

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
TUESDAY, OCTOBER 25, 2011, AT 10:00 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
BERTA RIOS-MARTINEZ	COUNTY CLERK

To discuss and take action as appropriate on the following:

1. Minutes / additions / corrections / approval

The minutes from the October 10, 2011, meeting were presented for approval.

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

2. Treasurer

A. General Bills / Discussion and appropriate action

Treasurer Ofenstein said they have a received a bill from the library which will be paid to Dinosaur Valley. They have been reimbursed by BorderStar for a vehicle, and the first payment for the sheep's foot roller has been paid for from I&S.

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

Judge Beard abstained from 73606, and Commissioner Killingsworth abstained from 73661.

B. Infrastructure Projects Bills / Discussion and appropriate action

C. Personnel Matters

***1. Proposed Policy requiring reimbursement of testing
and/or licensing costs for new hires who leave employment prior***

to serving 1 year / Discussion and appropriate action

Judge Beard said this item began with a request from the jail to set up a policy in regard to employees reimbursing the county for costs for testing and certification in the event of a resignation which takes place with less than six months service.

Judge Beard said it is a valid point; however, she is concerned because there is a similar phenomena in other departments where certification and testing are required. She thinks Commissioners might want to address the issue as county-wide and perhaps amounts owed could be rectified by deducting the amount from vacation time owed.

Commissioner Killingsworth said she thinks we need to check on the legality of requiring reimbursement, and believes employees need to sign a contract of some sort so that they know the policy exists.

Judge Beard asked Treasurer Ofenstein to confer with TAC. Mrs. Ofenstein said the testing costs between \$200-\$300 for jailers.

Treasurer Ofenstein will confer with TAC and report back to Commissioners.

2. Courthouse Security / Request by Treasurer to designate Courthouse Security Officer as full time in accordance with hours worked

Treasurer Ofenstein said the officer is working 40 hours a week.

Commissioner Killingsworth made a motion to classify the security officer as a full-time employee with full benefits. Commissioner Stone seconded the motion, which passed unanimously.

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

3. Big Bend Telephone Company, Inc. / Resolution by Brewster County designating a representative on behalf of unincorporated areas for the purpose of providing expanded area service with other local exchange customers served by Big Bend Telephone Company, Inc.

A. Presentation by Joan Johnson, CFO, Big Bend Telephone

Ms. Johnson passed out some maps to Commissioner to show the operating territory of BBT. BBT would like their customers within the area to be able to call one another without a long distance charge. In order for the Public Utility Commission to recognize this, Commissioners to need to approve a designee. She said a couple of other counties have used the County Judge.

Commissioner Ortega made a motion to nominate Commissioner Killingsworth as the designee, which was seconded by Commissioner Stone, and

passed unanimously.

Commissioner Killingsworth made a motion to adopt the resolution on behalf of the unincorporated area served by Big Bend Telephone. Commissioner Ortega seconded the motion, which passed unanimously.

B. Discussion and appropriate action

4. Officials' Monthly Reports

There were no reports presented for approval.

5. County Judge / Discussion Concerning Role of & Relationship of Commissioners Court with Department Heads regarding Budgetary Matters / Discussion and appropriate action

Judge Beard explained that the budget process was a bit different this year due to worsened economic circumstances. During the process this year, commissioners targeted particular areas of concern. This year, Judge Beard said they focused not just on expenditures but revenue generation. Falling behind on revenues by one department impacts the entire County operation.

Judge Beard characterized the executive sessions held with Department Heads as mannerly, and she believes that Department Heads took them as constructive. She understands that some of the Department Heads did not like the sessions and have engaged in retaliatory behavior towards Commissioners Court. In those cases, those Department Heads do not understand the role of Commissioners Court. In managing the budget, a team effort is required for things to work properly in the County.

6. 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

EMC Tom Santry said that on Thursday, Nov. 9, at 1 p.m., there will be a nationwide test of the emergency notification system on the radio. The media have been notified so that the community can be informed that it is only a test.

Following last February's review by the ISO, Mr. Santry received a letter confirming new lower rates. However, they won't begin until February 2012.

B. Review of & proposal to renew Emergency Medical Services Contract with West Texas Ambulance Service for North Brewster County / Discussion and appropriate action

Mr. Santry said he provided Commissioners with a copy of this year's total ambulance runs.

He recommended approving the contract.

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

C. Request to extend Burn Ban / Discussion and appropriate action

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

It will be extended for a period of 90 days.

D. Homeland Security Grant Funding Pursuant to State Homeland Security Program / Request & Presentation by Alpine Police Department to fund purchases of equipment / Discussion and appropriate action

Sgt. Felipe Fierro of the Alpine Police Department made a formal request for a large format television for the CopSync system; a laptop for radio programming; surveillance accessories and equipment for crime scene investigation; and a multi-media projector. The total cost is \$6,800.

Commissioner Ortega made a motion to approve the request, which was seconded by Commissioner Killingsworth.

Commissioner Killingsworth asked which funding year we are working in. Mr. Santry said it is 2009, and said all of the items requested have been approved by the COG.

The motion passed unanimously.

E. CASI & Original Terlingua International Championship Chili Cookoffs

1. Update on Mass Gathering Permits for Chili Cookoffs by EMC

Mr. Santry said hearings have been held with representatives from both Cook-offs. The mass gathering permits have been granted.

2. Consideration of what is appropriate role of County & County Personnel in regard to Chili Cookoffs, including discussion related to potential liability of County and related issues /

Discussion and appropriate action

Judge Beard said County law enforcement is being provided on the CASI site. She is wondering what's appropriate, how much it is costing the County, and has concerns about potential liability. While there's not much that can be done this year, she is hopeful that the process of studying these issues can start and recommendations be made for next year. She would like an appointed Judge's Committee, and asked Commissioners to think about those appointments.

Judge Beard wants the County Attorney to be part of the process.

Commissioner Killingsworth said she is working with the Cook-offs on fire safety; she has asked the organizers to print a flyer to be given to everyone upon entrance. Violators will be immediately removed.

Commissioner Killingsworth said a 5,000 gallon tanker has been moved to the site.

Judge Beard said that a primary issue regarding any burn ban waiver, including these, is fire suppression preparedness, either by VFD's or special equipment such as spray rigs.

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

7. 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 the second load of the radio tower was hauled from Arlington without any problems.

They are still shaping up the road at the Terlingua EOC. They seal-coated 3/10 of a mile at Terlingua Ranch.

Commissioner Stone made a motion to ratify permits for trenching/boring at 5th and Harriett Streets, Dove Road, and Mosley Lane and Hwy. 90. Commissioner Ortega seconded the motion, which passed unanimously.

Commissioner Ortega said he went to Double Diamond to look at which roads have overgrown trees which need to be cut back. Commissioner Stone said he is expecting a request from South Double Diamond for taking roads into the County system.

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 he believes all of the issues have been cleared up.

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 he has been paid, and he believes the contractor has been paid, as well.

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 the project is complete, and everybody has been paid.

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

The project now probably won't start until mid-November. The contracts were mailed out yesterday; when Mr. Roberts has them, he'll bring them in for signatures from Judge Beard and the County Attorney.

The project must be completed by October 2012. The contractors expects it to take half that time. A pre-construction conference needs to be held. Commissioner Killingsworth will get it scheduled at the Community Center.

C. County Roads

1. Commissioners Court's authority to designate and name roads / Discussion and appropriate action

Judge Beard said it's essential not only that the County be a part of, but be in charge of, naming the County roads. Commissioners are in the very best position to name roads.

2. 911 Addressing / need for ongoing communication with RGCOG concerning all roads in each Commissioner's Precinct / Discussion and appropriate action

COG Director Annette Gutierrez, and Mariza Quintanilla, the regional services director, were present to discuss with Commissioners how best to go about working together on naming roads.

Commissioner Killingsworth suggested beginning with defining which roads are public and which are private, especially at Terlingua Ranch. Judge Beard said that just the question was the topic of various ongoing litigation.

Ms. Gutierrez suggested working with the POATRI on a policy, but Commissioner Killingsworth felt that would be non-productive as the issue is current under litigation.

Ms. Quintanilla said that new information is loaded into CopSync, but Commissioner Killingsworth said that only works near the cell tower. There are about 80 miles in South County where cell service is unavailable. They agreed that paper maps should be the priority so they can be kept in emergency vehicles.

Ms. Gutierrez said that a copy of the procedures will be sent to the Judge's office by the end of the week.

Commissioner Killingsworth said the unknown roads need to be named, period. She will look into folks willing to serve on a committee of approximately five people. If the procedures and committee are ready, Gutierrez and Quintanilla will come back to the Nov. 14 meeting to get things approved, and they will go from there.

8. County Judge / Matters related to Indigent Criminal Defense

A. Regional Public Defender for Capital Cases / Proposal to renew Interlocal Agreement for Fiscal Year 2012 to fund/ insure expenses related to Capital Cases / Discussion and appropriate action

Judge Beard said the 2012 rate will be \$2,360.

Commissioner Stone made a motion to continue participation in the program, which was seconded by Commissioner Ortega, and passed unanimously.

B. Resolution for participation in 2012 Indigent Defense Grant Program / Discussion and appropriate action

Judge Beard explained that the State regulates how Indigent Defense money is used.

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

9. County Redistricting

A. Announce Justice Department Submissions

Judge Beard announced that the plan has been submitted to the DOJ.

B. Other matters related to wrapping up redistricting process / Discussion and appropriate action

10. Solid Waste Advisory Committee / Rio Grande Council of Governments

A. Review meeting of October 19, 2011

Judge Beard said that there is only about \$77,000 in funding available for the entire region in this cycle; therefore, the COG will handle disbursement of the money to each jurisdiction.

The funds may be used for old tire collection, roll-off containers, or a combination of the two.

B. Judge's request to appoint replacement member to committee / Discussion and appropriate action

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

11. 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 there is nothing new to report.

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

12. 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 still working on Phase 3, and openings are available for Phase 4.

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

Mr. Roberts said the project is complete, but he has two invoices for which he needs to call the grant administrator.

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.)

Commissioner Killingsworth said the TDA representative will visit the Water Corp. today to do an on-site check.

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

Commissioner Killingsworth said there is nothing to report today.

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

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

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

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

/ Discussion and appropriate action

E. Issues for replacement of County owned hardware / Discussion and appropriate action

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

14. Permian Basin Community Center / Approval of Contracts for MHMR Services for 2012 / Discussion and appropriate action

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

15. Pending Litigation / Confer with Counsel

Civil Action No. P-11CV-094, Pascual Q. Olibas and Cheryl Olibas, Individually and D/B/A Freedom Bail Bonds, Plaintiff V. Ronny Dodson, As Sheriff of Brewster County, Texas and Brewster County, Texas Defendant, In the United States District Court, Western District of Texas and

Cause No 2010-04-B8988-CV, Pascual Q. Olibas, Individually and d/b/a Freedom Bail Bonds, Plaintiff V. Ronny Dodson, as Sheriff of Brewster County, Texas, Defendant, In the 394th Judicial District Court

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 11:30 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 Cause No 2010-04-B8988-CV, Pascual Q. Olibas, Individually and d/b/a Freedom Bail Bonds, Plaintiff V. Ronny Dodson, as Sheriff of Brewster County, Texas, Defendant, In the 394th Judicial District Court. The courtroom was cleared of all but Commissioners Court and the County Attorney.

Reconvene in Open Session

At 11:45 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 Stone made a motion to adjourn, which was seconded by Commissioner Ortega, and passed unanimously.

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK