

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY, MARCH 12, 2012, 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 "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>BETTY JO ROONEY</b>	<b>TAX ASSESSOR</b>
<b>BERTA RIOS-MARTINEZ</b>	<b>COUNTY CLERK</b>
<b>JERRY SOTELLO</b>	<b>J.P., PRECINCT 1</b>
<b>CAROL OFENSTEIN</b>	<b>COUNTY TREASURER</b>

**1. Invocation and Pledge of Allegiance**

*Judge Beard led the invocation and Pledge of Allegiance.*

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

*There were no minutes presented for approval.*

**3. Treasurer**

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

*Commissioner Killingsworth asked about the cost of a payment for gas at the Emergency Response Center to the City of Alpine for \$1,855. She said it seems very high.*

*Treasurer Ofenstein said the bill is correct; it was \$2,500 in January.*

*Judge Beard said that during pre-construction, natural gas was touted as the most cost efficient way to heat the building. She said she is surprised, and that the issue should be studied.*

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

*Treasurer Ofenstein said the monthly fee for the Tax Office rent was left out of the general bills because there is some question about the amount. Treasurer Ofenstein is looking into the matter.*

**B. Financial Reports / Updates, Discussion, Review and appropriate action**

**Specified Activity Report**

**Cash Report, February 2012**

**Cash Flow Predictions  
Budget Analysis Usage Report  
Receipt File Listings**

**Payroll Reports  
Check Register  
Other Financial Reports as  
requested by Commissioners**

*Treasurer Ofenstein reviewed the reports with Commissioners. The reports are attached and made a part of these minutes.*

**C. Government Capital Corporation Contract No. 5925 for financing Road & Bridge Haul Truck / Request for approval**

*Treasurer Ofenstein said there will be three annual payments of \$17,296.47, which will begin in February 2013. The rate is 4.637 percent.*

*Commissioner Killingsworth made a motion to contract with Government Capital to provide financing for the "low boy" equipment. Commissioner Ortega seconded the motion, which passed unanimously.*

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

**4. 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 Killingsworth, and passed unanimously.*

**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. Causey said all the dump trucks were serviced, and crews have been working to haul the road base material which was donated by Lajitas. They bladed Lone Star Road.*

*The new loader is broken, and Caterpillar came to look at it, and has determined that the shifter needs to be replaced. Mr. Causey said they've have problems with both loaders, one of which has been fixed once already. He doesn't believe they are still under warranty.*

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

### ***1. Update on concluding construction & paving in Terlingua Springs area***

*Engineer Travis Roberts said a final inspection is scheduled for this afternoon. It should be signed and turned into the grant administrator today.*

*The final total is \$282,767.30.*

### ***2. Report on payments to contractors and professionals / Discussion and appropriate action concerning payment for project***

*Mr. Roberts said he believes all the bills have been paid; sub-contractors should receive payment within 30 days.*

### ***3. Matters related to materials for project / Disposition, clean up, transportation, storage & related matters / Discussion and appropriate action***

### ***4. Discussion and appropriate action to complete Terlingua Springs paving project, including other appropriate action regarding construction, inspections and concluding project***

*Commissioner Ortega said the road looks good; he drove on it last week.*

### ***5. Re-evaluate 35 mph Speed Limit in Terlingua Springs Project (Terlingus Springs Road & Rex Ivey Road) after completion of paving / Request to consider lowering speed limit to 30 mph***

*Commissioner Ortega made a motion to adjust the speed limit to 30 mph, which was seconded by Commissioner Stone, and passed unanimously.*

## ***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, exercises & drills, matters related to pending & future Homeland Security & FEMA Grants / Discussion and appropriate action***

*EMC Tom Santry said the new gates have been installed at the fire station/EOC. The solar motors have not yet been installed.*

*Mr. Santry said the Feb. 28 communications drill was far better than the first one. The response from various departments was much better.*

*Judge Beard said the next drill, sometime in the next few weeks, will focus on communication and warning.*

***B. 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 Square painting project***

***1. Update***

*Judge Beard said the courthouse portion of the project will wrap soon.*

***2. Continuation of painting project to Old Jail / Update***

*They will move over to the old jail and do the higher parts of that building while they still have the lift. The lower portions will follow.*

***C. Refurbishment of Old Library for County Offices ("In house" work only) / Update on progress / Discussion and appropriate action for work to go forward***

*Judge Beard said the old library project is moving along, but only on days when crews can't work outside on the courthouse.*

*It looks like all of the hardwood floors can be restored.  
Ray Hendryx asked if there is a target move-in date. Judge Beard said there is not because the work is being done in-house as crews are available.*

## **8. County Historical Commission**

### ***A. Preservation Texas / Membership Renewal / Discussion and appropriate action***

*Historical Commission Chair Travis Roberts said he would appreciate consideration of renewal.*

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

### ***B. 125<sup>th</sup> Birthday Celebration on March 30, 2012 / Brewster County Courthouse Lawn / Update / Discussion and appropriate action to support celebration***

*Mr. Roberts said posters have been placed about town.*

*Committee members have been working on various projects, with interviews on the radio, a souvenir program, highlighting the historic photos in the courthouse hallway, etc. They are still soliciting donations from sponsors.*

*Mr. Roberts reviewed some of the County history he has been researching, which will be put into a commemorative program. He is looking for volunteers for food service, etc.*

## **9. Provision of IT Services for County**

### ***A. Report of IT Committee Chair, Pct. 2 Commissioner***

- 1. Review of actions taken by Commissioners on March 5, 2012 and research done in previous week regarding securing IT Services for County***
- 2. Recommendations concerning possible contracts for IT Services / Review of possible contract with Nectar Computers / Discussion***
- 3. Discussion and appropriate action regarding contracting for IT Services and other matters related to formalizing agreement or providing IT Services***

### ***B. Budget for 2012 IT Services***

- 1. Proposal to restructure budget & reallocate various line items for***

***salary/benefits to new line items for contract professional services & other related items***

*Commissioner Killingsworth said Commissioners need to consider items they want in the contract. The contract will be for a period of one year, beginning today.*

*She suggested the following services: maintenance of network, diagnosis of software/hardware problems, coordinate with IT designee, install compatible hardware and software. The contract will not be limited to these services. The services will be paid at a rate of \$65.*

*She made a motion to include these services in the contract at the \$65 rate, which was seconded by Commissioner Stone, and passed unanimously.*

***2. Reallocation & adjustment of other IT budget line items / Discussion and appropriate action***

*Commissioner Killingsworth said she didn't have any other recommendations at this time. Whatever is left in the budget after the previous IT Director is paid out will be moved into contract services in the IT budget.*

*Judge Beard said that re-designating funds is a budget amendment.*

*Commissioner Stone made a motion to amend the budget to re-designate the salary and benefits IT funds as contract services, which was seconded by Commissioner Ortega, and passed unanimously.*

***3. Discussion and appropriate action to adopt appropriate budget amendments and line item transfers for 2012 IT budget***

***10. Elections Workshop***

***A. General Discussion with Voter Registrar (Tax Assessor Collector) concerning issues and challenges related to May 29<sup>th</sup> Primary and upcoming City of Alpine and School Board Elections***

*Judge Beard said the both the registrar and the elections clerk have been operating in a very difficult environment due to the redistricting hold-up in the Federal courts.*

***B. General discussion with County Clerk concerning issues and challenges related to May 29<sup>th</sup> (or whatever other date our Federal Courts finally decide upon) Primary, including election workers, other personnel, equipment, travel & logistics, issue related to election day being set immediately following a national holiday (Memorial Day), informing the public concerning the primary election & related matters***

*Tax Collector Betty Jo Rooney said that all of the County and School District's redistricting is complete. They are waiting on a couple of things to finish the City.*

*For the Primary Election, April 30 is the last day to register the vote. However, the Secretary of State has not yet given the release to begin printing voter registration cards. She thinks it will be April 16. The cards are bright yellow.*

*A lot of people are coming into the office with lots of legitimate questions.*

*Ms. Rooney said there haven't been any major problems so far.*

*Judge Beard said once people have their cards, she thinks things will settle down.*

*County Clerk Berta Martinez is working on setting up remote voting, now that they have a date. The dates have been set. On May 16, they will be at the Red Pattillo Community Center; on May 18, Panther Junction; and on May 23, Marathon.*

*Early voting starts May 14. There will be extended hours on May 25. If there is heavy turn-out, hours can be further extended.*

***11. Consideration of appropriate measures to assist and support County Clerk & Voter Registrar in preparing for and administering 2012 Election / Discussion and appropriate action***

*Judge Beard asked if there is anything (not included in Item 12) that Commissioners Court can do to help.*

*Ms. Rooney suggested making sure the remote voting dates are well-publicized. Commissioners suggested later hours for the remote voting. They are currently scheduled from 11-3, and Commissioners believe they will miss a lot of voters. They would like the hours extended to 6 p.m. The Clerk said that the hours would be extended.*

***12. County Employees' assistance to County Clerk with Primary Elections***

***A. Review of which County Employees may properly assist the County Clerk with Elections and in what capacities they may assist***

*Mrs. Martinez said only employees who aren't related to anyone on the ballot are allowed to work on the election. They also cannot work if their supervisor is on the ballot.*

***B. Means of compensation for County Employees who perform pre election work on Memorial Day (May 28, 2012) / Discussion and appropriate action***

*Judge Beard said she wants everyone to know what all this entails. It would involve closing the Courthouse the day after a holiday, for two days in a row.*

*Commissioner Stone made a motion to allow employees who work on the holiday one month to use any comp time earned on the holiday. Commissioner Ortega seconded the motion, which passed unanimously.*

***C. Other issues related to compensation of County employees who assist with primary election / Discussion and appropriate action***

*Commissioners will determine how to compensate employees who work on the day of the election.*

***13. Courthouse closure on Primary Election Day / Discussion and appropriate action to rescind or affirm that closure***

*Commissioners have already confirmed the closure.*

***14. Remote early voting / Discussion and appropriate action concerning remote early voting***

*Commissioners suggested some modifications during Item 11, and the County Clerk agreed.*

***15. Public comment***

*No public comment was made.*

***16. RCI Records Retention Proposal (State Records Management Schedule Compliance) / Discussion and appropriate action***

*Judge Beard said she doesn't believe Commissioners are in a position to make a decision today. She said they need to visit with department heads to determine what is needed.*

***17. County Law Enforcement Grant Funds***

***A. Issues related to prohibited political activity related to grant funds***

*Judge Beard noted that the prohibitions concerning political activity as relates to federally funded grants are extensive. Most of the County's federally funded law enforcement grants explicitly reference the Hatch Act.*

*County employees are, of course, allowed to vote as citizens and support candidates. However, according to County policy, employees shall refrain from*



*campaigning and/or using County facilities/equipment for campaigning or campaigning on County time.*

*Judge Beard said this has been an issue recently. If a County employee wants to put a political sign in their own yard, that is fine. But past that, if they are working on federally funded grants, they must review the Hatch Act and be careful not to violate it.*

*Not following the grant assurances jeopardizes the grants. The County could be asked to repay the funds and/or become ineligible for federal grants.*

*Judge Beard said that, for the time being, she will not sign any amendments to grants or anything else, until the campaigning on County time in County vehicles has stopped.*

***B. Difficulties concerning CJIS reporting which may cause ineligibility to apply for grant funds or forfeiture of grant funds / Discussion and appropriate action***

*Judge Beard said a representative from CJIS will be in the Commissioners Courtroom to review procedures tomorrow. The CJIS reporting must be brought up to an acceptable level. These issues also jeopardize grants. One County office and one District office have fallen way behind in reporting.*

***18. Review County Policies re non use of County property in political campaigns & campaigning in County facilities***

***A. Affirmation of Policies***

*Commissioner Killingsworth said she has reviewed the policy. She noted that, at one point, the County had allowed candidates to rent the Community Centers, etc. for political events. These are considered community facilities. Judge Beard said that is still allowed. Candidates can even rent the Gazebo. The issue is with the Courthouse, other County office space, the jail and other County spaces such as the ERC.*

***B. Discussion and appropriate action***

*Commissioner Killingsworth made a motion reaffirming the policy related to political campaigning. Commissioner Stone seconded the motion, which passed unanimously.*

***19. Employee Handbook Workshop / General Discussion concerning updating Handbook / Review of Texas Association of Counties Draft Handbook & related issues / No action***

*Judge Beard asked Treasurer Ofenstein to review the handbook and take into particular consideration the vacation/sick leave policies.*

*She asked Commissioners to think about if they want to continue with vacation/sick leave policies.*

*Treasurer Ofenstein said she believes the handbook should be reviewed annually. Judge Beard concurred.*

*Judge Beard said TAC has provided a good starting point.*

*Commissioner Killingsworth asked if they can be provided with a copy of the leave policies.*

*Treasurer Ofenstein said clarification of the comp time policy is needed.*

*Commissioner Killingsworth said she wants to be sure that the retirement policy is included, as well.*

## **20. Duties of County Officials & Employees related to Emergency Management Department, Emergency Response Facilities, Grant Projects and Emergency Management Plan**

### **A. Executive Session Pursuant to Section §551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee**

*At 11:57 a.m., Judge Beard announced that Commissioners Court was into executive session pursuant to §551.074, Government Code, VTCA, to discuss the duties of County officials and employees related to the Emergency Management Department. The courtroom was cleared of all but Commissioners Court.*

### **Reconvene in Open Session**

*At 12:20 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session related to the Emergency Management Department, pursuant to §551.074, Government Code. She asked if there was any action to be taken.*

*No action was taken.*

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

## **SUPPLEMENTAL AGENDA**

- 1. Jail Inspection by Commissioners Court members/ Walk through jail in groups less than a quorum/Discussion and appropriate action**

***A. Reconvene in Commissioners Courtroom after Jail inspection walk through***

*Commissioners reconvened after walking through the jail in two separate groups of two. No action was taken.*

*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***