

**CALLED MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY, JUNE 27, 2011, AT 9:00 A.M.**

*Judge Beard called this meeting to order. Commissioner Ortega was unable to attend due to illness. 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>JERRY SOTELLO</b>	<b>J.P., PCT. 1</b>
<b>BERTA RIOS-MARTINEZ</b>	<b>COUNTY CLERK</b>
<b>STEVE HOUSTON</b>	<b>COUNTY ATTORNEY</b>
<b>BETTY JO ROONEY</b>	<b>TAX ASSESSOR COLLECTOR</b>
<b>CAROL OFENSTEIN</b>	<b>TREASURER</b>

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

***1. Minutes / additions / corrections / approval***

*The minutes from the June 13, 2011, meeting were presented for approval. Commissioner Killingsworth made a motion to approve the minutes, which was seconded by Commissioner Stone, and passed unanimously.*

***2. Treasurer***

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

*Treasurer Ofenstein said \$31,000 was paid out on the Homeland Security grant; \$71,000 was paid out on the Stonegarden grant, and it has been reimbursed.*

*Commissioner Stone clarified a landfill charge from Texas Disposal Systems in South Brewster County. Treasurer Ofenstein said she would check on the issue.*

*Commissioner Killingsworth made a motion to approve the bills, with the exception of Texas Disposal. Commissioner Stone seconded the motion, which passed unanimously.*

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

***C. Allocations of 2011 PILT Payment / Discussion and appropriate action***

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

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

*Treasurer Ofenstein said she hasn't yet spoke with the County's representative concerning health insurance. Action on prescription coverage will be required by July 13, and a special meeting may be necessary.*

*Treasurer Ofenstein said that, as of July 1, the IRS mileage rate will increase to \$0.55 from \$0.51.*

*She also said she would like permission to open up an account with one of the pools which has a better rate. She would like to move the dedicated funds.*

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

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

*Commissioner Stone read the reports for the record.*

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

***4. 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. Causey said crews hauled off the trash from the second dump day, and are working on the third now. They hauled six loads of sand for Mr. Hays off Terlingua Ranch Road for the septic tank project. They dug ditches for the power lines at the new library. They re-paved part of Hovey Road.*

*Commissioner Killingsworth said the dump days were a great success, and she appreciates the work of the Road & Bridge Department.*

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

***1. Update on easements, scheduling, bid process and other matters***

***related to preparing for and beginning construction***

*Engineer Travis Roberts gave the Commissioners a written summary of where things stand on the Marathon and Study Butte projects, and also on the waterline at Terlingua Springs.*

***2. Report on bids for pipeline for Study Butte Water Corporation, under Roadway and consideration of alternative funding sources / Discussion and appropriate action***

*One bid was received from Roberts Construction Company for a total of \$169,990. Mr. Roberts recommended approving the bid, subject to approval of the finances with TxDOT.*

*Grant Administrator Jerry Carvajal said that only about \$101,000 is available; however, several months ago, TxDOT agreed to pay for part of the project. That issue will have to be re-visited with the agency, and will have to be approved by TDRA.*

*Commissioner Stone made a motion to approve the bid, subject to approval of the finances with TxDOT and TDRA. Commissioner Killingsworth seconded the motion, which passed unanimously.*

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

***C. Scheduling and planning of County Road work / Maintenance and improvement for 2011 summer & fall and need to complete County work, prior to undertaking any new cooperative projects for other entities / Discussion and appropriate action***

*Judge Beard said she think it is necessary to reiterate the fact that R&B has a full plate. County projects need to be completed before undertaking any cooperative projects. The County will be fully occupied on its own projects, at least through the fall.*

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

***5. 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***

*Judge Beard said to keep in mind that we have been hosting the Texas Forest Service and some federal firefighters for seven weeks now. It is going to result in higher utility bills, but it is worthwhile to keep them in the area.*

***B. Draft Lease for portion of South County ERC with ESD #1 / Discussion and appropriate action***

*The draft lease is not yet available.*

***C. Discussion and appropriate action concerning management and operation of these facilities***

***6. Courthouse Maintenance & Improvements***

***A. 2011 Summer Old Courthouse Painting Project / Discussion and appropriate action to go forward with project***

*Judge Beard said this project was deferred from last year. It is a Road & Bridge project, and will be undertaken when the weather cools down, probably in August.*

***B. Courthouse Annex Attic Energy Efficiency Improvements***

***1. Plans for additional insulation, fans and ventilation / Discussion and appropriate action***

***2. Proposal apply for balance remaining in State Comptroller's Energy Efficiency Grant (Energy Efficient upgrade of Annex HVAC System) for cost of these improvements***

