

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
MONDAY, JULY 9, 2012, AT 9:00 A.M.**

Judge Beard called this meeting to order. Officers present are listed as follows:

VAL CLARK BEARD	COUNTY JUDGE
ASA "COOKIE" STONE	COMMISSIONER PCT. 1
KATHY KILLINGSWORTH	COMMISSIONER PCT. 2
RUBEN ORTEGA	COMMISSIONER PCT. 3
BETTY JO ROONEY	TAX ASSESSOR
BERTA RIOS-MARTINEZ	COUNTY CLERK
JERRY SOTELLO	J.P., PRECINCT 1

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. Minutes / additions / corrections / approval

The minutes from the June 26 and July 5, 2012, meetings were presented for approval.

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

3. 2011 Audit

A. Presentation by Skinner & Lara, Brewster County Auditors

CPA Shaw Skinner reviewed the 2011 audit with Commissioners Court.

The audit is attached and made a part of these minutes.

Following the presentation, Commissioner Killingsworth said it looks like the County has over \$451,000 in excess revenue. However, \$300,000 of that comes from the PILT payment, and a portion was transferred after the end of the year into R&B. Also, she said it looks as though we have \$1.6 million in cash, and revenues exceeded expenditures. So, she wondered, why are we having cash flow issues?

It was determined that the deficit in the Road & Bridge Department could be why the budget looks short. Ways to correct the issue were discussed.

Commissioner Ortega made a motion to accept the audit as presented, which was seconded by Commissioner Stone, and passed unanimously.

B. Discussion with Commissioners

C. Appropriate action concerning audit

4. Recognitions / 4th of July Celebration

American Legion, Alpine Kiwanis & other community organizations participating in celebration

Judge Beard wanted to note the Legion for the barbecue and the Kiwanis Club, who always leads the celebration with a parade a festivities at the park.

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

5. Treasurer

A. General Bills / Discussion and appropriate action

Treasurer Ofenstein noted a \$9,000 fuel bill for Road & Bridge, and a \$48,000 Stonegarden expenditure.

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

Commissioner Stone abstained from 76962, and Judge Beard abstained from any KALP bills.

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

Treasurer Ofenstein reviewed the cash flow report with Commissioners.

Commissioner Killingsworth noted that it looks bleak, and asked about revenue compared to expenditures to date.

Commissioner will talk more about the issue during the budget workshop.

C. Law Enforcement Grant Reimbursements and other general administrative matters related to these Grants / Discussion and appropriate action

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

D. Texas Association of Counties Pool Insurance Coverage Renewal / Property Insurance / Discussion and appropriate action

Commissioner Killingsworth made a motion to renew the TAC insurance pool insurance coverage, which was seconded by Commissioner Ortega, and passed unanimously.

E. Other general 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 has \$1,452.89 total in bills for the old library. Commissioner Stone made a motion to approve the amount for payment, which was seconded by Commissioner Ortega, and passed unanimously.

6. Officials' Monthly Reports / Discussion and appropriate action

*Commissioner Stone read the reports for the record.
Commissioner Ortega made a motion to approve the monthly reports, which was seconded by Commissioner Stone, and passed unanimously.*

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; 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 crews cleaned around the Marathon Community Center, mowed the roads in South County and replaced reflectors, bladed Wagon Road, changed the filters in the EOCs and the jail, fixed an AC at the jail, and worked at the old library.

Judge Beard noted that work at the jail needs to come out of the jail budget and be credited to Road & Bridge.

Mr. Causey said they are no longer doing oil changes for the Sheriff's Office.

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

Commissioner Killingsworth said the only thing left is to purchase some materials from CSA.

8. 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 emergency management issues related to public and private bans, 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 the last few weeks have been very quiet.

B. Renew Burn Ban / Discussion and appropriate action

Mr. Santry said Alpine has received 4.5 in. of rain to date, and the outskirts of town have received about 6 in.

Mr. Santry recommended the burn ban be lifted and be revisited again in two weeks.

Commissioner Stone made a motion to lift the burn ban, which was seconded by Commissioner Killingsworth, and passed unanimously.

C. Review procedures re Homeland Security Funding for County First Responders & Law Enforcement / Affirm that County cannot advance funds for payment of purchases made utilizing Homeland Security funds

Judge Beard noted that the County has not been “fronting” money to pay vendors for several years. The County cannot afford to do so. We don’t do it for ourselves or for other entities. If another entity would like to front the cash for themselves, that is fine.

