part B – The significance of the false statement involving the Master Site Development Plan and its implications for county government integrity and mitigating severe social, commercial and residential fallout from the landfill operation.

Part C – The county auditor's failure to examine the landfill gatehouse tickets.
The Williamson County landfill is a public asset and in many ways a public liability which imposes obligations on both Williamson County and WMI. False auditing statements, inadequate auditing, papering over important issues and, in effect, cooking the books, is not in the public interest. These practices cannot be condoned.

PART A. The false statement in the audit of the landfill contract dated July 5, 2011

Section 2.16 of the LOA (on Page 21) states: “Within (1) year of the Effective Date, Contractor shall develop a Master Site Development Plan for the Landfill.” Within that section, it also is stated that the Contractor will implement the Master Site Development Plan “in accordance with the agreed upon timelines set forth in the Plan,” and that the county’s “APPROVAL” (emphasis added) of the plan shall not be unreasonably upheld by the county.

On March 9, 2010, at the regular meeting of Williamson County commissioners court, consideration was given to the filing of the recycling plan and the Master Site Development Plan by WM. In reviewing the audio recording involving the processing of that agenda item, it is unquestionably clear that commissioners court did not “approve” the Master Site Development Plan as required by the LOA.

In introducing WM's filing, Senior Director of Infrastructure Bob Daigh said that it was at (Precinct 4 Commissioner Ron) Morrison's urging that a “draft plan” be put in place, and that Morrison “has been adamant that we have strong public input.” Daigh said it was staff’s recommendation that commissioners accept the plans “to meet the requirements for filing but not to approve” the plans “until we have strong public involvement and then come back to the court for that action.”

Morrison’s motion stated that the court “accept the report, but not the plan.”

County Judge Dan Gattis then re-stated the motion, and he said commissioners would “accept the plan as to form,” but Morrison then corrected that statement, changing the reference to “plan” to “report”. Gattis then re-stated the motion and said that commissioners would “accept the report but not adopt a formal plan.”

WM's Steve Jacobs addressed the court and stated that WM agreed with commissioners not officially approving the plan at the meeting, and that a complete plan was not filed because, in his words, it was “too hard for me to write it.”

The Minutes of this official action as recorded by the county clerk and approved by commissioners court following week state that commissioners court “accepted” the “plan”. This statement in the Minutes is erroneous. Based on the clear and

1 Discussion of this agenda item on the audiodisc for the March 9, 2010 meeting of commissioners court as provided by the county clerk begins at point 1:09:50 into the meeting. The salient section of the recording is also posted on YouTube—the link is at http://www.wilcotx.com.
unambiguous motion made by Morrison, commissioners accepted the “report” but did not “adopt a formal plan.”

Anyone who attempts to allege that by adopting the Minutes containing the statement that the “plan” was “accepted”, there could be an interpretation that the requirement in the LOA for the plan to be “approved” was met is severely overreaching and dead wrong. “Accepting” the plan is not the same as “approving” the plan, but in any event, the discussion in commissioners court makes it very clear that the filing by WM was a “report” that was accepted “as to form” (Gattis), but only for the purpose of putting a “draft” in place because Morrison was “adamant that we have strong public input” (Daigh). It no way, shape or form can it be concluded that commissioners court's action in accepting the “report”, and action a week later approving the Minutes, would have constituted “approval” of a formal plan meeting the requirement in the LOA.

The Master Site Development Plan\(^2\) as filed by WM is lacking several substantive components which keep it from being regarded as a full, complete and approvable plan, but the most serious and evident failure is the absence of “time lines” for implementing the plan, as required by the LOA. This fact alone would cause the conclusion that the plan (or as Morrison calls it, this “report) does not meet the LOA requirement for the plan which must be approved by commissioners court. The plan also contains no drawings or renderings for the restoration of the Almquist-Johnson house on the landfill property, and accept for the limited area of the entrance on landfill road, it contains no landscaping or sight-screening for any landfill area.

In any event, WM's Steve Jacobs conceded that the plan as filed was not adequate, because he said the plan was “too hard for me to write it.”

In its cover letter for the filing, WM did not mention the fact that there was an agreement between Daigh, Morrison and WM for the plan to be regarded as a “draft” and not formally approved in order to take public comment into account so that the public input could be taken into account.\(^3\) This language is the first suggestion that there may have been an effort to set the stage for arguing that this unsatisfactory, perfunctory “draft” was, in fact, the final plan. While the filing by WM states that restoration of the Almquist-Johnson house could take several years, that is not a “time line,” and commissioners court unquestionably has not agreed to “approve” that statement, even if it were to be interpreted as a time line.

In an attempt to show that it was sincere in seeking the “strong” public input which Daigh had said that Morrison was “adamant” in receiving, the county scheduled an open house about the landfill, which was held on June 8, 2010 at the Hutto Middle School auditorium. The Hutto Citizens Group (HCG) provided its input—a lengthy, illustrated detailed plan\(^4\) which represented all the features and components which Waste Management ultimately should include in an approvable plan. The HCG plan was

\(^2\) The Wilco Public Policy coalition has made the “report” available on its website, www.wilcotx.com.

\(^3\) The existence of this agreement is obvious within the recorded discussion of the commissioners court meeting on March 9, 2010.

\(^4\) The HCG’s proposed plan is available at http://www.gismedia.com/wilcotx/hcg_plan.pdf
graphically displayed at the open house and also circulated to media, to Daigh, to WM, and to members of commissioners court.

After the open house and the submission of the plan by the HCG, the county's interest in moving forward to an approvable Master Site Development Plan disappeared. Morrison didn't return phone calls from citizens or from members of the Williamson County Public Policy Coalition about it.

An article in The Coalition Newsletter published on May 4, 2010 (see EXHIBIT TWO) referenced the failure of the county to follow through in approving a plan required by the LOA. While the article documented the fact that the plan's approval remained unfulfilled, no one from the county objected to the article or said it was erroneous. In fact, there was no response from the county.

Four members of the WCPPC (Jose Orta, Cindy Allen-Lott, Jason Wirth and Kurt Johnson, Sr.) sent a letter dated October 11, 2010 to Morrison and Daigh (see EXHIBIT THREE) as yet another follow-up, but there was no response.

The editor for The Hutto News, Elizabeth Page, repeatedly sought to schedule an interview with Morrison to discuss the status of the plan, but he would never agree to an interview schedule and eventually stopped returning her phone calls.

The county had gone completely dark on the Master Site development Plan, which remains unapproved, in violation of the LOA. In addition, on August 16, 2011, the WCPPC published a proposed plan for saving the historic Almquist-Johnson house which is owned by the county and is on landfill property. Gattis, Morrison and WM have made public commitments to restore the house and use it for public purposes, including use as an education center and as a museum. After more than three months, Morrison has not responded to the plan, which could be implemented without using tax dollars.

It's unclear exactly how the non-compliant “report” filed by WM morphed its way into the county auditor's statement that WM had filed a “plan” meeting the requirements of the LOA. However, there are some clues.

The cover letter for the plan as provided by WM, by making no reference to it being a draft or a filing awaiting supplementation, could be interpreted to mean that WM actually intended it to be the “approvable” submission, even though Jacobs and members of commissioners court agreed, in their discussion on March 9, 2010, that the plan would not be approved that day and would await public input so it could be finalized. In any case, even if WM were submitting the filing as a plan to be approved, commissioners court clearly did not and has not approved it. The “acceptance” of the report does not comply with the requirement in the LOA.

The July 5 audit contains this statement: “During this audit, the assistance and cooperation of Waste Management’s on-site staff was excellent and very much appreciated.” No other input was referenced. The audit doesn't state whether WM
represented to the auditor that the plan as filed was considered by WM to be compliant with the requirements of the LOA, but at the very least, WM appears not to have discouraged that conclusion.

On December 7, 2010, WM requested and received from commissioners court a variance on its fill-sequencing plan for the landfill. Instead of burying waste on the north side of the permitted area, WM proposed to open a new cell on the south side of the landfill in the newly-permitted area not part of the original permit's footprint. While approval by commissioners court, as filed at the Texas Commission on Environmental Quality, was necessary, this change also is a mandatory component of the Master Site Development Plan, so the “Plan” should have been cited in the context of this change, but it was not. After that commissioners court meeting, I asked WM's Bubba Smith, who had made the presentation to commissioners court, what WM's timetable was for filing the final Master Site Development Plan. His answer was that he wasn't going to answer. He offered no substantive reason for not answering, although he did say, “I don't respect you, so I'm not going to answer.” After I returned to my office that afternoon, I re-read the cover page of WM's filing on March 9, 2010, and it occurred to me that an effort might be made to claim that the filed plan could stand as the “approved” plan, the conversation in commissioners court on March 9 notwithstanding. And then, when I read the statement in the July 5, 2011 contract audit asserting that the “plan” as filed met the LOA requirement, it seemed much more evident that my suspicion was correct.

