

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
MONDAY, JUNE 13, 2011, AT 10:00 A.M.**

VAL CLARK BEARD	COUNTY JUDGE
ASA STONE	COMMISSIONER PCT. 1
KATHY KILLINGSWORTH	COMMISSIONER PCT. 2
RUBEN ORTEGA	COMMISSIONER PCT. 3
JERRY SOTELLO	J.P., PCT. 1
BERTA RIOS MARTINEZ	COUNTY CLERK
STEVE HOUSTON	COUNTY ATTORNEY
BETTY JO ROONEY	TAX ASSESSOR COLLECTOR

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 May 24, 2011, meeting were presented for approval. Commissioner Ortega made a motion to approve the minutes, which was seconded by Commissioner Stone, and passed unanimously.

3. Treasurer

A. General Bills / Discussion and appropriate action

Deputy Treasurer Megan Antrim noted that several grant payments, health insurance and workman's comp payments are included.

Commissioner Killingsworth asked about a Duncan Disposal payment included in the Dinosaur Valley bills. Ms. Antrim said she thought it was for a roll-off container, and she will check into it. Commissioner Killingsworth also asked about a payment to Jerry Carvajal. Ms. Antrim said it may be an input error. She will check into it.

Commissioner Ortega made a motion to approve the general bills, which was seconded by Commissioner Stone, and passed unanimously.

Commissioner Ortega abstained from 71781 and 71782. Judge Beard abstained from 71642.

- B. Infrastructure Projects Bills / Discussion and appropriate action***
- C. Other administrative matters related to Treasurer's Office / Discussion and appropriate action for work of Treasurer's Office to go forward***

4. Officials' Monthly Reports / Discussion and appropriate action

No reports were available.

5. 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

Supt. Frenchie Causey said they re-paved another 7/10 of a mile on Hovey Lane, and another mile on Wagon Road. Both were also seal-coated. They have serviced two vehicles for the Sheriff's Office. They hauled water to South County for the septic tank replacement project. Crews have also provided maintenance on several County Roads, and at Pena Park.

B. TxDot Border Colonia Access Paving Grant

1. Update on easements, scheduling, bid process and other matters related to preparing for and beginning construction

Commissioner Killingsworth said she expects all the easements in place by next week.

Engineer Travis Roberts said they flagged the area last week so the prospective contractors can see it. He provided a list of the bidders which he has tried to contact.

Mr. Roberts said they will open bids on June 21 for the moving of the pipeline. He said they don't have TxDOT authorization, yet, but he hopes to this week.

Several contractors have expressed interest in the paving; however, only two contractors expressed interest in the waterline. He hope they'll have more interest.

As time progresses, he would like to have a meeting at the Community Center to explain the project to area residents.

2. Discussion and appropriate action to go forward with project and begin construction

C. Update on Countywide Dump Days / Discussion and appropriate action

Supt. Causey said the Dump Days went well. The containers in Alpine and Marathon filled up quickly. Neither of the South County containers were filled. There is still some junk in Alpine and Marathon that will have to be picked up as it had to be left outside the full container. They are ready to go for next Saturday.

D. Discussion and appropriate action for general work of Road & Bridge to go forward

Supt. Causey said he had a phone message from a constituent wanting to know when they were going to pave Covey Lane. Apparently, the City laid the base and told people the County was going to pave it. Covey Lane is half-city, half-county.

The materials are available, but the R&B Department wasn't given any notice. Commissioners agreed that it was presumptuous for another entity to commit the County to a project.

Commissioner Stone recommended that the road be paved.

Commissioner Stone made a motion to pave the road, which was seconded by Commissioner Ortega, which passed unanimously.

Supt. Causey said the crew hit a waterline while they were widening Hovey Road. The ranch foreman asked if, to make up for it, the Department would help him move the line. He will pay for the materials. Commissioners concurred.

6. 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 furnishings

EMC Tom Santry said the new radios are now operable in the EOC.

B. Discussion and appropriate action concerning management and operation of these facilities

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

EMC Tom Santry said the EOC is still being used as a staging headquarters by the Forest Service.

B. Judge's Emergency Drought / Wildfire Declaration which includes prohibition of All Fireworks Sales

1. Request to Commissioners Court to Review and Extend Judge's Emergency Declaration / Discussion and appropriate action

Commissioner Stone made a motion to approve the extension, which was seconded by Commissioner Killingsworth, and passed unanimously.

2. Review Governor's Office Approval & Extension of Declaration

Judge Beard said the request was very promptly and efficiently approved by the Governor's Office. She said banning fireworks sales is a complicated issue. The fireworks lobby has worked to make it difficult to absolutely ban fireworks. This should be something which can be done at the local level.

C. Additional Tri-County Area representative to Rio Grande Council Of Governments "First Responders Committee" / Discussion and appropriate Action concerning appointment

Mr. Santry said he would like to strongly recommend appointing another member. There is a position open to represent Brewster, Jeff Davis and Presidio counties. In years past, everybody was funded the same amount. This year, a written "investment justification" must be completed, and funding is going to be ranked in a way that will force counties to compete against each other. Mr. Santry said that even the El Paso representative advocated equal shares. For 2011, Brewster County is projected to get \$97,000 if the pool is divided equally.

Commissioner Ortega made a motion to confer with our County neighbors to find a person who can represent the area on the First Responders Committee. Commissioner Killingsworth seconded the motion, which passed unanimously.

D. Discussion and appropriate action for work of Emergency Management Department to go forward

8. 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

IT Director Leo Ofenstein says the back-up is working.

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

Mr. Ofenstein said an electrical issue caused a problem with a computer in Marathon. It should be repaired shortly.

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

The courthouse is now tied via high speed line to the Sheriff's Office. The Sheriff's Office and the jail are also connected, as are the jail and the APD dispatch.

Hill Country Software plans to install in the next couple of weeks.

Commissioner Killingsworth asked who will have the authority to say who can view and/or change the information including in the software.

Mr. Ofenstein said those decisions are left to department heads.

Commissioner Killingsworth said it will be important to make certain that we know who is charge of that.

D. County Road Map Project / Update on Digitizing County Road Map

/ Discussion and appropriate action

Mr. Ofenstein said he is still waiting for reviews on the map book. He said the Emergency Management Department requested a large scale map of the County ranches, so he is working on that.

Judge Beard said the map is available already, and she doesn't think IT needs to work on it at this time.

Commissioner Killingsworth would like a large County road map for everybody to review. It needs to be brought into Commissioners Court for everybody to review at one time; the Judge and other Commissioners concurred.

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

Mr. Ofenstein said several computers have been replaced, and others are needing replacement due to software issues.

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

Mr. Ofenstein said he is still waiting for approval on a request for a computer so that he can run Windows 7.

Commissioner Killingsworth asked if an entirely new computer is absolutely necessary. She asked if memory cards could be added to an old computer. Mr. Ofenstein said they could work and discussed alternatives.

9. Pending Infrastructure Grant Matters

A. Colonia Construction Fund Application / (2nd Septic Tank Replacement Grant Application for S. Brewster County)

1. Update on Project & Application Process

Commissioner Killingsworth said they are at work on Phase 2, and they are collecting applications for Phase 3.

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

Mr. Roberts said he plans to finish his report this week. He said Grant Administrator Jerry Carvajal told him that he finished all the paperwork.

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

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

10. 2012 VINE (Victims Information & Notification Everyday) Contract / Discussion and appropriate action to renew contract for 2012

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

11. Update on Fort Stockton Holdings (“FHS”) L.P.’s pending application for Production and Authorization to transport as made to the Middle Pecos Groundwater Conservation District / Discussion and appropriate action

Judge Beard said the Brewster County GWD has been attending all of the hearings for the permit process. She asked Manager Conrad Arriola to speak on the issue.

Mr. Arriola said that on Friday, the permit was denied by the Middle Pecos Groundwater Conservation District. FSH now has 120 days to appeal the decisions. Mr. Arriola said he expects the issue to end up in court. Brewster County GWD is still a party in the process, and will follow it every step of the way. He thanked Commissioners Court for its financial support.

Judge Beard said FSH never really got over the evidentiary bar. She said their science was approached in a backward fashion, simply as justification for what FSH wanted to do, and said the Pecos County GWD was very thoughtful in their decision.

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 394th Judicial District / (Mills Road Case), and

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 § 551.072, Government Code, VTCA, Deliberation regarding real property (Mills Road Case)

At 10:45 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.071, Government Code, to discuss pending litigation related to 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 and Cause No. Pasqual Q. Olibas, Individually and d/b/a Freedom Bail Bonds, Plaintiff VS. Ronny Dodson, as Sheriff of Brewster County, Texas, Defendant. The courtroom was cleared of all but Commissioners Court and the County Attorney.

Reconvene in Open Session

B. Discussion and appropriate action resulting from Executive Session

At 11:00 a.m., the Commissioners Court reconvened in open session. Judge Beard said that the Court had been in Executive Session pursuant to Section §551.071 of the Government Code. She asked if there was any action to be taken as a result of the executive session.

