

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
TUESDAY, SEPTEMBER 27, 2011, AT 9:00 A.M.**

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

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
CAROL OFENSTEIN	TREASURER
STEVE HOUSTON	COUNTY ATTORNEY
RONNY DODSON	SHERIFF
BETTY JO ROONEY	TAX ASSESSOR

To discuss and take action as appropriate on the following:

1. Minutes / additions / corrections / approval

The minutes from the Sept. 12, 2011, meeting were presented for approval. Commissioner Ortega 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 noted several items, including a \$30,000 bill from Dinosaur Valley for the library, which has been reimbursed. A new fire truck, pagers and batteries have been funded by Homeland Security. The money to reimburse A.G. Hayes for the septic tank project has also been paid out.

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

Commissioner Ortega abstained from 73230, 73301 and 73302; Commissioner Stone abstained from 73105; Commissioner Killingsworth abstained from 73198; and Judge Beard abstained from 73197.

B. Infrastructure Projects Bills / Discussion and appropriate action

There were no infrastructure bills presented.

C. Quarterly Reports & other activity reports / Discussion and appropriate action

Treasurer Ofenstein briefly reviewed the new report for Commissioners. Commissioner Killingsworth said she appreciates the new format, and would also like to review cash flow projects.

Treasurer Ofenstein said the next report will include budget adjustments, as well.

D. Personnel / Announce retirement of Lisa Dutchover, Treasurer's Office Manager

Treasurer Ofenstein said that Mrs. Dutchover has been with the department for 15 years. She said she has been a very loyal employee, and has been a lot of help. A retirement party will be held Friday at the Saddle Club.

The position will not be filled immediately; the Treasurer's Office is planning to do an assessment first.

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

3. Recognitions / Discussion and appropriate action

A. Alpine U.S. Border Patrol Agents & Employees of the Big Bend Sector for construction of a 9/11 Memorial / Discussion and appropriate action

Judge Beard said the memorial is quite impressive, and she hopes that everyone will take a minute to go out and see it.

B. Big Bend Arts Council on achieving recognition for Alpine as a Texas Designated Cultural District

Judge Beard reminded Commissioners that the BBAC had asked for the County's support, and they deserve recognition for their work.

C. West Fest / Marathon for its community fundraising work

Commissioner Ortega explained that the funds are raised for the rural health clinic.

4. Officials' Monthly Reports / Discussion and appropriate action

There were no reports presented.

5. Alpine Housing Authority / Request to waive payment in lieu of taxes / Discussion and appropriate action

Imelda Natera asked for the waiver through the fiscal year ending Sept. 30 , 2011. She said the total is about \$2,400.

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

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

The Judge and Commissioners had nothing new to report.

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

7. 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

Grant Administrator Jerry Carvajal presented A.G. Hayes' bid for \$76,900 for 11 systems.

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

2. General and administrative matters related to going forward with program including approval of additional applicants, bids & proposals, payments to contractors and professionals & 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

The waterline project has been completed. Engineer Travis Roberts said he received the final bill, and a total of \$8,036 remains after all of the invoices are paid.

Commissioner Killingsworth said she believes there is a problem with the valve on the tank that needs to be addressed.

2. Discussion and appropriate action to go forward with grant program & close out project

C. Upcoming 2011 / 2012 Texas Department of Rural Affairs Grant Program / Discussion and appropriate action to go forward with grant Process (R.O. facility for Study Butte Water Corp.)

Mr. Carvajal said the TDRA is planning a site visit sometime in October. They need to make sure there is a need, and Mr. Carvajal said the need is obvious.

8. Pending Litigation & Conference with Counsel on privileged matters:

Civil Action No. P-11CV-094, Pascual Q. Olibas and Cheryl Olibas, Individually and D/B/A Freedom Bail Bonds, Plaintiff V. Ronnie Dodson, As Sheriff of Brewster County, Texas and Brewster County, Texas Defendant, In the United States District Court, Western District of Texas, and Fuel Bids solicited for August 29, 2011, by Commissioners Court, Pursuant to Agenda Item #7

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 9:20 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.071, Government Code, to discuss Civil Action No. P-11CV-094, Pascual Q. Olibas and Cheryl Olibas, Individually and D/B/A Freedom Bail Bonds, Plaintiff V. Ronnie Dodson, As Sheriff of Brewster County, Texas and Brewster County, Texas Defendant, In the United States District Court, Western District of Texas, and Fuel Bids solicited for August 29, 2011. Commissioners recessed to Judge Beard's office due to the telephonic nature of the session. Attorney Greg Hudson will be participating via telephone.

Reconvene in Open Session

At 10:23 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.

B. Discussion and appropriate action resulting from Executive Session

Commissioner Killingsworth explained that, in relation to the fuel bid, attorney Greg Hudson had reviewed the process and said the County complied with all of the bid laws, and that the County had followed the process to the letter of the law. The bid still stands. Counsel will write a letter to Mrs. Kristen Cavness explaining the process.

9. State Comptroller's Energy Efficiency Grant (Energy efficient upgrade of Annex HVAC System)

A. Update on reimbursement for main part of project, Conrad Arriola, Project Coordinator

Mr. Arriola said the project is complete. The grant was for \$40,303, \$20,000 of which has been reimbursed. He is finishing up the paperwork to receive the remainder.

B. Discussion and appropriate action to conclude project & reimbursement

10. 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 & FEMA Grants / Discussion and appropriate action

Mr. Santry said TxDOT has installed the emergency lights on Holland Ave. to slow traffic for emergency vehicles exiting the fire station.

B. Burn Ban Waivers

1. SRSU Homecoming Chuckwagon Cookout, October 28th & 29th / Discussion and appropriate action

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

C. Memorandum of Agreement between Brewster County and County Volunteer Fire Departments regarding FEMA reimbursement in Brewster County / Discussion and appropriate action

FEMA requires a memorandum of agreement with the various fire departments.

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

D. National Oceanic and Atmospheric Administration National Weather Service Memorandum for Agreement for NOAA Weather Radio Broadcasting Services / Discussion and appropriate action

The agreement is for a period of five years.

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

Judge Beard abstained.

E. Ongoing issues with FEMA as related to spring and summer wildfires / Difficulties in obtaining reimbursements / Discussion and appropriate action

Mr. Santry explained that the reimbursement has been a catastrophe. He has dealt with 16 different people on the single issue.

Judge Beard that Jeff Davis County is dealing with a similar issue in a more extreme fashion.

Both said that the different people say that different things do or don't qualify for reimbursement. The people who come don't give much notice, and some of them are very arrogant.

Mr. Santry has no idea when or if any reimbursement will be made.

F. Need for donations for County's VFD's & need to inform public of needs / Discussion and appropriate action

Judge Beard said that the need is not so much for law enforcement, which has access to various grants and reserves. Our VFD's do not have the same kind of access to funding.

Mr. Santry said the cost of gasoline and tires has increased, and at one point, three different firefighting vehicles were under repair.

Donations can be made directly to the VFD, or the County maintains a donations account for VFDs.

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

11. Elected Officials & County Department Management Review / Evaluation / Personnel Sessions with Commissioners Court

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 for the following Departments:

Tax Assessor-Collector

I.T.

Commissioners Court Members

Justice of the Peace #2, #3

Road & Bridge Department

County Judge & Staff

At 10:34 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.074, Government Code, with specific elected officials for evaluation. The courtroom was cleared of all but Commissioners Court. Commissioners met individually with the Precincts 2 and 3 Justices of the Peace, and the Tax Assessor Collector.

Reconvene in Open Session

At 11:25 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.

No action was taken.

B. Discussion and appropriate action resulting from Executive Session

12. Workshop Session / Brewster County Tourism Council

A. Update on recent tourism trends in Far West Texas, work of Tourism Council, new Tourism Council initiatives, matters related to goals and planning for council, facilities & staff for council and related matters

Judge Beard said she called the session because the Tourism Council is having a transition year. They have been collecting a higher tax rate, but at the same time, the economy is affecting travel. It's been a year to re-focus.

Council President Greg Henington said that, clearly, tourism has not been a bright spot in the Big Bend, between border issues, fires and drought. He learned at a recent conference that the rest of the state is doing well.

Mr. Henington said they are going to have to make lemonade out of lemons. Visit Big Bend is in good financial shape. Fixing the problem is not going to be an immediate fix. They recently spoke with the Border Patrol and learned that the area is as safe as it's ever been, if not safer. While many people include the Big Bend area on their bucket lists, they are wondering about border safety.

Mr. Henington said the Council needs to work together to begin a strategic plan to carry it forward. In 2004, the Council commissioned Texas A&M to do a visitors' survey, and it's time to do that survey again. A&M will be heard next week to establish the questions and criteria. The survey will take a year.

Judge Beard commended the Council for updating the survey. She said the 2004 study, she believes, started the Council on the process of being really systematic.

The Council is considering the use of a marketing agency to help with strategy. They will begin the use of social media next year. Mr. Henington said the bottom line is face time and one-on-one visits with tourists. They hope to have a marketing strategy in place at the end of the year, at which time Mr. Henington will report back to Commissioners.

Commissioners concurred that the Council has done an excellent job promoting the region.

B. General discussion between Commissioners Court & Tourism Council representatives regarding work of Tourism Council and related issues

13. Sheriff's Office & Jail

A. Review of discretionary accounts & funds on hand in these accounts

Sheriff Dodson reviewed the abandoned vehicle account and its process, and explained that the awarded is account is shared with several other agencies, and is evenly split. The money can be used for different things, such as drug prevention programs, investigations, training, detention facilities, equipment, travel, etc.

B. Update on purchase of Truck to pull spray rig / Discussion and appropriate action

Sheriff Dodson said he received \$7,100 from the sale of some cars, and he could take \$10,000 out of asset forfeiture to make up the difference for a flatbed. The purchase needs to be reviewed by the County Attorney.

C. Jail / Report on recent jail population / Discussion and appropriate action

Sheriff Dodson said the number had been down. However, using the van to transport prisoners per a deal with the Marshal's office has allowed them to keep a higher population. Yesterday, they were at capacity.

Judge Beard noted that someone at the jail should call either the County or District Judge's office if someone has been sitting in jail without being appointed an attorney.

14. County memberships in various organizations / County Judge's request to review memberships which are discretionary / Discussion and appropriate action

Judge Beard said she will bring Commissioners a list of the memberships with descriptions. There are several which are not discretionary, and a handful of voluntary organizations. Given the budget, Judge Beard said she thinks it's a good idea to review them and to only participate in organizations which are worthwhile.

15. 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 that last week, they cut a fire lane around the middle school property. They finished up the street work in Marathon, and moved the equipment out. They are serving the equipment, getting ready to move it to South County. Agua Fria and Loma del Norte Roads were bladed.

B. TxDot Border Colonia Access Paving Grant

1. Update on any remaining legal issues, construction issues and other matters related to preparing for and beginning last phases of construction in Terlingua Springs and vicinity

Engineer Travis Roberts said the waterline is complete and the copies of the plans will be entered into the County records. All those who were on the old water services now have new water services.

2. Report on any remaining issues concerning pipeline under roadway for Study Butte Water Corporation / Discussion and appropriate action concerning completing pipeline construction

Mr. Roberts said, to his knowledge, all utility services have been adjusted which could effect future road work in the area.

3. Report on payments to contractors and professionals / Discussion and appropriate action concerning payment for both Marathon & Study Butte portions of project

Mr. Roberts said payment has been made to all contractors.

4. Discussion and appropriate action to go forward with Terlingua Springs paving project, including appropriate action to begin construction

Mr. Roberts said Judge Beard and the County Attorney will need to sign some legal documents, and a pre-construction meeting needs to be scheduled.

C. Road & Bridge Workshop Session / Discussion concerning work & mission of Road & Bridge Department including:

Large & small equipment needs, materials, supplies & fuel outlook, personnel, county road system maintenance & upgrades, including maintenance and paving programs, evaluation, expansion of county road system, availability of grants or other outside funding for projects, future cooperative projects and other general matters related to management of Road & Bridge Department / Comments from citizens regarding future needs related to County Roads

Roger Siglin, the president of the Double Diamond POA, was present to discuss Roads in that subdivision. He said he knows money is tight, but hopes the paving needs will be met. Mr. Siglin reviewed the priorities of the POA.

It was confirmed that all of the roads in Double Diamond are County roads. Mr. Siglin said they are wondering how much of the paving will be done in the near future, if any. He also said he would like to have a dedication ceremony for Pallanez Drive pretty soon. Judge Beard said they will do so sometime this fall.

Mr. Causey said he hasn't heard anything from Warren Cat. The sheep's foot roller is supposed to be in this week; the trailer is probably a couple of months away.

The graders are in good shape, said Mr. Causey, as are the tractor and dump trucks.

Commissioner Ortega suggested a belly dump, an idea which Mr. Causey liked. It would help in hauling away materials. Commissioner Ortega said they cost between \$18,000 and \$25,000, and could save money on fuel.

The maintenance program for the Sheriff's Office, as well as internal maintenance, is working out well.

Mr. Causey said the smaller equipment is in good shape.

He could use another pick-up truck to free up the one he has which is used for towing.

Commissioner Stone asked about the need for a generator. Mr. Causey said the welder acts as a generator.

Commissioner Stone said being equipped with a generator which would run pumps in case of an emergency would be handy.

Mr. Causey reviewed the materials he has on hand at present. He does not believe he will have any surplus this year.

Judge Beard asked Commissioners' about their priorities.

Commissioner Ortega said, basically, to maintain what they are doing.

Mr. Causey reviewed a five-year plan, including paving or new construction at Terlingua Ranch, Sunny Glen, Loma del Norte, Mile High, Double Diamond, the South County EOC, Community Center and helipad.

Judge Beard agreed that it wouldn't be prudent for any expansion right now.

Considering fuel and materials, Mr. Causey estimated that it costs nearly \$90,000/mile.

With the exception of the BBHS track, Judge Beard suggested that we focus on our roads in the next year. Commissioner Ortega said pads are needed for the hydratanks.

D. Workshop session for County Road Map / Review & Discussion of proposed Current Map including additions, corrections & deletions / Discussion and appropriate action concerning proposed map

Leo Ofenstein presented several copies of new maps for review by Commissioners.

Mr. Ofenstein said he used the TxDOT database as a starting point, but Commissioners agreed that County Roads may not be in the TxDOT database.

Commissioners pointed out several missing roads, and noted that some roads are or aren't County roads.

Commissioners decided to listen to the 911 presentation in Item 15 before going forward.

Following the presentation, Commissioners agreed that another session will be necessary, and they will each take a map home to review.

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

15. Presentation by & Workshop Session with 911 GIS Coordinator, Rio Grande Council of Governments, Catherine Crumpton / Review of 911 mapping, its purpose & status in Brewster County & general discussion with Commissioners regarding procedures for updating 911 map / Discussion concerning how Commissioners, Road & Bridge Department & GIS Coordinator can coordinate on issues of common concern

Judge Beard gave some background on when 911 was first initiated in Brewster County.

Ms. Crumpton explained that the RGCOG is the 911 authority. She said there are zero errors in the 911 database, and all of the landlines are included. However, 71 percent of 911 calls come from cell phones.

Ms. Crumpton explained the process of 911 mapping and the problems which occur in rural areas. She said there are currently 119 “unknown” or unnamed roads in Brewster County. Aerial mapping available to the dispatcher is a great help. Judge Beard suggested that Commissioners visit the dispatch at the next meeting to see how it works.

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

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK