

**REGULAR MEETING OF THE BREWSTER  
COUNTY COMMISSIONERS COURT  
MONDAY, MAY 14, 2012, AT 10:00 A.M.**

*Judge Beard called this meeting to order. Commissioner Ortega was absent due to a family medical matter. 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>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>TREASURER</b>

**1. Invocation and Pledge of Allegiance**

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

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

*The minutes from the Feb. 13 and April 30, 2012, meetings were presented for approval.*

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

**3. Recognitions / Discussion and appropriate action**

**A. Recognize Alpine Cinco de Mayo Committee**

*Judge Beard thanked the Committee for a job well done. She said a lot of work goes into the celebration, and Commissioners appreciate the work.*

**B. Recognize Cindy Perry for her coverage of Commissioners Court for the Alpine Avalanche, upon her retirement from Alpine Avalanche**

*Judge Beard thanked Mrs. Perry for her hard work and consistent attendance.*

**C. Recognize Pete Peterson for his service as Alpine Public Library**

***construction liaison with Brewster County***

*Judge Beard said that without Mr. Peterson's whole-hearted participation, the project could not have been completed.*

*Commissioner Killingsworth made a motion to recognize the Cinco de Mayo Committee, Mrs. Perry and Mr. Peterson. Commissioner Stone seconded the motion, which passed unanimously.*

***4. Treasurer***

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

*Treasurer Ofenstein noted a workman's compensation payments and large fuel payments, as well as some grant reimbursements.*

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

*Commissioner Stone abstained from 76143 and Judge Beard abstained from any KALP bills.*

*One walk-in bill was presented for the 911 addressing system. The Sheriff did not feel it should go to the jail budget; Treasurer Ofenstein needs to know how to code it.*

*Judge Beard said the Sheriff pursued the equipment, a additional PSAP, for the 911 system specifically, which is at the jail; the dispatch is located in the jail and part of the jail budget.*

*After inquiring specifically what the equipment was for, Commissioner Killingsworth made a motion to approve the bill and to pay it from the jail budget. Commissioner Stone seconded the motion, which passed unanimously.*

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

***Specified Activity Report***

***Cash Flow Predictions***

***Budget Analysis Usage Report***

***Receipt File Listings***

***Cash Report***

***Payroll Reports***

***Check Register***

***Other Financial Reports as***

***Requested by Commissioners***

*Commissioner Killingsworth asked about cash flow for June. Based on the analysis for May, she said the County is facing a revenue shortage.*

*Judge Beard noted that Commissioners will meet again next week, at which point they can look at the cash flow situation and other financial matters again. She said summer is always tight, and transfers from reserves may be necessary. A plan to deal with this can be formulated next week.*

***C. Law Enforcement Grant Reimbursements / Request for Pre-Submission Approval***

***2009 Operation Stonegarden Grant      HIDTA / Lonestar  
Operation Linebacker                      Border Star JAG***

***D. Texas Association of Counties Property Insurance / Request to authorize renewal / Discussion and appropriate action***

*Treasurer Ofenstein said she continues to be pleased with the service from TAC. Commissioner Killingsworth made a motion to authorize renewal, which was seconded by Commissioner Stone, and passed unanimously. Judge Beard pointed out that the TAC plan is a pool and that the coverage is specifically tailored for counties.*

***E. Reimbursement for employee meals while traveling on County business / Discussion and appropriate action in regard to altering rate***

*Judge Beard reminded Commissioners that they are working on a revision of the personnel manual.*

*The County currently uses the IRS rate for mileage, and she would like to recommend that the County also use the state rates for meals, as set by the comptroller. The County manual currently states that employees will be given maximum of \$30/day. The state rate varies on length of travel.*

*Commissioner Killingsworth made a motion to adopt the state rate for meal reimbursement, which was seconded by Commissioner Stone, 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***

*Treasurer Ofenstein said she needs approval to move funding for the Historical Preservation fund from the Texas Class account to the General Fund. The total is \$27,388.44.*

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

*Mrs. Ofenstein noted that timesheets will be due early due to the Memorial Day holiday and the Courthouse closure for Election Day.*

*Mrs. Ofenstein said she is need of a Tourism Council budget. Judge Beard said she could get one from her office.*

***5. Officials' Monthly Report***

*Commissioner Stone read the reports for the record.*

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

## **6. 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 a half mile of Wagon Road is complete, and they plan to do the second half next week. They hauled some road materials for Lajitas, and believe they are now even on the in-kind word. Crews also worked on the road at the South County ERC, and have been cleaning up at Pena Park. They changed the filters at the jail, South County ERC and Alpine EOC. They have also been helping haul some materials for the construction at Buck Stadium, patching potholes and blading roads.*

*Judge Beard recognized attorney Mimi Smith, who was representing some property owners in Stradley Estates in Sunny Glenn. Ms. Smith said there is a non-functional cattle guard at Wagon Road and FM 1703. She said that there are no cattle being kept in the area. Ms. Smith said the guard is non-functional and in disrepair, and on a County road. Because it's in disrepair, it is causing damage to cars. The property owners would like the guard removed, or covered over or enlarged.*

*Judge Beard said that Mr. Causey is in the best position to estimate actual cost. The County Attorney is the best person to address the legalities, and will have to be directed by Commissioners Court to do so. Once the information is gathered, the issue can be placed on the agenda for action.*

*Judge Beard also noted that the Court does not take the lead on road issues; they are best taken up with each individual commissioner, in this case, Commissioner Stone.*

***B. TxDot Border Colonia Access Paving Grant / Matters related to concluding Project / Discussion and appropriate action to complete Terlingua Springs paving project, including other appropriate action regarding construction matters, payments, inspections and concluding project***

*Engineer Travis Roberts said the contractors have both been paid in full. There is \$7,591 left in the account. Last week, Mr. Roberts received an invoice for a repair from the Study Butte Water Corp. for a repair to a pipe which was broken by the contractor. The invoice is for \$515. To his knowledge, that is the only outstanding amount.*

*Grant Administrator Jerry Carvajal said the invoice will be submitted to TxDOT; he needs the Water Corp. to send a new invoice to the County.*

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

***7. Regional Review Committee held in Van Horn on May 9, 2012 / Report from Regional Review Committee Chair (County Judge) & Commissioner Stone (RRC Member)***

*Judge Beard said the committee is appointed by the Governor, but the COG handles administration for the committee.*

*She said that they looked at the scoring criteria used in the previous grant cycle, and affirmed that the same criteria will be used in this cycle.*

***8. Request to declare as surplus, various items from the Sheriff's Office & Jail / Discussion and appropriate action***

*Surplus items include computer parts such as monitors, keyboards and cases, two magnetometers, chords and old tools.*

*Commissioner Stone made a motion to declare the items surplus, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***9. County Emergency Management Office***

***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 and matters related to 911 & 911 addressing / Discussion and appropriate action***

*EMC Tom Santry said that his office will now be updated weekly on the 911 addressing system.*

*Commissioner Killingsworth said we need to do some publicity to remind people to sign up for the emergency notification system.*

***B. Discussion and appropriate action concerning appropriate utilization of funds in upcoming Homeland Security Grant Cycles***

*Judge Beard said she thinks it is time to look at grant funding and find out what our needs are for our Emergency Management Department. The department lacks its own vehicle, and there are hardware and software needs, along with other needs.*

*She asked Mr. Santry to outline what funding sources are available.*

*He said all of our 2009 money has been used. For 2010, all of the local fire departments have turned in their requests; the APD is working on a request. For 2011, there is \$76,000 available. Mr. Santry said he asked the COG if Homeland Security will pay for a vehicle; they will. She said the COG made him aware of a \$35,000 region-wide Homeland Security fund surplus that could be used for a vehicle. Mr. Santry has spoken with local car dealers about finding a vehicle. He will bring more information to Commissioners at the next meeting, as well as information about smaller equipment and communications needs of his office.*

*Commissioner Killingsworth suggested studying the purchase of a large water tanker, which would be kept at the Road & Bridge yard, as well as a back-up water supply and a generator for water supply corporations. Judge Beard asked about funding for dry fire hydrants.*

***C. Discussion and appropriate action for general administrative work of Emergency Management Office to go forward***

***10. Pending Infrastructure Grant Matters***

***A. Colonia Construction Fund Application / (2<sup>nd</sup> Septic Tank Replacement grant for S. Brewster County)***

***1. Update on Project & Application Process***

*Mr. Carvajal asked for approval of 13 applicants for Phase 4, which is the final phase.*

*Commissioner Killingsworth made a motion to approve the applicants, which was seconded by Commissioner Stone, 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. 2011/2012 Texas Department of Rural Affairs Grant Program (R.O. facility for Study Butte Water Corp.) / Update / Discussion and appropriate action to go forward with grant***

*Mr. Carvajal said the engineer plans to meet with the Water Corp. Thursday to begin the engineering process.*

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

***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 10:58 a.m., Judge Beard announced that Commissioners Court was into executive session pursuant to §551.071, Government Code, VTCA, pending litigation, related to the McCulloch case. . The courtroom was cleared of all but Commissioners Court and the County Attorney.*

***Reconvene in Open Session***

*At 11:02 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session, pursuant to §551.071, Government Code, VTCA. 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***

*Commissioner Killingsworth made a motion to adjourn, which was seconded by Commissioner Stone, who passed unanimously.*

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***VAL CLARK BEARD, COUNTY JUDGE***

***ATTEST:***

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***BERTA RIOS MARTINEZ, COUNTY CLERK***