As a matter of practice, I submit Public Information Requests for all audits of the Williamson County landfill, as performed by the county auditor's. These audits are not examinations of compliance with LOA in the same way that the July 5, 2011 audit addressed compliance. These other, somewhat irregular audits deal with WM's reports of revenues and volumes of waste at the landfill, though they are, at best, superficial, and cast little light on the validation of revenues and volumes.

Because I had not been expecting another “regular” audit by the county auditor until late in 2011, I hadn't submitted my standard request during the summer. But it occurred to me that the radical silence about the Master Site Plan on the part of WM and the county suggested a serious significance, so in early October of 2011, I submitted another Public Information Request, and it was worded in such a way to include any audit of the contract. On October 13, I received the July 5 “contract audit” from Connie Watson, the county's public information officer and designee for the county's open records requests.

On October 13, when I saw the false statement in the audit, I immediately called the county auditor's office for an explanation. I was unable to talk with Jim Gilger, C.P.A., and Danielle Richards, internal auditor II, whose names were on the audit, because they no longer worked for the county. I ended up talking to Kathy Wierzowiecki, the director of Internal Audit, who works under David Flores, the county auditor, and who is very familiar with the landfill operation and audits. Within the chain of command, she appears to have worked in a supervisory capacity over Gilger and Richards.
Wierzowiecki listened to my concerns about the false statement and then suggested that I contact Bob Daigh, who supervises the landfill for the county. My response was that I simply wanted to know how the county auditor's office would come to make such an obviously false statement in one of its audit reports. I then provided Wierzowiecki with the details of what happened at the meeting of commissioners court on March 9, 2010. In our conversation, Wierzowiecki brought up the issue of the “time lines” requirement in the LOA, and noted that that provision might need to be interpreted in the context of the audit's statement. That piece of the conversation told me that there was an awareness in the auditor's office (at least there, but likely elsewhere) that there were problems with the audit statement.

Wierzowiecki made a commitment to call me back by Wednesday of the following week (October 19) after she talked with County Judge Gattis and WM about the matter. I thought it was highly unusual than a so-called “independent” audit source would have to check with somebody else to figure out what happened, but I decided to wait another week to get to the bottom of it.

In the meantime, I sent another Public Information Request to Watson for the filing made by WM on March 9, 2010, and I picked up specifically on the language in the audit which said that the plan was in compliance with the requirement in the LOA. Watson's response was to send me the same, old plan WM had filed on March 9, 2009.

Here's the e-mail I then sent to Watson on October 20, 2011:

The audit submitted by Mr. Gilger states: "The Contractor has developed a Master Site Development Plan timely and the plan is compliant with the requirements of the Landfill Operation Agreement." Please provide a copy of that Master Site Development Plan which "is compliant with the requirements of the Landfill Operation Agreement."

Are you representing to me that the Master Site Development Plan you sent to me today "is compliant with the requirements of the Landfill Operation Agreement"?

Watson e-mailed me back and flatly stated that the plan was “compliant” with the requirements of the LOA. So I responded to that with this e-mail:

If you really believe that the plan is compliant, how do you explain these statements by Steve Jacobs in commissioners court on March 9, 2010 when the plan was "accepted" for administrative purposes?

1. Jacobs said the plan as filed is incomplete because it was "too hard for me to write it".
2. Jacobs said, "Hopefully we can get final approval in the not to distant future."

Obviously, final approval has never been given, thus the plan is not in compliance.
Also, the landfill contract calls for the plan to contain time lines for implementing the plan. How can the plan be compliant if it does not contain the "time lines"? Please listen to Jacobs in this YouTube clip, in timed section 1:39 to 2:08.

http://www.youtube.com/watch?v=z_Uzz_QwDEg

I look forward to your response.

Watson never responded to that e-mail. I followed up with her again, but she continued to be unresponsive. Her unconditional, dogmatic response to my question suggests that she did not make such a representation on her own. Typically, on any controversial issue, Watson cites the source for whatever she provides or represents, but she didn't do that in this case.

Beginning on Friday, October 14, then again on Monday and Wednesday of the following week, I placed several calls to Commissioner Morrison's office regarding this issue. During two of these calls, he was in the office but wouldn't take my call. He never called me back. His administrative assistant, Pete Correa, offered no explanation and said he had delivered the messages.

By the end of the day on Wednesday, October 19, I had not heard back from Wierzowiecki, so I called her the next morning. She essentially had no new information for me, except to state that David Flores, the county auditor, was out of town and would not return until the following week, and she needed to talk to him. She also said that she had arranged with Watson to procure the audio recording of the March 9, 2010 commissioners court meeting, which she had not yet heard.

Just before 4 p.m. on Monday, October 24, I received the following e-mail from Wierzowiecki:

Mr. Johnson—Thanks for your e-mail. A few clarifications follow: Jim Gilger is a CPA, worked (he has moved on) for the county as an internal auditor and is not required to distinguish himself by signing, stamping or sealing the work completed for the county with his CPA designation. External Auditors have a requirement similar to that which you mentioned in your e-mail. Mr. Flores nor I are CPA's.

With that said, in response to your concerns, I have reviewed the work presented in the audit, re-read Section 2.16 Master Site Development (Plan) Fund requirements, and have reviewed Commissioners Court Motion of action regarding this item. I have briefed Mr. Flores accordingly and he and I both agree the we would need further explanation with specific examples to back-up your statement “...there are at least three substantive, false statements made by the Williamson County Audit Report involving compliance with the 2009 Landfill Operating Agreement.

Please keep in mind that recorded minutes are what reflect decisions made by the court regarding a specific agenda item.

I look forward to hearing from you. Kathy
This statement by Wierzowiecki does nothing to change the conclusion that the statement already cited in the audit is false, for the reasons given. And, in fact, there are three false statements made regarding this item. Here are the three false statements from Page 6 of the July 5 audit and the reasons why they are false:

_The Contractor has developed a Master Site Development Plan timely, and the Plan is compliant with the requirements of the Landfill Operation Agreement._

There is no “Plan” that commissioners court has approved. Based on Commissioner Morrison’s Motion, there is a “report” which was accepted but not approved. Based on Judge Gattis’ statement, there is a “report” which has been accepted as to “form”, but not approved. And, the filing made by WM is not “compliant with the requirements of the Landfill Operation Agreement” because those requirements include specification of “time lines” for implementation. The filing by WM does not contain “time lines.” The vague statement that will take several years to restore the Alquist-Johnson house is wholly insufficient. While restoration of that house should be included in any plan, there are many more facets of a master development for which no time lines are given.

_The Court accepted the plan on March 9, 2010._

It is disingenuous of the county auditor's office to try to rely on a misstatement in the Minutes to try to finesse an interpretation that this statement is accurate. No “plan” was accepted. A “report” was accepted. The statement is false. Listen to the audio recording of the meeting.

_If yes, has implementation begun? Yes._

This statement attempts to answer a question which is not asked. The prior statement that the court accepted the “plan” is not a question to be answered. But even that statement itself is false because no “plan” was accepted. A “report” was accepted. There can be no implementation of a “plan” which does not exist. Only a report exists. And there was no approval of any components of the report filed by WM which officially could be recognized if implemented. Implementation of an “approved” plan has not begun. WM may be doing some work which has a relationship to the “report” it filed with the county, but that has no official relationship to an “approved” Master Site Development Plan.”

In attempting to defend the assertion in the audit that WM's filing is “compliant” with the requirements of the LOA, based on the specific wording of the Minutes,⁵ the auditor's office apparently is incapable of distinguishing “approve” from “accept”. The LOA clearly requires that the “plan” be “approved”, not that it merely be “accepted.”

Accept: “To take or receive something offered.”
Approve: “Promote or consider agreeable; to consent or agree to.”

⁵ The statement in the Minutes is that the “plan” was “accepted”, not that the “plan” was approved.
So, even if the Minutes are correct, which they are not in this instance, but even assuming that, a “plan” was not approved, but that is the requirement, based on the LOA. The Minutes say “accepted.” The LOA says “approved.”

The auditor’s office apparently can't distinguish between a “report” and a “plan”:

Plan: “A design or scheme of arrangement.”

The filing by WM contains a design and scheme of arrangement for the cells in the landfill to be filled with garbage, and it provides a simplistic, graphic illustration of a proposed public entry into the landfill, but in no sense does the filing provide a “design or scheme of arrangement” for the restoration of the Almquist-Johnson house or the landscaping around the entire perimeter of the landfill. With those major, substantive items missing, the filing is not a “plan”. It is only a report. And it is a short report at that.

Wierzowiecki's e-mail states: Please keep in mind that recorded minutes are what reflect decisions made by the court regarding a specific agenda item.

In response to Wierzowiecki's e-mail to me just before 4 p.m. yesterday (Monday, October 24), I immediately responded with an e-mail which asked whether or not she had listened to the audio recording of the salient portion of the commissioners court meeting on March 9, 2010, including the comments of Bob Daigh, Ron Morrison and Dan Gattis. As of late Monday night, she had not responded. Based on her e-mail to me, it's clear that she has not listened to that recording, which is the best possible evidence for whether or not the filing by WM was a “plan” which was “approved”. The audio recording confirms that it was a “report” which was “accepted”.

If, in its pursuit of truth to resolve this matter, the auditor's office believes that the Minutes as recorded by County Clerk Nancy Rister should be the controlling factor, as opposed to the actual intent of commissioners court as per the Motion offered by Morrison, and as amplified by Gattis and Daigh, then either:

County Clerk Rister should resign for manufacturing a false statement in the Minutes, or members of commissioners court should be held in contempt for approving Minutes which substantively contradict the specific wording of the action taken.

Does the county clerk not listen to the audio of the meeting to determine whether or not the Minutes are accurate? Does the auditor's office not listen to the audio of a specific agenda item when writing an audit report about that item in the interest of accuracy and professionalism? Do members of commissioners court not review the Minutes for the

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6 The definitions for these four words are from dictionary.com online.
7 It's actually a scissors-and-paste job for information that has to be filed at the Texas Commission on Environmental Quality, but it has no relevance for the Master Site Development Plan which citizens have been attempting to discuss with Commissioner Ron Morrison.
accuracy of statements of record in light of the specific discussion which occurred the previous week?

There's plenty of blame to go around for this material error which calls the competency of county government into serious question. The only question now is: Who will fix it?

As of Monday evening, October 24, 2011, the false statement in the audit report has not been removed or corrected.

On a personal note, I am not without understanding and sympathy regarding the difficulties faced by some Williamson County employees who must carry water for the elected officials and department heads who hold power over them. I know a number of county employees and am aware of the frustrations which they encounter when they are at risk of losing their jobs if they don't fall in line regarding what elected officials or department heads may require of them for political or other not-so-high-minded reasons, even if it means going against their better judgment involving their professional, on-the-job actions and decisions. I know of some employees who have stated that they were terminated or otherwise resigned because they didn't or wouldn't make such compromises.

**Part B – The significance of the false statement involving the Master Site Development Plan and its implications**

The false statement in the audit report is significant for at least three obvious reasons.

**The first reason** is that it calls into question the integrity of county government and its truthfulness. The county auditor has at least one representative at every session of commissioners court, so the discussion at the meeting on March 9, 2010, should not have gone unnoticed by the auditor's office. All five members of commissioners court, along with Bob Daigh and Connie Watson, attended that meeting, and some of them were part of that discussion. All were recipients of the audit with the false statement. When they read it, didn't it occur to them that they needed to do something to correct it?

**The second reason** is that there can be adverse consequences for Certified Public Accountants who knowingly consent to a false statement in an audit report, especially for failing to correct the statement once it is known to be false. The Texas Administrative Code, Title 22, Part 22, Chapter 501, Subchapter E, Rule ~501.90 addresses “discreditable acts”. There are other provisions in the TAC which make such consent problematical for a C.P.A.

**The third reason** is that, by not upholding a commitment made by the county to citizens regarding the creation and implementation of the Master Site Development Plan, the area around the landfill will continue to suffer as an economic development and residential development wasteland. Developers and prospective residents need assurances that the landfill will have adequate landscaping and site screening and other amenities, which the Master Site Development Plan should provide. In the absence of that assurance, the north growth corridor for the City of Hutto has a very bleak future.
When the 2009 LOA was being negotiated and finalized, citizens who tried to be involved in that process generally frozen out having any real input into the contract. Among all of the input provided by citizens, only two were incorporated into the LOA: (1) the provision for an “independent” landfill oversight inspector, and (2) the approval process for a Master Site Development Plan with citizen input. As it has turned out, the manner in which the county has addressed the landfill oversight inspector (training county employees) does not provide for an “independent” inspector who is “independent” from both the county and WM, which was the substance of that provision as agreed by citizens and Commissioner Morrison. And now, the Master Site Development Plan as envisioned is imploding as a result of the false statement in the audit report.

The absence of professionalism and professional integrity in all of these items as addressed in this section is appalling.

Links to backup and ancillary documents pertaining to Part B are at www.wilcotx.com, including the salient portion of the audio recording of the commissioners court meeting held on March 9, 2010. Perhaps, with the help of the WCPPC in going to the expense of providing this recording online⁸, perhaps some county officials and employees will listen to it for themselves.

Part C – The failure of the county auditor to examine the landfill gatehouse tickets.

An Appellant's Brief filed by Waste Management of Texas, Inc. (WM) with the Texas 11th Court of Appeals (July 11, 2011) involving a lawsuit filed against the Attorney General of Texas and Williamson County (No. 11-11-00112-CV) relating to a Public Information Request made by Kurt Johnson seeking landfill gatehouse tickets discloses that the office of the Williamson County auditor does not audit those gatehouse tickets. The statement by WM’s counsel reads: “On the date that this case went to trial, the only time that the county had ever requested tickets was in response to the public information request (submitted by Johnson) that forms the basis of this lawsuit.”

This disclosure is very troubling. How can the county auditor properly audit the revenues and tonnages of solid waste pertaining to the Williamson County landfill if it does not review the primary source documents for that information?

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⁸ None of the proceedings of Williamson County commissioners court is provided online by the county in either audio or video format. Audio is provided by a case-by-case basis by the WCPPC at its own expense.
Section 2.14 Scheduling; Management; Quality of Performance

1. All landfill personnel are certified, licensed, or otherwise qualified as required by Applicable Law.
2. The Contractor periodically conducts appropriate safety and training programs for all personnel.

Section 2.15 Emergency Operations Plan

1. The Contractor has provided the County a comprehensive Emergency Operations Plan.
2. The plan includes the required information and has been tested on a regular basis.

Section 2.16 Master Site Development Plan

1. The Contractor has developed a Master Site Development Plan timely and the Plan is compliant with the requirements of the Landfill Operation Agreement.
2. The Court accepted the plan on March 9, 2010.
3. If yes, has implementation begun? Yes.
4. The Master Site Development Fund has been established and it is being funded by at 1% of the Tip Fee.
5. Payment has been made by January 31 of each year.

Nothing came to our attention to cause us to believe the Contractor is noncompliant with the terms and conditions of the operating agreement.
Landfill numbers take surreal twist

Last week, an article in the *Taylor Daily Press* reported a county commissioner as saying that the earmarked proceeds (three percent of revenues) from the operation of the Williamson County landfill (to be spent for the benefit of the City of Hutto, the Hutto ISD, and other communities in the county, but not given as hard cash, according to the landfill contract) would “eventually” total one million dollars per year.

In response to that statement, Jerry Tidwell, a member of the Williamson County Public Policy Coalition, addressed commissioners court on Tuesday, May 4. The text of his statement is found on Page 2 of this newsletter.

**Landfill Master Site Plan still not complete despite March 3 deadline**

The county’s landfill contract with Waste Management of Texas, Inc. (WMI) requires that WMI file a Master Site Plan with the county within the first year of the signing of that contract, which occurred on March 3, 2009. However, the plan which was filed was incomplete.

On March 9, 2010, WMI’s Steve Jacobs told commissioners court: “We have a lot of other information that may not have made it into the plan simply because it gets too complicated and too hard for me to write it.” You can hear it in his own words—an audio clip of the statement is available at: www.wilcocoalition.com.

Members of the WCPC have insisted that before the county’s promised forum on the landfill is convened, it is imperative for WMI to file a complete plan (recall Jacobs’ statement) and for commissioners court to respond to it so that citizens will be able to discuss it with county officials. *(Landfill issues are continued on back page.)*
Text of statement made by Jerry Tidwell, member of the Williamson County Public Policy Coalition, at Williamson County Commissioners Court on May 4, 2010

My name is Jerry Tidwell, and I reside at Weir, Texas, in Williamson County. I appear today as a representative of the Williamson County Public Policy Coalition.

When I read the quote attributed to Commissioner Morrison in last Wednesday’s edition of The Taylor Daily Press to the effect that the special landfill funds for Hutto, the Hutto ISD and the WilCo Communities would eventually total one million dollars per year, my truth meter blew out all of its electronic components. Using the net present value of 2010 dollars, and based on Waste Management’s own reports and the county’s own population projections, saying it will happen “eventually” is misleading. There is a difference between what is eventual and what might be eternal.

The monthly reports filed by Waste Management for January and February of this year show an average of $16,902 going into these funds, which when annualized comes out to $192,824 for 2010. That’s only one-fifth of the way toward a million dollars per year. It would have been much better to have been honest with the reporter, and the public and admitted that the landfill volume—and the county’s population—would need to grow by at least three or four times to get to that attention-grabbing, million-dollar number, which obviously was used for dramatic effect. Considering the huge amount of money that flushes through the landfill, if that landfill contract had been negotiated responsibly, the funds to benefit all these Hutto entities—and even other entities—would be much higher right now, in contrast to the paltry sums which have been reported or which have been promised. In consideration of the damage done to Precinct 4’s economic growth by the landfill, these small numbers should be substantially higher and should arrive substantially sooner than an eventual eternity.

Commissioner Morrison, it is irresponsible for you to throw around a one-million-dollar number like this if you can’t back it up. I must insist that you justify it with specific, time-line calculations. If you can’t do that, then you owe
an apology to the City of Hutto, the Hutto ISD, any other promised beneficiary, the communities of the county, and especially to the reporter who ended up being a professional victim of your statement. We'll all be watching to see if you produce any numbers, or if you don't, whether you produce any apologies.

I have available today a copy of our Coalition's newsletter, which provides more details about this subject, along with the text of my remarks. Thank you.

(End of statement)

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The landfill's damage to economic growth and progress

Economic growth and development in Precinct 4, and especially in the City of Hutto's northern growth corridor, have been adversely affected in a major way by the landfill, which has a permitted footprint of 575 acres. In addition to affecting Hutto specifically, it also adversely affects the Chandler Road corridor, which is going to connect U.S. 95 north of Taylor to IH-35 in Round Rock. This major transportation artery runs just south of the massive landfill, so along a significant stretch of this new roadway, economic development has been severely retarded.

If Williamson County and Waste Management of Texas, Inc. intend to compensate for this major blight on the area and its development, it will require more than a mere three percent of landfill revenues spread across various entities. The landfill contract adopted by Williamson County commissioners court on March 3, 2009, is sorely lacking in its provision for compensation to these entities which have been adversely affected. In addition, the money flowing into these funds (the total of three percent) isn't provided by the county or by Waste Management. It actually is provided by citizens themselves through a surcharge on the tipping fees charged for depositing solid waste in the landfill. So, if the promise of these payments makes the public feel good, remember that the feeling is short lived once one realizes that the compensation is far too small and is actually being enabled by money collected from citizens.
In addition, the WCPC members insist that the forum should have active dialogue rather than just passive input, and that the dialogue must occur between citizens and members of commissioners court, not citizens and WMI.

**Shooting straight regarding proceeds from the (three percent) landfill funds**

The landfill contract is clear on the fact that the benefits from the three landfill funds are not to be disbursed in cash but rather used for the construction of public-use facilities. The contract puts commissioners court in charge of deciding when and for what the funds are spent. Based on the current pace of funding, at the end of 2010, facilities could be funded for the Hutto ISD and the City of Hutto at the level of about $65,000 each, and for the “other” communities in Williamson County who would all share a benefit value of about $65,000. These amounts hardly compensate for the overall liability to development and other problems created by the landfill, which (by the way) takes 575,000 acres off the property tax rolls of the county and the Hutto ISD.

**Procrastination: the landfill oversight operator and third-party audit**

The landfill contract approved on March 3, 2009 provided for the county to hire or contract for a landfill oversight inspector. Bids were solicited in September. As of May 4, 2010, no inspector has been retained, either by hiring or by contract. The contract also called for a third-party audit at the end of the first year of the contract. As of the eight-week mark after the end of that first year, no such audit has been released.

**Secret landfill records**

In August of 2008, a citizen (Kurt Johnson, Sr.) filed a Public Information request with the county for certain landfill records not otherwise released. The county sought an attorney general opinion, which agreed with Johnson, saying the records should be released. WMI sued the attorney general and Williamson County to keep the records secret. Johnson intervened in the case and is active. The attorney general’s office is actively engaged in the case and pursuing remedy. Williamson County, though a defendant, has taken no action indicating an interest in seeing the secret records released. The case is scheduled to go to trial in Travis County District Court on August 16, 2010. Additional information is available at www.gismedia.com/agreement.

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The WCPC is a grass-roots organization based in Williamson County. Its mission is to publish and distribute information and commentary on public issues. Publications Committee: Jane L. Van Praag and Jerry Tidwell. Staff: Kurt Johnson, Sr. Information on issues addressed in this newsletter, as well as on other issues, is available at www.wilcoalition.com.
EXHIBIT THREE

WCPPC

Williamson County Public Policy Coalition
Georgetown, Texas
(512) 843-2549

October 11, 2010

To: Ron Morrison, Williamson County Precinct 4 Commissioner
    Bob Daigh, Williamson County Senior Director of Infrastructure

Mr. Morrison and Mr. Daigh,

As both of you know, within the long list of outstanding issues involving the Williamson County landfill are (1) the timeline for finalizing and implementing the specific components of the Master Site Development Plan, and (2) the implementation of the Landfill Oversight Inspector provision. Both of these items are central aspects of the 2009 Landfill Operating Agreement (LOA) which were highly touted and yet which, more than a year-and-a-half following the signing of that agreement, have seen little progress.

In light of this long inactivity and silence, the WCPPC hereby insists that you provide an update on these two components of the 2009 LOA. Needed are (1) the status of both issues, and (2) explanations regarding the reasons for the long delay with no implementation. It is important to note that the classic excuses, such as, “we’re working on it,” “we’re making progress,” “I had a flat tire,” and similar abstractions are not adequate. It is important for the WCPPC and the public to know why there has been such a substantial delay in moving forward on these issues.

Your response to the above e-mail address is expected forthwith.

WCPPC members:

[Signatures]

Cindy Allen-Lott

Kurt Johnson, Sr.
EXHIBIT FOUR

Comments by Kurt Johnson, Sr. at the meeting of Williamson County Commissioners Court 10-25-2011

My name is Kurt Johnson, Sr. I reside at 15624 Opal Fire Drive in Wells Branch.

Last week I acquired a copy of the audit of the landfill contract dated July 5, 2011, and conducted by the office of the Williamson County auditor.

The audit contains this statement: “The Contractor has developed a Master Site Development Plan timely, and the Plan is compliant with the requirements of the Landfill Operation Agreement.”

That statement is false. It is hideously false. It actually is a bald-face lie. If it were subjected to the “PolitiFact truth test,” it would be defined as a “Pants-on-Fire” statement. In secular parlance, placing this statement in an official audit is known as “cooking the books”.

Anyone who listens to the audio segment of the meeting of commissioners court held on March 9, 2010, would have no choice but to agree that it is a false statement. I have discussed this documentation with the auditor's office, but a correction or retraction of the statement has yet to be issued.

All five members of commissioners court, along with Bob Daigh, received a copy of that July 5, 2011 audit report. All six of you, as well as at least one representative of the county auditor's office, were here for that commissioners court discussion on March 9, 2010, and yet not one of you has been honest enough to stand up and say that the statement in this audit is false. And if your memory is so bad that you don't remember that meeting, you can listen to the very clear and convincing audio recording.

I have left several messages with the office of Commissioner Morrison to discuss this matter, but he refuses to return my calls. Connie Watson, your public information officer, has stated in writing to me that she believes the statement in the audit report to be true, yet the facts defy her statement.

We already have a serious problem with the perception of integrity and trustworthiness in this county government. You'd be well advised not to add this issue to that pile.

I have prepared a detailed report documenting, without question, that the statement is false, and I am providing a copy to each of you, as well as to Mr. Daigh, and the auditor's office.