

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
TUESDAY, FEBRUARY 28, 2012, AT 9:00 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 "COOKIE" 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>CAROL OFENSTEIN</b>	<b>TREASURER</b>
<b>BETTY JO ROONEY</b>	<b>TAX ASSESSOR</b>
<b>BERTA RIOS-MARTINEZ</b>	<b>COUNTY CLERK</b>

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

*There were no minutes presented for approval.*

**2. Treasurer**

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

*Treasurer Ofenstein noted a couple of payments for the Tax Collector's Office, as well as an \$81,300 grant payment.*

*Commissioner Killingsworth asked about how things are going with procuring credit cards in order to avoid "advance payments." Mrs. Ofenstein said she is still working with the bank.*

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

*Commissioner Ortega abstained from 75209 and 75212; Commissioner Killingsworth abstained from 75159.*

*Walk-in bills were presented from the Avalanche, Printco and stamps for the jail. Commissioner Ortega made a motion to approve the walk-in bills, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***B. Request to close out Capital Projects Accounts and allocate balance remaining to appropriate improvements / Discussion and appropriate action***

*Treasurer Ofenstein said there is only about \$650 left in the account. She would like to go ahead and close it out, but she needs to know what to do with the \$650.*

*Commissioner Killingsworth suggested re-coding some capital projects*

*bills to finish out the account.*

*Commissioner Killingsworth made a motion to expend down the funds, which was seconded by Commissioner Ortega, and seconded the motion.*

***C. Request to pay out Grant (Infrastructure & Homeland Security Grants)***

***within five days of receipt of invoices as required by State of Texas / Discussion and appropriate action***

*Commissioner Killingsworth made a motion to authorize payments within five days, which was seconded by Commissioner Ortega, and passed unanimously.*

***D. HAVA Grant / Request to make payment for equipment purchased pursuant to grant / Discussion and appropriate action***

*County Clerk Berta Martinez said that \$10,053.63 for ePoll Books, which are computers that will allow for an ID card to be scanned to find out what precinct a voter lives in.*

*Payment normally takes a couple of weeks.*

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

***E. Request for permission to open new bank account for Infrastructure Grant, TxCDBG Contract No. 711060 Study Butte WSC Water Facilities Improvement Grant / Discussion and appropriate action***

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

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

*Commissioners reviewed the specified activity report later in the afternoon.*

*Treasurer Ofenstein said she needs to transfer \$10,695.84 from the Texas Class fund to the courthouse preservation fund.*

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

***3. County Recreational Program Funding for 2012 / Discussion and appropriate action***

***A. Big Bend Amateur Softball Association / Request for funding / Discussion and appropriate action***

*Mo Morrow said the league is in its twelfth year. The money is used for capital improvements, such as improvements to the field. The league has served over 3,000 girls.*

*Commissioner Killingsworth made a motion to approve the request for \$3,000, which was seconded by Commissioner Ortega, and passed unanimously.*

*Commissioner Stone abstained from the motion due to his daughter's affiliation with the league.*

***B. Big Bend Little League / Request for funding / Discussion and appropriate action***

*Marc Miranda said funding is used for capital improvements, as follows. They hope to use it to increase the storage facility and make improvements to the concession stand.*

*Commissioner Ortega made a motion to approve the request for \$5,000, which was seconded by Commissioner Stone, and passed unanimously.*

***4. Officials' Monthly Reports***

*There were no monthly reports presented.*

***5. 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 most of the crews have been repairing potholes on Terlingua Ranch Road. They bladed Fulcher Road, Joe Miles Road and Pena Road. He checked the generators at the EOC and everything checked*

out alright.

*Big Bend Telephone Co. has applied for a boring and trenching permit. Mr. Causey said he has no problems with the application.*

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

***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***
- 2. Report on payments to contractors and professionals / Discussion and appropriate action concerning payment for both Marathon & Study Butte portions of project***
- 3. Change Orders related to acquisition of additional base materials and related items / Discussion and appropriate action concerning making necessary change orders and insuring adequate materials are available to complete project***

*Commissioner Killingsworth recognized Reese Albert for selling the County base material at a very inexpensive rate, and Lajitas Resorts for the donation of 1,000 yards. The County will re-pay Lajitas by hauling some materials for them.*

*Commissioner Killingsworth made a motion to approve letters of thanks to both companies, which was seconded by Commissioner Stone, and passed unanimously.*

*Commissioner Killingsworth said a change order for the purchase of the base materials will not be necessary, but Reese Albert will need a receipt.*

- 4. Discussion and appropriate action to complete Terlingua Springs paving project, including other appropriate action regarding Construction and concluding project***

***C. Speed Limit / Proposed 35 mph for all County paved roads in Border Colonia Access, Terlingua Springs Project – Terlingua Springs Road & Rex Ivey Road***

*Commissioner Killingsworth made a motion to approve the 35 mph limit, which was seconded by Commissioner Stone, and passed unanimously.*

***D. Pct 4 / Request for Preliminary approval to take Spring Creek Road & Ridgeline Drive (South Double Diamond & S. Double Diamond Vet's addition) into the County Road System / Discussion and appropriate action***

*At a previous meeting, Commissioner Stone and Supt. Causey were charged with determining whether taking the roads into the system were too costly.*

*Commissioner Stone said the roads are in good shape. Mr. Causey said they would be fairly easy to maintain. It would be a while before paving would be possible. The length is 2.5 miles.*

*Commissioner Stone made a motion to approve the request for preliminary approval, which was seconded by Commissioner Ortega, and passed unanimously.*

*Judge Beard said a study of any legal issues will follow.*

#### ***E. County Road Map / Review / Discussion and appropriate action to finalize map***

*Commissioner Ortega said he and Travis Roberts reviewed the maps together yesterday. He is expecting some updates from the IT Director. Commissioner Ortega said it should be done.*

*Commissioner Killingsworth suggested a review this afternoon. She and Commissioner Ortega will meet with IT this afternoon, along with Supt. Causey. Judge Beard said she would like to get things done this afternoon.*

*IT Director Leo Ofenstein said he has a couple of questions on South County roads, and then he thinks the map is done. He will come back this afternoon.*

*In the afternoon, Commissioner Killingsworth said there are still some adjustments to be made. She said she is not sure that the road map will ever be finished. She said she would like a deadline set for the next meeting, and that the map must be done at that time.*

*Commissioners concurred that the IT work on the project is unacceptable. They scheduled a called meeting to deal with the issue and any related performances issues on March 5.*

### ***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 fire department activity has been very slow.*

***B. Report on Communications Exercise of February 27, 2012 / Discussion and appropriate action***

*Judge Beard said the exercise hasn't taken place yet. It will be held this week.*

***C. Acknowledge Radio Tower Donation***

*Commissioner Ortega made a motion to acknowledge Martin Ross for the donation, which was seconded by Commissioner Stone, and passed unanimously.*

***D. Homeland Security Grants***

***1. General Review of Homeland Grants & Procedures required for administration of grants and County requirements/criteria for endorsing Grants***

*Mr. Santry explained how the funds are received by the County, and the process by which departments and agencies make their requests for funding.*

*Judge Beard said emphasis needs to be placed on the basics, while avoided "bells and whistles" type requests. Funding appears to be dwindling.*

*We are in the 2009, 2010 and 2011 years of funding. Mr. Santry said he would only like to work on 2009 and 2010 funding right now because they expire this year. The total available is \$155,000.*

***2. Presentations by Applicants for Homeland Security Grant Funding / Discussion with Commissioners***

***Alpine Police Department***

*Sgt. Felipe Fierro said that in 2013, the FCC is requiring narrowing banding for all agencies. This request covers APD and the VFD. APD is also requesting mobile security cameras for events such as ArtWalk.*

*The total funding requests are \$39,636 and \$25,303.*

***Alpine Volunteer Fire Department***

*Asst. Fire Chief Mark Scudder said the department is requesting some new gear for fireman, including helmets. Some of the old helmets are 10-15 years old. They are also requesting pagers, portable generators, ladder truck upgrades, and several other firefighting tools.*

*The items total about \$150,000, so the Department needs to trim things down to what they must have.*

***Terlingua Fire & Medics***

*Mr. Santry outlined the requests for Terlingua.*

***Marathon Volunteer Fire Department***

*Mr. Santry outlined the requests for Marathon, for a total of \$30,000.*

***Brewster County Emergency Mngement Department***

***3. Discussion and appropriate action regarding presentations and approval of the above applicants***

*Commissioner Killingsworth calculated the requests after trimming a few things to within a total of \$155,000.*

*She made a motion to approve the requests as follows: \$,69,139.50 for the APD; \$30,844 for Marathon; \$22,553 for Terlingua; and \$32,750 for the Alpine VFD. Commissioner Ortega seconded the motion, which passed unanimously.*

***E. Rio Grande Council of Governments / Proposed 911 Addressing Procedures / Discussion and appropriate action concerning adopting, revising or rejecting these procedures***

*Judge Beard said she believes the discussion should surround whether the procedures address the problems we've experienced.*

*Commissioner Killingsworth said she would clarify the meaning of "community developer." The committee needs to get together to name those roads which are not yet named. She said there needs to be control over those who want to name private drives for use as a 911 address.*

*In the afternoon, Commissioner Killingsworth said she found that "community developer" refers to established subdivisions. Roads must be named in order for Commissioners to approve plats.*

*Commissioner Killingsworth made a motion to approve the 911 addressing procedures, which was seconded by Commissioner Ortega, and passed unanimously.*

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

***7. County Facilities / Matters Related to Maintenance and Improvement of County Facilities, Including Offices, Law Enforcement Facilities and***

***Emergency Response Centers, Community Centers, Parks & Recreational Facilities, Grounds, and Parking for the above***

***A. General Update***

***B. Courthouse painting project / Update***

*Judge Beard said the courthouse painting is underway.*

***C. Refurbishment of Old Library for County Offices (“In house” work only) / Update on progress***

***8. Tri County Juvenile Probation Department***

***A. General update on work & challenges of department***

***B. Criteria for approval of Juvenile Justice and Delinquency Prevention Grants / Discussion and appropriate action***

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

***9. Sheriff’s Office Vehicle / Request to dispose of Dodge Durango, pursuant to §263.152, Local Government Code / Discussion and appropriate action***

*The Sheriff’s Office would like to give the vehicle to the APD, but the law says it must be sold.*

*Commissioner Ortega made a motion to sale the vehicle to APD for \$10, which was seconded by Commissioner Stone, and passed unanimously.*

***10. Request to approve application & ratify submission of Brewster County Sheriff’s Office Borderstar JAG Grant / Discussion and appropriate action***

*Deputy Treasurer Megan Antrim explained that the grant normally covers salaries for two deputies. The grant that was applied for only covers overtime. Unless the next JAG grant is received, the two deputy positions will not be covered, beginning in September.*

***11. Grant Assurances & Conditions / County Judge’s request to establish County review group to monitor compliance with grant conditions, assurance and appoint members***

*Judge Beard asked Commissioners to give some thought to who to appoint.*

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

## **12. CJIS Data Reporting Improvement plan pursuant to C.C.P. Article 60.10**

*Judge Beard said that Mr. Brewer will tentatively be here the week of March 12 to work with staff.*

### **A. Reappoint members of local data advisory board**

*Judge Beard suggested Chief Deputy Ryan Skelton, County Attorney Steve Houston, someone from the jail, from the DA's office, a clerk from the County Court and District Court, the police chief or designee and a representative of the County's office of automated data processing services, possibly somebody from Hill Country Software Services.*

*Conrad Arriola will represent the Judge's Office as a non-voting member.*

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

### **B. Designate Chair and time frame for formalizing plan**

## **13. Public Comment**

*No public comment was made.*

## **14. Pending Litigation / Confer with County Attorney**

***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) and Civil Action No. 4:11-cv-120, Tana Gunville, Plaintiff V. Sheriff Ronny Dodson, Defendant, In the United States District Court, Western District of Texas***

***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 c  
conflicts with this chapter (Privileged Matters)***

*At 10:53 am., Judge Beard announced that Commissioners Court was into 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. The courtroom was cleared of all but Commissioners Court and the County Attorney.*

***Reconvene in Open Session***

*At 11:14 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session, pursuant to §551.071, Government Code, VTCA, Pending Litigation. She asked if there was any action to be taken.*

*No action was taken.*

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

***Recess until 1:30 P.M.***

***15. Auction of House located at 400 N. 8<sup>th</sup> Street, Alpine, Texas***

- A. Convene at 400 N. 8<sup>th</sup> Street for auction of house / Assist auctioneer with sale process (Auction to begin at 1:30 P.M.)***
- B. Return to Courthouse directly following auction & Reconvene Commissioners Court in Commissioners Courtroom***
- C. Discussion and appropriate action concerning sale including confirming sale, rejecting all bids, negotiating with low bidders or other appropriate action concerning sale***

*Judge Beard said there was one bid from Jim Little. It was below the minimum, and therefore must come back to Commissioners Court.*

*Commissioner Stone made a motion to accept the bid of \$1,000, which was seconded by Commissioner Ortega.*

*Judge Beard said the bid is contingent upon moving the house within 180 days, and payment must be made by 3 p.m. today.*

*The motion 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***