*Conrad Arriola said there is about \$8,000 remaining. The heat in the attic right now is so high, up to 160 degrees, and it is not allowing the HVAC to work appropriately. Putting a fan in the attic to improve air circulation would help to alleviate the issue.*

*The money will be reimbursed by the Comptroller.*

*Mr. Arriola will speak with the Comptroller's office to find out if the contract needs to be amended.*

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

***C. Courthouse Elevator / Installation of Emergency Phone & Light / Update on recent work / Discussion and appropriate action***

*Judge Beard said to comply with State standards, the phone and light are being installed.*

**7. Brewster County Central Appraisal District / Update from Brewster County Representative Tom Mangrem / Discussion and appropriate action**

*Mr. Mangrem reported that, for 2011, the total taxable value is \$582,976,880, up three percent. The total tax levy for 2010 was \$9,943,435.*

*The 2011-12 District budget was recently adopted.*

*The State Comptroller's office recently reviewed the method and assistance program, which are the policies and procedures that the District follows.*

*The Comptroller's office has also been reviewing property valuations to make sure they are equal with the rest of the State.*

**8. Alpine Public Library/ Construction Cooperative Project / Update**

*Judge Beard said the interior is coming along well. At the end of last Thursday, there was some final touch-up on the taping and floating. In the next couple of weeks, the texturing and painting should be completed. The electrician was at work last week, and HVAC work is expected this week.*

**9. 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***

*Mr. Santry said there have been very few fires in the last couple of weeks, probably as a result of the burn ban. People are aware of it, and are following the procedures.*

**B. National Weather Service NOAA Weather Radio / Memorandum of Understanding / Discussion and appropriate action**

*Mr. Santry said he has received word from NOAA that they wish to take over maintenance on the system; however, the memo is very vague and doesn't adequately explain how operations will be handled.*

*Occasional lightning strikes will cause the system to go down, and the nearest technician lives in Lubbock.*

*Commissioners asked Mr. Santry to speak with KVLG General Manager Ray Hendryx, whose building houses the system, and get his opinion on allowing someone on his property to perform maintenance functions.*

*Mr. Santry will contact NOAA for more specific information.*

***C. Request to Delegate appointment of additional representative to Rio Grand COG First Responders Committee to Tri County Judges / Discussion and appropriate action***

*Judge Beard suggested letting the three county judges appoint that representative in the interest of time.*

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

***D. Homeland Security Funding / Request to apply for funds towards purchase of additional Brush Truck for AVFD***

*Mr. Santry said there are three brush trucks at present. Homeland Security has approved \$63,450 toward the purchase. The remainder, \$13,200, will come from donations. The cost of the vehicle is \$76,650. There is a pressing need for the brush truck as AVFD is still one brush truck short, and the danger of wildfire is extreme.*

*The purchase can be declared an emergency, which means bids will not be necessary. Judge Beard has conferred with the County Attorney about this.*

*Commissioner Stone made a motion to declare the purchase an emergency, which was seconded by Commissioner Killingsworth, and passed unanimously.*

*Commissioner Killingsworth made a motion to approve the purchase of the truck as outlined by Mr. Santry, which was seconded by Commissioner Stone, and passed unanimously.*

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

***10. 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***

*Commissioner Killingsworth said the last tank in Phase 2 is being installed today.*

*Mr. Carvajal said that sometime in July, he will come before the court to approve applicants 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. Carvajal said Phase 2 of the project is the waterline at Terlingua Springs, which was discussed earlier.*

**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**

*Mr. Carvajal said TDRA is slowly reviewing applications. Brewster County has been guaranteed funding, but he doesn't know how much.*

**11. Recognitions / Marathon Foundation for significant contributions to the Town of Marathon**

*Judge Beard said that the Marathon Foundation is a new group with goals of undertaking funding for community projects, with a focus on Marathon ISD.*

*In a period of about six months, the group has raised about half a million dollars, and has made contributions to the schools, the health clinic and the fire department.*

*Commissioner Stone made a motion to recognize and thank the foundation, which was seconded by Commissioner Killingsworth, and passed unanimously.*

**12. County Redistricting**

**A. Update & comments concerning Commissioners Court redistricting session held on June 13, 2011**

*Judge Beard said the session went well with good participation from the Citizens Advisory Group. As a result, a Plan B was created.*

**B. Announce next redistricting session & hearings scheduled for July 18, 2011 / Discussion and appropriate action**

*The next session is scheduled for July 18, and the public is invited.*

- 13. Old Surplus 2000, 2001 Dell & Noble Computer Monitors copy machine and other outdated Hardware stored in Old Courthouse in upstairs witness conference room & corridor / County Judge's request to declare as surplus/salvage dispose of these items by recycling or other means / Discussion and appropriate action**

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

- 14. Brewster County Tourism Board / TxDOT Contract for placement of interpretive signs / Discussion and appropriate action**

*Ron Sanders said Chris Weber at TxDOT has been a good partner in the project.*

*Commissioner Stone made a motion to accept the contract, which was seconded by Commissioner Killingsworth, and passed unanimously.*

- 15. 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 §551.072, Government Code, VTCA, Deliberation regarding real property (Mills Road Case)**

*At 10:01 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.071, Government Code, to confer with the County Attorney in Cause No. 2007-03-B8551-CV and Cause No. 2010-04-B8988-CV. 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 in regard to either of these pending cases***

*At 10:44 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.*

#### ***16. Personnel / Constable Pct. 2, Tobacco Grant & related issues & Constables Pct. 2 & 3, Certification 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, 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 10:56 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 County Attorney.*

### ***Reconvene in Open Session***

#### ***B. Discussion and appropriate action resulting from Executive Session***

*At 11:36 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.*

*Issues related to constables are difficult statewide, said Judge Beard. The person can take appointment or election without actually being certified, although there is a deadline by which they must become certified.*

*Judge Beard asked if there was any action to be taken as a result of the executive session.*

*Commissioner Killingsworth made a motion for the County to reimburse the Comptroller the amount of money in question in regard to the tobacco grant. Commissioner Stone seconded the motion, which passed unanimously.*

*Judge Beard noted that the Treasurer's Office has worked diligently with the Precinct 2 Constable to get the matter resolved, and the Constable has not availed himself of those efforts; he has been non-responsive.*

*Commissioner Killingsworth made a motion to turn the issue over to the County Attorney to investigate what happened to the funds relating to the tobacco grant sent to the Constable, Pct. 2. Commissioner Stone seconded the motion, which passed unanimously.*

*Commissioner Killingsworth made a motion directing the County Attorney to write a letter to the Constables in Precincts 2 and 3 regarding their non-compliance of completion of TCLEOSE peace officer certification. Constables in Precincts 2 and 3 must return their county-owned vehicles to the County Judge's office at the Courthouse on July 1, 2011, by 5 p.m. Constables are advised not to act in a law enforcement capacity, including carrying weapons. Constables must complete TCLEOSE certification by Oct. 1, 2011. If they fail to complete certification by Oct. 1, 2011, they may consider resigning their positions, or face removal from office proceedings. Commissioner Stone seconded the motion, which passed unanimously.*

#### **17. 2012 Budget Workshop (Discussion only / No action)**

##### ***A. Road & Bridge Matters / Review of 2012 needs for equipment, supplies & materials, personnel, projects and facilities / Review of Long Range goals for Road & Bridge Department / Review of priorities for each precinct***

*Mr. Causey started by saying the truck he drives is a 2005 with 177,000 miles on it. It hasn't given him any trouble, but he's afraid it may start costing money.*

*He also suggested the purchase of a pad roller. He doesn't know the cost, but he thinks a used machine costs probably \$60,000 or \$70,000.*

*Mr. Causey said the haul trailer is very tall, and adding a piece of equipment on top of it makes travel difficult, and it can be dangerous. It doesn't keep them from getting any work done, but something easier and more manageable would be helpful.*

*In the near future, two to five years, Loma del Norte paving needs to be completed, as does Mile High Road. There are about 9.5 miles left to seal-coat on Terlingua Ranch Road, two miles left on Pena Park Road. There are several streets in Marathon which also need seal-coat.*

*Mr. Causey said he would like to add a safety shower at the Road & Bridge Yard in case someone has chemicals or oil spilled on them. Commissioners agreed that the money is in his budget, and Mr. Causey should go ahead and build a shower.*

*Mr. Causey said he is doing good with personnel. He has one man available to work a lot during the summer on odd jobs. Once the library project is finished, things will be better.*

*Judge Beard noted that Road & Bridge is on the top of the priority list, and she expects Commissioners will want more detail throughout the budget process.*

### **C. Infrastructure Needs Review**

*Judge Beard said the conversion to office space of the old library building is pending. The Courthouse continues to be overcrowded. She hopes that an end date for the new library will be within site in the next few weeks.*

*The same problems which were identified 11 or 12 years ago in the upstairs courtroom continue to exist. She does not believe the State is going to offer any help. Judge Beard thinks a good time to go forward with courthouse restoration will be when the jail is paid off in 2015.*

### **B. Presentations by County Department Heads as related to 2012 Budget requests and operations of County Departments**

*Judge Beard noted that she has also asked Department Heads to think about what they would do if they had to cut their budgets by as much as 25 percent. She doesn't think it's going to be necessary, but she wants people to be in that state of mind due to a less than favorable economic outlook.*

#### **J.P., Pct. 1**

*Jerry Sotello said he hasn't asked for any increases. He is very appreciative of the Tech Fund; it helps to pay for lots of the training for his office.*

*His office is going to need new computers soon.*

*Judge Beard asked how CopSync is working. Judge Sotello said it is working well. There are a few bugs, but they are being worked out.*

*Judge Sotello noted that the cost of autopsies has increased.*

#### **Tax-Assessor Collector**

*Betty Jo Rooney said she is asking for a fairly large increase. Voter Registration has caused an increase in postage. Redistricting is going to cause another increase, as is the Voter ID Bill which recently passed. She said State training is also going to cost more, as well, as employees will have to go to Austin. Ms. Rooney and Commissioners discussed ways to save money on travel and training by consolidating classes with Odessa/Midland or El Paso.*

#### **Treasurer**

*Carol Ofenstein said she is asking for an increase in Transportation/Conferences. To cut 25 percent, she said she thinks her employees could cut back hours, postage and conferences.*

*Treasurer Ofenstein said her hardware should last through next year, although a new printer may be necessary, and could cost as much as \$5,000.*

### **County Clerk**

*Berta Martinez said she is keeping her budget mostly flat. She is asking to keep the job classification increases for her employees. The Elections budget is going to have to increase due to a number of elections in 2012.*

*Judge Beard noted that the Chief Appraiser has noted a downward trend in transactions in the Clerk's Office. That number, Records Management, needs to be analyzed to see how it will effect the Clerk's budget.*

*Mrs. Martinez said she is considering a request from Records Management for software that would index and back-up Commissioners Court minutes. The cost for installation and training is \$9,600. Annual maintenance is \$1,900.*

### **District Clerk**

*JoAnn Salgado said her budget is going to remain mostly the same. However, she is asking to keep the \$750 job classification for the chief deputy, and would like to increase the total for the part-time from \$4,000 to \$8,000.*

### **County Attorney**

*Steve Houston is asking for \$300 more for training and education.*

### **Sheriff / Jail**

*Sheriff Ronny Dodson and Treasurer Ofenstein said there is a microwave tower for which the Jail's budget pays \$900/month. They think it is a tower for the HAM Radio Club. This will be investigated.*

*The Sheriff's Office also pays for the gas and vehicle maintenance for the constable in South County. Judge Beard noted that was taken care of earlier in the meeting.*

*As far as employee retention, the Sheriff said his office is holding its own when compared to similar counties.*

*The reality is that if the grants quit coming in, the department will have to drastically downsize. They will also be less mobile as they will have less funding for fuel and vehicles.*

*Sheriff Dodson said he is asking for increases in tire/tubes and fuel/oil.*

*The travel budget is \$3,000, and the Sheriff has added a licensing item at \$4,000 to keep up with licensing on software such as CopSync.*

*Sheriff's Dodson said a person was hired for the chief dispatcher position. They need a transport van, and they have a couple of older vehicles they can trade in on a van. The van doesn't have to be new.*

*Food costs are going up because fuel costs are going up.*

*Judge Beard asked for an analysis of the federal prisoner rate for the next workshop.*

***Emergency Management Coordinator***

*Tom Santry said he included a report on 2010-11 to date EMS service for North Brewster County. The number of calls for in town and out are basically the same as the previous year.*

*He has asked for a \$300 total increase for fuel.*

*He has \$5,000 included for maintenance/repair on the NOAA station. However, if the contractor takes over, they will assume those costs, as discussed earlier. NOAA has begun coverage of the surrounding counties, as well, but Brewster is paying the total cost.*

*Commissioners discussed cell phone payments for DPS officers. Judge Beard is going to contact the sargent about cutting that cost.*

*The Code Red service is included in the budget but it could change if another service is utilized.*

*Mr. Santry suggested funding for maintenance and repairs so that any piece of equipment which is broken in an emergency situation can be quickly repaired. Judge Beard said if the funds are made available, she would like to see a protocol created. Commissioner Stone said that if something is a real emergency, it will get taken care of.*

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

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

***ATTEST:***

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