

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY, NOVEMBER 14, 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>CAROL OFENSTEIN</b>	<b>TREASURER</b>
<b>STEVE HOUSTON</b>	<b>COUNTY ATTORNEY</b>
<b>RONNY DODSON</b>	<b>SHERIFF</b>
<b>BETTY JO ROONEY</b>	<b>TAX ASSESSOR</b>

***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. Recognitions***

***A. American Legion Presentation of Donation to Alpine Volunteer Fire Department***

*Judge Beard said the American Legion is presenting a check for \$1,000 on behalf of the Alpine VFD. On behalf of the AVFD, EMC Tom Santry accepted the check, which was presented by American Legion Pres. Robert Polanco, Phil Westerman and Commissioner Stone.*

***B. Recap Retirement Event for Constable Pct. 3, Ruben Gonzales which was held on November 12<sup>th</sup> in Marathon***

*Judge Beard asked Commissioners Court to join her in expressing their best wishes to Constable Gonzales.*

*Commissioner Ortega made a motion approving those wishes, which was seconded by Commissioner Stone, and passed unanimously.*

***3. Minutes / additions / corrections / approval***

*The minutes from the Oct. 25, 2011, were presented for approval.*

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

#### **4. Treasurer**

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

*Treasurer Ofenstein explained that the County has received several large invoices from Memorial Funeral Home. The invoices are for travel only.*

*Judge Beard asked that the County Attorney meet with the J.P.'s again for another workshop to go over when autopsies are necessary. Commissioners and the Treasurer agreed that the cost is out of control.*

*Commissioner Ortega asked about some bills from Kevin Teague services for changing filters at the jail. He thinks the cost is rather high. Judge Beard agreed. She said it seems a diagnostic test is being done each time as well, which is contributing to the high cost. And, she said, the County can change out the filters themselves. Treasurer Ofenstein will talk the Sheriff about a new plan.*

*Commissioner Killingsworth asked about which agencies are billed by the County. Treasurer Ofenstein explained.*

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

*Judge Beard abstained from the KALP bill.*

*Treasurer Ofenstein presented two walk-in bills which will be paid out of the J.P. Tech Fund, both for travel, one for \$408 and the other for \$764.50.*

*Commissioner Killingsworth asked what happens if someone doesn't go to the conference. Treasurer Ofenstein said travelers turn in their receipts; that's the only way she knows if the conference was actually attended.*

*Commissioner Killingsworth then asked about credit cards. She said she thinks it's the safest way to make these expenditures. She believes that two accounts are needed with four credit cards on each account.*

*Treasurer Ofenstein said she did not believe the policy was in place yet following a previous discussion on the use of credit cards at the previous meeting. That will be done later, according to Commissioners.*

*Treasurer Ofenstein also presented bills for food from election workers.*

*Commissioner Ortega made a motion to approve the bills, which was seconded by Commissioner Killingsworth, 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***

#### **5. Officials' Monthly Reports**

*Commissioner Stone read the reports for the record.*

*Commissioner Ortega made a motion to approve the reports, 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**

*There was nothing new to report. Judge Beard said at the next meeting, this item will be consolidated into a general facilities item.*

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

**7. 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**

*Grant Administrator Jerry Carvajal said there is room for 15 more applicants. Once the contracts are signed on Thursday, construction on Phase 3 will begin.*

**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. Carvajal said two payments have been made, and the second should be received in the next couple of weeks.*

**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 County was rewarded funds to replace the reverse osmosis system at the Study Butte Water Corp. The next step is for the County to approve engineering services.*

***8. 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 the burn ban continues to be helpful as there have been few fires.*

*At the request of Judge Beard, Mr. Santry prepared a report on Homeland Security grant funding as of Nov. 1. He reviewed the totals received and the expenditures, including an expenditure for radios that FEMA is disputing.*

*Mr. Santry has received noticed that the County will receive 2011 funding, but has heard nothing more about that year's funds.*

*There was some discussion about where the COG should fall in the approval process. The consensus was that Commissioners should hear presentations from requesting agencies first, followed by a technical review from the COG.*

*Commissioner Killingsworth asked about the law enforcement portion of the Homeland Security grant funding and how it is split out and what it's spent on. She said, in her opinion, more of the funding should be spent on basics rather than high dollar equipment.*

***B. Order Restricting or Prohibiting the sale or use of "restricted fireworks" / Discussion and appropriate action***

*Commissioner Ortega made a motion to institute the restricted fireworks prohibition, which was seconded by Commissioner Stone, and passed unanimously.*

***C. Burn Ban Modifications for outdoor cooking & commercial heating / Discussion and appropriate action***

*Commissioner Killingsworth proposed modifications to the burn ban for outdoor cooking fueled by propane, natural gas or wood. The fire must be screened or enclosed, and in a pit. Businesses which use fire for outdoor cooking in order to operate the business must follow the same rules.*

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

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

***9. Brewster County Central Appraisal District / Judge's recommendation for re Appointment of Board Representative Tom Mangrem for Brewster County / Discussion and appropriate action***

*Commissioner Ortega made a motion approving the recommendation for re-appointment of Tom Mangrem. Commissioner Stone seconded the motion, which passed unanimously.*

***10. Crown Recycling / Request for license permit for operation of junkyard or automotive wrecking and salvage yard by Crown Recycling, to be located on 2900 W. Hwy. 118 / Discussion and appropriate action***

*Judge Beard noted that the County has had regulations in place since 2002, but that all the County can do is require appropriate screening and setback.*

*The location is across from the airport. Commissioner Stone checked on the screening, as per County requirements. He said the fence looks good and the setback is appropriate.*

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

***11. 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; budgetary matters, 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 the road around the EOC is ready to pave in the spring. Fulcher Road was bladed, as was the Terlingua Creek road. Crews mowed right-of-ways on all the paved County roads in Alpine and the Sunny Glenn area. They also watered the roads during the chili cook-off in South County.*

*Three crew members are working at the library site, which is leaving regular work short-handed. Work at the library should be finished very soon.*

*They hauled about 40,000 gal. of water from Alpine and Double Diamond, and set posts for two new stop signs.*

### ***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***

*Mr. Carvajal said the contractor has signed the contracts. A pre-construction meeting will be held soon, and construction should start in December.*

- 2. Report on any remaining issues concerning pipeline under roadway for Study Butte Water Corporation / Discussion and appropriate action concerning completing pipeline construction***
- 3. Report on payments to contractors and professionals / Discussion and appropriate action concerning payment for both Marathon & Study Butte portions of project***
- 4. Discussion and appropriate action to go forward with Terlingua Springs paving project, including appropriate action to begin Construction and conclude project***

### ***12. 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***
- 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***

*Commissioner Killingsworth said the networking has been installed.*

- D. County Road Map Project / Update on Digitizing County Road Map / Discussion and appropriate action***

*Commissioner Killingsworth said there are a few items that need to be checked into, and then they can come back and get things wrapped up.*

***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***

***13. Brewster County Groundwater Conservation District / Request for reimbursement of legal costs related to contesting Fort Stockton Holdings Application for Export Permit (Clayton Williams water marketing scheme) / Discussion and appropriate action***

*Manager Conrad Arriola reminded Commissioners about the District's participation in the issue, and explained the legal procedure and finances.*

*Mr. Arriola asked the Court for reimbursement of \$6,000 in legal fees.*

*Commissioner Ortega asked from what account the County would get the money.*

*Treasurer Ofentein said she would have to look; she said there is \$48,000 available.*

*Commissioner Killingsworth asked if the expenditure would become a special line item. Some discussion followed.*

*Commissioner Stone made a motion to approve the request as a budget amendment for the Water District, which was seconded by Commissioner Ortega, and passed unanimously.*

***14. Courthouse Maintenance Matters & County Office Facilities***

***A. Old Courthouse Painting Project / Update / Discussion and appropriate action***

*Judge Beard said the project is on hold. The library has to be completed in order to free up the Road & Bridge crews.*

***B. Courthouse Security Plan for Replacement of Exterior and Interior Locks / Update / Discussion and appropriate action***

*Judge Beard said she has received a quote for the cost of replacement, not including installation.*

***C. Old Library Facility / Update on APL vacating building and making ready for occupancy by County offices / Discussion and appropriate action***

*Once the library is vacated, some light remodeling will be done and space made available for some County departments.*

**15. County Judge / County Law Library / Review of cost saving measures taken for County Law Library / Discussion and appropriate action**

*Judge Beard said a pretty complete library has been kept available for a number of years. However, there is now so much available online, and costs are increasing, so cutbacks have been made.*

**16. Canvass of the 2011 Constitutional Amendments General Election / Discussion and appropriate action**

*Commissioner Killingsworth noticed an error on the spreadsheet in Precinct 5. The early voting and election day totals each showed zero voters, but the official total showed one vote. She suggested that combining the precincts, as well the lack of a remote early vote, may have affected turnout.*

*Commissioner Stone made a motion to approve the canvass with the correction to Precinct 5. Commissioner Ortega seconded the motion, which passed unanimously.*

**17. Pending Litigation / Confer with County Attorney**

***Cause No 2011-10-B0192-CV, Kassandra Mead, Applicant, VS. Sheriff Ronny Dodson, Brewster County, Texas, Respondent, In the 394th Judicial District Court, Brewster County, Texas / Request to authorize retention of Counsel & related matters and***

***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 and***

***Cause No. 2007-02-B8551-CV, Michael J. McCulloch, Kathleen and Alice McCullum, Individually and d/b/a Osoba Ranch Company VS Brewster County, Texas, In the 394<sup>th</sup> Judicial District Court; Appeal in 8<sup>th</sup> Court of Appeals is Pending***

***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 litigation related to the Meade cause, the multiple Olibas causes and the McCullum cause.. 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.*

***B. Discussion and appropriate action in regard to the above litigation resulting from Executive Session***

*Commissioner Killingsworth made a motion authorizing the County Attorney to move forward and act on behalf of the County on all the pending litigation. Commissioner Ortega seconded the motion, which passed unanimously.*

***18. Personnel / Matters related to Budgetary and Financial Responsibilities of County Treasurer and 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***

*At 11:45 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.074, Government Code, to discuss issues related to budgeting and the responsibilities of Commissioners Court and the County Treasurer. The courtroom was cleared of all by Commissioners and the Treasurer.*

***Reconvene in Open Session***

*At 12:00 p.m., the Commissioners Court reconvened in open session. Judge Beard said that the Court had been in Executive Session pursuant to Section §551.074 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***

*Recess*

*2:00 P.M.*

*Reconvene at entrance to Double Diamond Ranch (Piñon Drive & S. Hwy 118)  
to dedicate Pallanez Drive*

*Commissioners convened along with members of the public, Double  
Diamond Property Owners Association and the Road & Bridge crew.*

*The Road & Bridge crew installed the Pallanez Drive sign*

*Commissioners then adjourned.*

*Following Dedication, Reconvene at Courthouse, Commissioners Courtroom,  
should there be any unfinished business remaining on the agenda*

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*VAL CLARK BEARD, COUNTY JUDGE*

*ATTEST:*

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*BERTA RIOS MARTINEZ, COUNTY CLERK*