No action was taken.

13. Commissioners Court policy & procedures on disposing of used/salvage property, as related to sales and transfers to other governmental entities or donations

A. Review State Law (VTCA, Local Government Code, §263.152) regarding disposal of surplus / salvage County property

B. Review requirements concerning disposition of property acquired pursuant to various grants, Homeland Security grants, various law enforcement grants, solid waste grants and other sources of funding outside of the general fund

Judge Beard explained that, given all of the funding sources which the County has, including many, many grants, the disposal of property salvage, used or surplus has become very complex.

Deputy Treasurer Megan Antrim has put together some information concerning grants and their rules for the disposal property. All of them have slightly different requirements.

After findings that the property is salvage or surplus, some grants allow for donations to civic or non-profit organizations. Some things can be sold to other governmental entities.

Judge Beard said she believes they need to keep working with the Treasurer's Office and the County Attorney to make sure that the County is properly disposing of surplus property.

C. Discussion and appropriate action concerning County policy regarding disposition of used, surplus or salvage property

14. Sheriff's Office / Personnel / Request to raise pay rate offered for unfilled position of Chief Dispatcher / Discussion and appropriate action

The Sheriff's and Commissioners earlier agreed on \$13/hour.

Sheriff Dodson said they advertised everywhere they could, and got two applicants with no experience. They then opened the position to their own dispatchers, who found that the small pay increase wasn't worth the responsibility. Another applicant said she couldn't rent property.

Sheriff Dodson said the City pays its lead dispatcher \$14.89 an hour, and he would like to do offer close to the same.

Judge Beard said this is a problem for all of the departments. Positions are hard to fill because the County cannot afford high salaries.

Ms. Antrim said she would have to calculate the increase's effect on the budget.

Judge Beard said they would give Ms. Antrim time to do that, and to discuss it when Commissioners Court re-convenes after lunch.

Later in the afternoon, Commissioners Court took up Item 14 again. At that time, Ms. Antrim said that a budget amendment will be necessary to cover any additional employee. She gave Commissioners calculations for \$14.50/hour.

Commissioner Killingsworth made a motion to approve a rate of \$14.50/hour, which was seconded by Commissioner Stone, and passed unanimously.

15. Waters of US "Draft Guidance" released by Army Corp. of Engineers & EPA / Comments due by July 1, 2011 / Discussion and appropriate action

Judge Beard said the federal government is participating in some of the grossest overreaching she's seen in a long time in this draft document.

This draft includes every bit of surface water in the country. From a county level, it includes every trickle, every stream, every creek, every stock pond, every

mud hole. It would require a federal permit for virtually every activity; it doesn't matter if it's on 10 acres or 10,000 acres.

Judge Beard asked for Commissioners' permission to send comments.

Commissioner Stone made a motion approving her request, which was seconded by Commissioner Killingsworth, and passed unanimously.

16. 2012 Budget Workshop

A. Review of Budget process and tentative schedule

Judge Beard said she plans to adhere to a similar schedule as in years past, which means the bulk of the workshops will be held at the end of June and in July. Hopefully, we will have a product in August. Budget requests are coming in now from Department Heads. They are also receiving requests from cooperating agencies.

She would like to have schedules from Commissioners in the next couple of days.

B. Commissioners Court comments concerning goals & challenges for 2012 Budget / Discussion

As we are not in a position of growth, Judge Beard said that we are going to have to continue to be conservative.

Commissioner Killingsworth said she would like to evaluate where we are on road paving and upkeep. Judge Beard said she would like to have a Road & Bridge Department workshop during the budget process.

Commissioner Killingsworth said she would also like to look at a COLA for employees. Judge Beard said the Treasurer's Office has calculated a two percent increase; it will cost about \$50,000.

Commissioners Stone and Ortega concurred with Commissioner Killingsworth's comments.

Judge Beard said that, as the budget officer, it is important to gather consensus. She will continue to ask for lots of input. It is important that Commissioners hear from Department Heads and cooperating agencies.

At this point in this year's budget, Ms. Antrim said Department Heads are running on schedule.

Judge Beard said she has asked the auditor to complete the audit a little sooner than in year's past so that Commissioners have it in hand during the budget process.

Judge Beard noted a small drop in this year's tax rate; she said that may not be possible this year.

C. General Update on Property Valuation in Brewster County and work of Central Appraisal District by Matt White, Chief Appraiser / Questions & Answers / General discussion

Mr. White said that right now, the total taxable value is \$582,976,880, an increase of about \$18.5 million. He said there that three or four years ago, there were lots of quality sales and new construction. There has been lots of new construction this year, but he is seeing a downward trend compared to previous years. He said he compared that to the number of transactions at the Clerk's Office, as well. That number is also decreasing.

However, said Mr. White, values continue to increase.

He said the number of tax value protests are also down.

17. Public Comment

Tom Williams said he wanted to note that the Chief Dispatcher position is a life or death position. He said he doesn't know much about it, but he knows that in other areas, you get what you pay for. The need to hire someone who will be professional and long-term is great.

Travis Roberts said he appreciates the opportunity to work for the County in the last year. He said he appreciates the way the Commissioners Court does business.

18. Personnel / Constable Pct. 2, Tobacco Grant & related issues

A. Executive Session Pursuant to § 551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee

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 appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee. The courtroom was cleared of all but Commissioners Court and the Deputy Treasurer.

Commissioners Court recessed from the executive session at noon, noting that more information was needed. The executive session will reconvene in the afternoon, after more information is gathered by Ms. Antrim.

Reconvene in Open Session

B. Discussion and appropriate action resulting from Executive Session

At 4:38 p.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 to request that the Precinct 2 Constable meet with the Treasurer's Office to supply information or fill out reports regarding the tobacco grant immediately. Commissioner Ortega seconded the motion, which passed unanimously.

RECESS until 1:30 P.M.

18. 2011 Redistricting Matters – 1:30 P.M.

A. Public workshop on redistricting of County Commissioner, Justice of the Peace and Constable Precincts – Greg Hudson, Hudson & O'Leary LLP

Judge Beard said Commissioners appreciate the attendance of a the citizens on the Redistricting Advisory Committee, including Tom Williams, Chachi Hawkins, Sarah Clark, Travis Roberts and Mike Davidson.

Greg Hudson reminded Commissioners that they learned at the last meeting that, following the Census, the population is out of balance. He said the purpose of this meeting is to re-balance those lines.

Mr. Hudson set up a webinar with the demographer, Jeremy McMahan.

He said all four commissioner precincts have to come into Alpine to balance. The goal is to protect voting interests, and to balance the four precincts to within 10 percent of each other.

Mr. Hudson brought a plan with him that he and Commissioners Killingsworth and Ortega worked on together, called Plan A. Those two precincts presented the largest imbalance.

Mr. Hudson reviewed the current plan and Plan A, side by side.

The current plan is out of balance by 15 percent, and Mr. Hudson reviewed those numbers in more detail. Plan A brings the balance to 8.49 percent.

Mr. McMahan, by phone, explained that they took some of the population from Precinct 2 to give to Precinct 3. Plan A splits Lajitas. While Commissioner Killingsworth believes it makes sense not to split communities, it's the only way at this time to make it work. Study Butte and Terlingua are already split as well.

Judge Beard pointed out that, in the last redistricting process, splitting Lajitas was an issue. Commissioner Killingsworth said that doing the split now would actually help to clarify voter precincts.

Mr. Hudson and Mr. McMahan compared the Precincts as they touch Alpine.

Judge Beard said she is concerned about a dog-leg in Precinct 2. She said it is very confusing to voters. Commissioner Killingsworth said to move it would cause a loss in the Hispanic population.

The Precincts within Alpine were rearranged to see if it possible to make the dogleg cumbersome. Issues arose with the historical polling place.

B. Public hearing on redistricting plans for County Commissioner, Justice of the Peace and Constable Precincts

The public in attendance was allowed and encouraged to give their ideas on balancing the precincts. The public in attendance included Virgil Clark, Sharon Clark, Tom Williams, Travis Roberts, Dale Christophersen, Mike Davidson and Chachi Hawkins. Media present included Cindy Perry of the Alpine Avalanche and Mike Perry of the Alpine Daily Planet.

Tom Williams and Travis Roberts both questioned certain boundaries in South Brewster County. Mr. Williams wanted to make sure the Community Center was available to the voting precinct.

A Plan B was created, and Mr. Hudson said he would present Plans A and B at the next meeting.

The discussion concerning alternatives was lengthy. Citizens present had the opportunity not only to comment, but also to suggest changes in boundary lines. Most of the citizens present did just that.

C. Discussion and action, as necessary, on redistricting matters and redistricting plans for County Commissioner, Justice of the Peace, \ Constable Precincts, including scheduling future public hearings on same.

No action was taken.

(Opportunity for public comment will be given during item 18)

At 4:20 p.m., Commissioner Stone made a motion, which was seconded by Commissioner Killingsworth, and passed unanimously.

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK