

**CALLED MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY, AUGUST 29, 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>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>CAROL OFENSTEIN</b>	<b>TREASURER</b>
<b>BETTY JO ROONEY</b>	<b>TAX ASSESSOR</b>

**PUBLIC HEARING ON PROPOSED 2012  
BREWSTER COUNTY BUDGET**

***1. Review of 2012 Proposed Budget***

*Judge Beard said the proposed budget has been on file in the Clerk's Office and was also posted on the County website.*

*Judge Beard reviewed some notes from the budget, including ad valorem tax rates, interest earnings, sales tax, fuel, paving materials, federal prisoner rates, grant funding and its role outside of the budget, infrastructure projects, elections, personnel, health insurance premiums, pending litigation and debt.*

*She thanked the Treasurer's Office for its assistance.*

*The total tax rate proposed is .3398, a small increase. However, even with the increase, Brewster County will still very likely be the lower 15 percent in Texas.*

***2. Public Comment regarding 2012 Proposed Budget***

*Judge Beard called for public comment.*

*No public comment was made.*

***3. Discussion among members of Commissioners Court and Public***

*Commissioner Killingsworth asked about a \$29,700 deficiency in debt service. Treasurer Ofenstein said it will be covered by reserves.*

***NOTE: The Proposed 2012 Budget will raise more total property taxes than last***

*year's budget by \$142,360, and 30% of that amount, \$42,859, is tax revenue to be raised from new property added to the tax roll this year.*

**PUBLIC HEARING REGARDING  
TAX RATE AND RELATED MATTERS**

**1. Public Hearing regarding the Proposed 2011 Tax Rate**

<i>Maintenance &amp; Operation</i>	<i>.3040</i>
<i>Interest &amp; Sinking</i>	<i>.0358</i>
<i>Total Rate Proposed</i>	<i>.3398</i>

**a. Opportunity for Public Comment**

*Judge Beard called for public comment.  
No public comment was made.*

**b. Discussion among Members of Commissioners Court  
and Commissioners Court and Public**

**2. Announce date and time to set Tax Rate and give notice of 2<sup>nd</sup>  
hearing regarding Tax Rate and other matters related to notice and  
scheduling**

*Judge Beard said the second public hearing on the tax rate will be held  
Sept. 6 at 10 a.m. At the regular meeting on Monday, Sept. 12, Commissioners will  
vote on the tax rate.*

**MEETING AGENDA**

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

**1. 2012 Proposed Brewster County Budget**

**A. Discussion**

**B. Adoption, Amendment or other appropriate action concerning 2012  
Budget**

*Commissioner Killingsworth made a motion to adopt the 2012 budget.  
Commissioner Ortega seconded the motion, which passed unanimously.*

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

*The minutes from the Aug. 23, 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**

*Treasurer Ofenstein noted one bill from attorney Steve Brannon for \$8,901 for the Olibas case.*

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

### **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**

*There were no reports presented for approval.*

## **5. Autopsies / Review of Procedures for ordering Autopsies and County obligations / Discussion and appropriate action**

*Judge Beard noted that the Treasurer had requested a review of the process.*

*County Attorney Steve Houston said that an autopsy is a part of an inquest. An inquest is an investigation into the cause and circumstances of a death, and the determination of whether the death was caused by an unlawful act.*

*The Code of Criminal Investigations sets out when a Justice of the Peace should call for an inquest, and Mr. Houston reviewed those instances.*

*The Justice of the Peace shall conduct an autopsy if a person dies in prison or in jail of unnatural causes; dies an unnatural death; the cause or circumstances of death are unknown; the circumstances indicate death by unlawful means; death by suicide; death without having been attended by a physician; death while attended by a physician who is unable to certify the cause of death AND requests the J.P. to conduct an inquest; on a child younger than 6 to determine if the death is a result of abuse or neglect.*

*The J.P. conducting an inquest may act on information he receives from any credible person facts within his knowledge to determine if an autopsy is needed to determine or confirm the nature and cause of death. The J.P. has the discretion to obtain the opinion of a county health officer or a physician. If a body is the subject*

*of an inquest, the J.P. has the discretion to direct a physician to perform an autopsy or certify that no autopsy is necessary.*

*The J.P. shall order an autopsy if the J.P. determines that an autopsy is necessary to determine or confirm the nature and cause of death; if the body is that of a child under 6 and the death was unexpected or the result of abuse or neglect; if directed to do so by the D.A. or CDA.*

*Mr. Houston said there is a lot of discretion in the process, but an autopsy does not have to be ordered in every death.*

*Judge Beard said there seems to be an idea that every unattended death requires an autopsy, and that is not the case. Mr. Houston concurred.*

*Treasurer Ofenstein said autopsies are getting very expensive. Including travel, each one costs about \$2,500-\$2,600.*

## **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, discipline, performance, safety and other general personnel matters); permits for boring or trenching for utilities across County Roads / Discussion and appropriate action***

*Supt. Frenchie Causey said crews have been concentrating on the streets in Marathon. Commissioner Ortega said they are doing a great job.*

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

- 1. Update on any remaining legal issues, scheduling, bid process and award of pending bids, construction issues and other matters related to preparing for and beginning construction***

*Engineer Travis Roberts said a pre-construction meeting will be held soon. Work is scheduled to begin at the first of November.*

- 2. Report on work for pipeline for Study Butte Water Corporation, under roadway / Discussion and appropriate action concerning completing pipeline construction***

*Mr. Roberts said the pipeline is in, and all the services are in. The bore under Hwy. 170 is approved, and should be started today.*

***3. Discussion and appropriate action to go forward with paving project, including appropriate action to begin construction on paving project***

***C. Open, Review & Award of Bids for New or Used Equipment (Smooth Drum Roller with Detachable Pad Foot Shell (Sheepsfoot) & Detachable Neck Lowboy Trailer) / Discussion and appropriate action concerning bids***

*Commissioner Stone opened the bids and read them each aloud as follows:*

*Warren Cat*

*Sheepsfoot (new): \$128,890*

*Sheepsfoot (used): \$109,981*

*Trailer: \$64,000*

*Sierra Machinery*

*Sheepsfoot: \$117,700*

*Sheepsfoot: \$102,500*

*Trailer: \$50,749*

*J&B Trailers*

*Trailer, \$45,132*

*Truck Enterprises*

*Trailer, \$47,425*

*Commissioners took a recess to review the bids.*

*Following the recess, Commissioner Stone made a recommendation to purchase the 2009 sheepsfoot roller at a cost of \$109,981 from Warren Cat at 3.2 percent for 36 months. Annual and semi-annual payments are also available.*

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

*Commissioner Stone then made a motion to accept the bid from Truck Enterprises for a trailer at a cost of \$47,425. Commissioner Killingsworth seconded the motion, which passed unanimously.*

*This trailer is available quickly, and a reduced rate is available on delivery, making it the better value. It was noted that the trailer is needed as soon as possible.*

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

***7. Open, Review & Award of Proposals to Supply County with fuel (gasoline, diesel & propane) / Discussion and appropriate action concerning bids***

*Judge Beard said she has not received any fuel bids at this time. She said Commissioners can choose to extend the deadline, or simply move on. There are several local choices.*

*Commissioner Stone said he didn't see a need to continue with the process. Commissioners concurred.*

*Commissioner Ortega said he brought a propane bid in this morning in a timely manner. It was located, and confirmed that it was timely submitted, and Commissioner Ortega exited the courtroom while the bid was read aloud.*

*Commissioner Stone opened the bid from Pinnacle Propane for \$2.35/gallon with a \$.60 floating margin.*

*Commissioner Stone made a motion to accept the bid, which was seconded by Commissioner Killingsworth. Commissioners Stone and Killingsworth both voted in favor of the motion.*

*Commissioner Ortega abstained from the discussion and vote.*

***8. 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***

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

***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; burn bans, 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 there have been a few small fires which have been quickly extinguished.*

*Mr. Santry said the new brush truck is ready; the company is waiting for payment. He said he hopes to have the money from the Homeland Security grant in the next couple of weeks.*

*Judge Beard said Martin Ross, a former resident of Alpine, has offered a 400 ft. triangular tower to the County at no cost. It has to be picked up in Dallas. The tower is in sections. Commissioners agreed that the County could use the tower.*

***B. County Judge / Review of Rio Grande COG Boards recent action to make distribution of Homeland Security funding more equitable to rural region***

*Judge Beard said she'd covered this at a previous meeting. The COG Board reversed a vote by the First Responders Committee to make the funding more equitable.*

***C. 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 they are waiting on a Phase 3 applicant list. She wants to make sure Mr. Hayes has been paid for Phase 2, and get things going for Phase 3 because the deadline is in December.*

***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 would like to see a resolution on paper transferring ownership of the tank to the Water Corp.*

**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**

**RECESS until 1:00 P.M.**

**11. 2011 Redistricting Matters & Public Hearing**

**A. Public workshop on redistricting of County Commissioner, Justice of the Peace and Constable Precincts, and Election Precincts, including discussion of prior redistricting plans - Greg Hudson, Hudson & O'Leary LLP**

*Mr. Hudson explained that, at the last meeting, Commissioners came together for a Plan C. It only lacked the southern boundary of the 02 Ranch as relates to voting precincts. That boundary is now in place for Plan C.*

*Mr. Hudson noted that minority voting strength has been virtually unaffected as the Hispanic district in Precinct 4 population figures are much the same as they were 10 years ago.*

*Mr. Hudson said neighborhoods, natural boundaries and election precincts have been preserved.*

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

*Tom Williams said he believes the maps have worked out appropriately.*

*Travis Roberts said he believes the natural boundaries used will be easy recognizable for voters.*

*Chachi Hawkins said easily understandable, natural boundaries have been achieved.*

*Sharon Clark said the time spent on the process has proven to be worth an appropriate plan. Monica McBride asked about the Precinct 2 "neck" in Alpine. Hudson explained to her that it had been questioned and analyzed, but was kept to preserve balance within the precincts.*

*Mr. Hudson said all of the maps from Plans A-C are available at <http://brewster.redistrictingsolutions.net>. The username is brewster and the password is Texas99.*

*Judge Beard thanked the Advisory Committee for their helpful input.*

**C. Discussion and action, as necessary, on redistricting matters and to**

***approve redistricting plans for County Commissioner, Justice of the Peace, Constable Precincts, and Election Precincts.***

*Commissioner Ortega made a motion to accept the Commissioner Precincts as proposed in Plan C. Commissioner Stone seconded the motion, which passed unanimously.*

*Commissioner Ortega made a motion to accept the Election Precincts as presented in Plan C. Commissioner Stone seconded the motion, which passed unanimously.*

*Commissioner Ortega made a motion to accept the J.P and Constable Precincts as presented in Plan C. Commissioner Stone seconded the motion, which passed unanimously.*

***12. Pending Litigation / Confer with Counsel***

***Cause No. 2011-06-B0152-CV, Kassandra Mead, VS Mauricio Cordova, Ryan Skelton, Brewster County Sheriff's Department, Brewster County, Val C. Beard, 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)***

*At 1:31 p.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. 2011-06-B0152-CV. Kassandra Mead vs. Mauricio Cordova, Ryan Skelton, Brewster County Sheriff's Department, Brewster County, Val C. Beard. The courtroom was cleared of all but Commissioners Court, the County Attorney and Officers Cordova and Skelton.*

***Reconvene in Open Session***

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

*At 2:00 p.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.*

***SUPPLEMENTAL AGENDA***

***1. Contracts for Juvenile Detention Services / Discussion and appropriate action***

*Chief Juvenile Probation Officer Jerry Castellano recommended the approval of a detention contract with the Tom Green County Juvenile Detention Center.*

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

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

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

***ATTEST:***

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