

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY, MAY 9, 2011, AT 10:00 A.M.**

*Judge Beard called this meeting to order. Officers present are listed as follows:*

<b>VAL CLARK BEARD</b>	<b>COUNTY JUDGE</b>
<b>ASA STONE</b>	<b>COMMISSIONER PCT. 1</b>
<b>KATHY KILLINGSWORTH</b>	<b>COMMISSIONER PCT. 2</b>
<b>RUBEN ORTEGA</b>	<b>COMMISSIONER PCT. 3</b>
<b>MATILDE PALLANEZ</b>	<b>COMMISSIONER PCT. 4</b>
<b>JERRY SOTELLO</b>	<b>J.P., PCT. 1</b>
<b>CAROL OFENSTEIN</b>	<b>COUNTY TREASURER</b>
<b>BETTY JO ROONEY</b>	<b>TAX ASSESSOR</b>

***To discuss and take action as appropriate on the following:***

***1. Invocation and Pledge of Allegiance***

*Judge Beard led the invocation and Pledge of Allegiance.*

***2. Minutes / additions / corrections / approval***

*The minutes from the April 11, 2011, and May 2, 2011, meetings were presented for approval.*

*Commissioner Ortega made a motion to approve the minutes, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***3. Treasurer***

***A. General Bills / Discussion and appropriate action***

*Treasurer Ofenstein said she paid the medical insurance premiums.*

*She also presented three walk-in bills: one for reimbursement to Berta Martinez for conference travel in the amount of \$849.27; another for reimbursement to Conrad Arriola for food for the EOC in the amount of \$85.08; and a third for reimbursement to Judge Beard for drinks for the firefighters in the amount of \$56.92.*

*Commissioner Ortega made a motion to approve the bills as presented, which was seconded by Commissioner Killingsworth, and passed unanimously.*

*Commissioner Ortega abstained from 71191 and 71192.*

***B. Infrastructure Projects Bills / Discussion and appropriate action***

***C. Texas County & District Retirement Plan / Update on plan and upcoming time period in which to make modifications to plan (No action)***

*Treasurer Ofenstein said the rate is going to increase from 9.61 percent to 10.81 percent. She said retirees received a COLA last year.*

*Judge Beard asked Commissioners to start thinking about the plan for this year's budget process.*

***D. Quarterly Reports / Discussion and appropriate action***

*Treasurer Ofenstein said there is a mistake. A figure reading \$1,727,000 should read \$1,757,000.*

*Commissioner Ortega made a motion to approve the quarterly reports as corrected, which was seconded by Commissioner Stone, which passed unanimously.*

***E. Other administrative matters related to Treasurer's Office / Discussion and appropriate action for work of Treasurer's office to go forward***

*Treasurer Ofenstein said the Alpine Chamber of Commerce made a donation of \$500 to the Alpine fire department. She also has some paperwork from a foundation which would like to make a donation, but would like for the County Attorney to review it.*

***4. Officials' Monthly Reports / Discussion and appropriate action***

*Commissioner Stone read the reports for the record.*

*Commissioner Ortega made a motion to approve the reports, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***5. Recognitions / Recognize Coach Richard Villanueva for significant contributions to Summer Employment for young people in Brewster County***

*Judge Beard said Coach Villanueva goes above and beyond his paid duty with AISD, with good results obtaining summer jobs for young people. She explained that others tried to piggy-back on his credit. The superintendent would not allow Coach Villanueva to be present to accept the award, so the plaque is being presented in absentia.*

*Commissioner Ortega made a motion to recognize Coach Villanueva, which was seconded by Commissioner Killingsworth, which passed unanimously.*

***6. Road & Bridge Department / Community Facilities***

***A. Road & Bridge Superintendent's Report***

***General updates on maintenance and repairs for all county roads;***

***road materials including, fuel, supplies including usage & inventories & future needs; equipment including heavy equipment, (maintenance repairs, future needs, replacement and additions), pickups, trailers and other light vehicles and accessories, and small equipment, (usage, future needs), equipment rentals; facilities (yards in Alpine, Marathon and S. County) and community facilities (assistance with maintenance and other related issues); assistance to other governmental entities and emergency responders; personnel issues, (vacancies, new hires, performance and safety); permits for boring or trenching for utilities across County Roads / Discussion and appropriate action***

*Commissioner Stone said the crews have been working on roads, including a new road in South County. One of the machines needs new brakes, and will be maintained when the parts arrive. One man has been working on maintenance at Pena Park, and another two took a truck to El Paso to have it outfitted with a water cannon.*

## ***B. TxDot Border Colonia Access Paving Grant***

### ***1. General Update***

*Engineer Travis Roberts said the paving in Marathon is complete, and the final inspection has been performed.*

*In Study Butte, they are ready to bid out sewer and water. The easements are all in place.*

### ***2. Issuance of Environmental Clearance for Terlingua Springs part of project***

*The Grant Administrator said we should have environmental clearance by Friday.*

### ***3. Schedule for letting bids for Terlingua Springs Project and beginning construction / Discussion and appropriate action***

*Mr. Roberts said he thinks the waterline relocation and paving need to bid at the same time to keep the project moving forward. Unless both projects are awarded to the same company, there will probably be a delay of some kind.*

*If Commissioners Court approves, he would like to get the advertising for bids into the newspaper next week. He would then like to open bids on Tuesday, June 7.*

*Commissioner Stone made a motion to authorize the schedule as presented, which was seconded by Commissioner Pallanez, and passed unanimously.*

### ***4. Discussion and appropriate action to go forward with and complete project***

*As there are some funds left over from the Marathon portion of the project, a letter will be sent to the Judge's office seeking authorization to use those funds in Study Butte.*

*Commissioner Ortega made a motion to authorize the transfer of those funds, which was seconded by Commissioner Killingsworth, and passed unanimously.*

## **7. Emergency Management Department**

### **A. General Report including:**

***Recent emergency responses; emergency planning update; recent work with cooperating emergency responders: (ESD #1, all VFD's and EMS); update on needs, programs, training, recent work with other governmental entities; equipment for emergency response and updates regarding needs, maintenance, repairs, replacement and additions; emergency management issues related to public and private insurance coverage, personnel issues related to emergency response, matters related to pending & future Homeland Security Grants / Discussion and appropriate action***

### **B. Matters related to County Wildfire Preparedness**

#### **1. Update**

*Judge Beard said that, in over 35 years, we have not experienced fires of the magnitude we are seeing now. She said she needs the media's help in getting that out to the public. The conditions are unusual. There is a huge amount of fuel on the ground. Humidity is extremely low, and we've had a lot of wind. All of that together means "Red Flag" conditions. She said the weather service's predictions for Red Flags are remarkably accurate.*

*The fires are fast and hot. Yesterday's flames were nearly 60 feet high.*

*Judge Beard said evacuation is a scary thing, and it's taken seriously. It is meant to protect structures and loss of life.*

*Yesterday's effort was a splendid, noble effort, and that is what we are going to have to be prepared to give until it rains.*

*EMC Tom Santry said a fire which began 20 miles east of Marathon on Saturday is still burning. The fire burning west of Alpine, which began Sunday about 11:30 a.m., is also still burning.*

*He was advised this morning of a fire east of Marathon on the Blakemore Ranch.*

*The Texas Forest Service is stationing men in Alpine to help with the fires.*

*Judge Beard said she had been planning to have a drill for the EOC before these fires began. We've now had on-the-job training.*

**2. Request to establish line item in Emergency Management Department for Emergency expenditures made in response to wildfires or other incidents**

*Treasurer Ofenstein said she would like to have a line item so that we can keep track of what is spent.*

*Capital equipment will also have to be increased as some equipment has been purchased, as necessary, such as water sprayers.*

*Commissioner Stone made a motion to do a line item transfer on both sprayers, which was seconded by Commissioner Ortega, which passed unanimously.*

*Commissioners agreed that a line item for incidental costs needs to be created, after which budget adjustments will have to be made.*

*Commissioner Killingsworth suggested that a contingency fund be created in the next budget cycle.*

*Commissioner Killingsworth made a motion to approve a line item in the EMD budget to handle costs for firefighting and other emergencies in the amount of \$10,000. The motion was seconded by Commissioner Ortega, and passed unanimously.*

**3. Announce May 10<sup>th</sup> Texas Forest Service Presentation re Home Preparedness for Wildfires**

*Mr. Santry said the information is vital, and he expects a good turnout based on recent events.*

**C. Acquisition of Chassis for AVFD Brush Truck with partial funding from Homeland Security Grant**

**1. Update**

*Mr. Santry said the chassis was purchased with \$20,000 from Homeland Security funding. A skid has also been purchased, and we need to make sure the chassis and skid are compatible.*

**2. Request to declare purchase of Chassis an Emergency Expenditure in the interest of public safety / Discussion and appropriate action**

*Commissioner Ortega made a motion approving the declaration, which was seconded by Commissioner Stone, and passed unanimously.*

**3. Discussion and appropriate action**

***D. Emergency Management Coordinator's request for clarification of terms of Burn Ban adopted on May 2, 2011 in relation to his duties as EMC***

***1. Duties of EMC & Commissioners related to waivers, supervision and enforcement of Burn Ban***

***a. Executive Session Pursuant to Section § 551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee, and pursuant to §551.071, Government Code, VTCA, Consultation on a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter (Privileged Matters)***

*At 11:35 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.074, Government Code, to discuss the duties of the Emergency Management Coordinator in relation to the burn ban. The courtroom was cleared of all but Commissioners Court and the Emergency Management Coordinator.*

***Reconvene in Open Session***

***b. Discussion and appropriate action resulting from Executive Session***

*At 11:13 a.m., the Commissioners Court reconvened in open session. Judge Beard said that the Court had been in Executive Session pursuant to Section §551.074 of the Government Code. She asked if there was any action to be taken as a result of the executive session.*

*Commissioner Killingsworth made a motion that each Commissioner will be in charge of issuing any permits in their respective precincts regarding the burn ban, which was seconded by Commissioner Ortega, and passed unanimously.*

*Commissioner Killingsworth made a motion that the person who would like to obtain a permit must contact the Commissioner, and the Commissioner will notify all of the appropriate agencies, including the Judge's office, and Tom Santry. Commissioner Ortega seconded the motion, which passed unanimously.*

*Judge Beard said an acceptable permit form needs to be created as soon as possible.*

*Commissioner Killingsworth made a motion authorizing Judge Beard to act on behalf of the Commissioners Court to develop a form, which was seconded by Commissioner Stone, which passed unanimously.*

***E. Burn Ban Restrictions / Discussion and appropriate action concerning activity to be excluded or waived and circumstances/***

*environment under which waivers may or may not be appropriate*

*Commissioner Killingsworth made a motion noting that welding is important to livelihood in Brewster County, and excepting it from the burn ban with very specific guidelines, which she read into the record.*

*Commissioner Ortega seconded the motion, which passed unanimously.*

*Judge Beard noted that welding will be the only exception, and the liability if anything happens lies with the welder.*

*The guidelines are attached and recorded with the minutes.*

## **8. Pending Infrastructure Grant Matters**

### **A. Colonia Construction Fund Application / (2<sup>nd</sup> Septic Tank Replacement Grant Application for S. Brewster County)**

#### **1. Update on Project & Application Process**

**2. General and administrative matters related to going forward with program including approval of additional applicants, bids & proposals & other related matters / Discussion and appropriate action to go forward with grant project**

### **B. 2009/2010 Texas Department of Rural Affairs Community Grant Program (Study Butte Water Tank Project)**

#### **1. Update on Project**

*Grant Administrator Jerry Carvajal said A.G. Hays is the only qualified bidder. The total was \$83,800 for the Phase 2 applicants.*

*Contracts will actually be signed between the homeowners and Mr. Hays.*

*Commissioner Killingsworth made a motion approving the expenditure, which was seconded by Commissioner Ortega, and passed unanimously.*

#### **2. Discussion and appropriate action to go forward with grant program**

*Once Mr. Roberts receives a bacteria test for the water tank project, the project can be closed out. Mr. Roberts said once he receives the test, a letter will be sent to Austin, and to the County, as well.*

### **C. Upcoming 2011 / 2012 Texas Department of Rural Affairs Grant Program / Discussion and appropriate action to go forward with grant application**

*Mr. Carvajal said the application has been submitted, but he hasn't heard anything yet.*

**9. New County Public Safety Infrastructure Facilities / (Alpine Volunteer Fire Department Station & Emergency Operations Center, South County Emergency Response Center, Marathon Justice Center)**

- A. Update, including matters related to management, landscaping, grounds paving, punch lists, telecommunication, utilities, maintenance and other costs related to facilities, equipment and furnishing**

*Judge Beard said there are some phone line issues in the EOC which they are working on.*

- B. Discussion and appropriate action concerning management, maintenance and operations of these facilities**

**10. Brewster County Central Appraisal District 2011-2012 Budget / Notice of Public Hearing / Discussion and appropriate action re proposed budget for CAD**

*Judge Beard said this item is informational only.*

**11. IT Department Report and Update / Commissioner Pct. II, IT Committee Chair**

- A. Update on Off Site Storage of County Electronic data / Discussion and appropriate action**

*Commissioner Killingsworth said the off-site back-ups are working.*

- B. Infrastructure Projects / Installation & Wiring for Computers / Networking and related issues / Update / Discussion and appropriate action**

*There is one issue with back-up power which is being addressed.*

- C. Networking / Jail and Law Enforcement Update / Discussion and appropriate action**

- D. County Road Map Project / Update on Digitizing County Road Map / Discussion and appropriate action**

*A copy of the maps have been placed in Commissioners' boxes for review. Commissioner Killingsworth said the CAD has a plotter that they may allow the County to use for maps for the cost of printing.*

- E. Update on development of schedule for replacement of County owned hardware / Discussion and appropriate action**

***F. Discussion and appropriate action for general work of I.T. Department to go forward***

*Leo Ofenstein has asked that Commissioners approve an expenditure of \$1,500 to update the IT computer systems to Windows 7.*

***12. Pending Litigation / Confer with County Attorney re***

***Cause No. 2007-03-B8551-CV, Michael J. McCulloch, Kathleen and Alice McCullum, Individually and d/b/a/ Osoba Ranch Company VS Brewster County, Texas, In The District Court of Brewster County, Texas 394<sup>th</sup> Judicial District / (Mills Road Case), and***

***Cause No. 2010-04-B8988-CV, Pasqual Q. Olibas, Individually and d/b/a Freedom Bail Bonds, Plaintiff VS. Ronny Dodson, as Sheriff of Brewster County, Texas, Defendant, In The District Court of Brewster County, Texas 394<sup>th</sup> Judicial District***

***A. Executive Session Pursuant to § 551.071, Government Code, VTCA, Pending Litigation and Consultation on a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter (Privileged Matters), and Pursuant to Section §771.072, Government Code, VTCA, Deliberation regarding real property (Mills Road Case)***

***Reconvene in Open Session***

***B. Discussion and appropriate action resulting from Executive Session in regard to either of these pending cases***

*The executive session was not held because the County Attorney was unavailable.*

***13. 2011 Redistricting***

***A. Announce Initial Redistricting Assessment Workshop on May 16, 2011 at 10:00 A.M.***

*Attorney Greg Hudson is timing the workshops so that he can take care of the County and Hospital District in the same trip to save on expenses.*

***B. Citizens Advisory Board for Redistricting / (Proposal that each Commissioner select 3 members from precinct and Judge select 3 at large members) / Discussion and appropriate action concerning creation of board***

*Judge Beard asked that Commissioners have their appointees in place by May 16.*

*Commissioner Killingsworth made a motion to form a Citizens Advisory Board with the membership as set out on the agenda. Commissioner Stone seconded the motion, which passed unanimously.*

***C. Designation of Members of Advisory Board by individual Commissioners & Judge, if Board is created under item 13 B***

*Commissioners chose to wait until the next meeting to designate membership.*

*Commissioner Stone made a motion to adjourn, which was seconded by Commissioner Ortega, and passed unanimously.*

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***VAL CLARK BEARD, COUNTY JUDGE***

***ATTEST:***

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***BERTA RIOS MARTINEZ, COUNTY CLERK***