It is up to each entity to tell their vendors that payment may take 60 days, or longer.

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

9. Organization Dues

A. Far West Texas County Judges’ & Commissioners’ Association / Discussion and appropriate action

Commissioner Killingsworth made a motion to pay the \$50 dues, which was seconded by Commissioner Ortega, and passed unanimously.

B. Association of Rural Communities in Texas / Discussion and appropriate action

Commissioner Stone made a motion to pay the \$385 dues, which was seconded by Commissioner Killingsworth, and passed unanimously.

10. Pending Infrastructure Grant Matters

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

1. Update on Project & Application Process

2. General and administrative matters related to going forward with and concluding program, bids & proposals, payments to contractors and professionals & other related matters / Discussion and appropriate action to go forward with and close out grant project

Commissioner Killingsworth said there is one more applicant for a septic tank replacement, Husebio Piedra. The cost is \$7,200, but there is only \$800 left of the grant. Mr. Hayes will make an in-kind donation in the amount of \$6,400 to cover the

difference.

Commissioner Ortega made a motion to approve the applicant and to send A.G. Hayes a letter of thanks. The motion was seconded by Commissioner Stone, and passed unanimously.

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

Commissioner Killingsworth said the engineer will soon submit the plans to TCEQ.

C. 2013-2014 TXCDBG Application Process / Discussion and appropriate action concerning submittal of application & related matters

Commissioner Ortega said a public hearing will be held today at 6 p.m.

11. Old Library Renovation Project

A. Update by County Judge on progress

Judge Beard said the project is coming along nicely, but slowly. The south end is probably 50 percent complete. Next week, Road & Bridge crews will help with tearing out some old book cases and carpet on the north side.

B. County Judge's request to declare as surplus or salvage items, various materials from old library building which cannot be reused in this renovation project

Judge Beard said that most bookshelves are being recycled, but there are some items that may have some value to someone, but no value to the County, such as some old cabinets, a sink and metal bookshelves.

Commissioner Stone made a motion declare the items as surplus or salvage, which was seconded by Commissioner Ortega, and passed unanimously.

C. Discussion and appropriate action to go forward with renovation

12. County IT Services / Update on transition by Commissioner Kathy Killingsworth, County IT Chair / Discussion and appropriate action

Commissioner Killingsworth said things are going well. She asked that, possibly on the next agenda, a discussion be had about installing wireless service in the Courthouse. It can be done in three phases.

13. County Clerk / Update / Runoff Election Schedule

Mrs. Martinez said early voting will be held July 23-27.

On July 23, remote voting will be held at BBNP from 1-6.

On July 25, remote voting will be held in Terlingua from 1-6.

On July 27, remote voting will be held in Marathon from 1-6.

On July 24, there will be extended hours from 9-7 in Alpine.

The deadline to request applications by mail is July 23.

The courthouse will be open on Election Day July 31.

14. Public Comment

No public comment was made.

15. 2013 Budget Workshop / Discussion concerning all aspects of County revenues/expenditures and upcoming financial needs for all county departments and other entities funded by the County / Scheduling issues related to adoption of Budget and setting Tax Rate

Judge Beard said the PILT appropriation for 2013 has been approved at the same level, which is \$1.3 million. This is good news.

In her own office, Judge Beard said the budget will need to reflect the move of Betse Esparza into her office as the Deputy EMC. Otherwise, her budget for 2013 is flat.

In the County Attorney's office, Judge Beard noted that there is not as much activity with hot checks due to use of the debit card. That's a revenue stream that has decreased.

Treasurer Ofenstein noted that it will effect the salaries of the employees in that office.

The County Clerk budget is flat, as is the Treasurer's budget.

The Tax Office is flat, except for a 10 percent increase in service maintenance for the tax software. The increase is \$800.

Commissioner Stone reviewed the Road & Bridge budget. He said Mr. Causey was asking to decrease the repairs and maintenance section, but Commissioners concurred that it should be kept flat in case it's needed.

The revenue from federal prisoner should be left flat, said Treasurer Ofenstein. Federal prisoners are not bringing in the income as expected.

Judge Beard noted that every time there is an increase, it is spent.

Commissioners concurred that any increase needs to be put back into the General Fund as the jail doesn't sustain itself.

Treasurer Ofenstein said she needs to make sure the County is being reimbursed for federal prisoners' medical issues.

We need to make sure that J.P. travel is accounted for correctly.

Judge Beard said we need to return to the issue of making sure any phone lines which aren't being used are disconnected, etc.

Judge Beard said that in the District Judge's office, Judge DeHart did not receive a supplement from the County until he had been in office awhile. It's something for Commissioners to think about when a new judge comes in. In the District Attorney's office, Judge Beard noted that after Jesse Gonzales was elected, he received a very large increase in his budget in Pecos County.

Judge Beard received a call from the Pecos County Judge, who noted that Pecos County cannot sustain that budget. (Gonzales will not be re-elected.) It is a district-wide issue that will need to be worked out.

The District Clerk has asked for a \$1,000 increase for a part-time clerk. However, the full budget has already been used this year, with only half the year gone.

The current part-time clerk has moved on.

Commissioner Killingsworth asked if the increase would be necessary to help with the CJIS reporting. Judge Beard said, sometimes, it's necessary for elected officials to pick up the slack themselves.

The Juvenile Probation Department is still working on their budget. However, Judge Beard noted that the State has kicked in an additional \$30,000 for detention funding for the remainder of this year.

Judge Beard said that the previous chairman of the Children's Advocacy Center has told her about some possibly serious funding issues related to financial management. That contract was, therefore, not signed, and no 2012 funding has been disbursed. She said she feels like Commissioners Court needs to be assured that things are in order before the County funds the program for 2012 or 2013.

Judge Beard said she is proposing that all contract agencies be put in the budget at the funding level as 2012. Commissioners expressed that it might not be necessary for contracting agencies to appear before Commissioners since a detailed application was submitted by each agency.

Tax Assessor Betty Jo Rooney said she hopes to be able to present the tax roll at the July 24 meeting.

SUPPLEMENTAL AGENDA

1. County Criminal Court Records and Public Records in County Clerk's Office / Public nature & access to these records & County Judge's comment concerning these matters

Judge Beard said that one of the County's most important functions is as a repository of public records, which are kept in both of our Clerks' offices.

Among those are records of the judiciary, particularly criminal records, which are very clearly, under Texas law, public records.

In the last few days, she said, it has been brought to her attention that one of our law enforcement officers has unilaterally decreed that we have a brand new, highly dangerous criminal offense raging across our Country: “possession and distribution of a public record.” (This was said “tongue-in-cheek.”)

It goes without saying that a County Clerk’s public records are PUBLIC RECORDS.

Anyone is absolutely free to walk into the Clerk’s office, access these records, copy the records, compile the records AND pass these record onto whomever you please. Under the Public Information Act, you’re also entitled to information from law enforcement agencies related to arrests.

While the Clerk’s Office does hold a few confidential documents, the vast majority of the records there are public. Clerks’ offices are critical to all sorts of background checks – for employment, military service, security clearances, licensing, state appointments and public service, among other things. This happens, all across Texas, everyday. There is nothing remotely illegal or even improper about a citizen accessing, copying, compiling or distributing copies of public records, or making a request for public information from a law enforcement agency. In fact, a good part of the DPS computerized criminal history comes from Clerks’ offices.

State law backs this up. Our citizens are entitled to obtain, directly from DPS, virtually the same sort of criminal information that’s contained in County Court Criminal Court files.

Section 411.135, Government Code, is entitled “ACCESS TO CERTAIN INFORMATION BY PUBLIC” and provides for public access to DPS criminal records.

This statute really puts the icing on the cake because it recites that “information obtained, pursuant to this statute, CAN BE RELEASED to any person and used for any purpose.”

Anyone who tries to tell you, or even implies that, it is somehow illegal or improper for you to have ben given, to possess or to distribute a copy of a public record obtained from a Clerk’s office, a Court’s public criminal file or from DPS’s public information is trying to intimidate. Or, maybe they just don’t like what’s in the public record and don’t want you talking about it. Or maybe they’re just plain ignorant.

Last she checked, said Judge Beard, she could not find that possessing a copy of a public record was a criminal offense – maybe in Syria or Uzbekistan, but not in the USA.

Judge Beard said public records are called public records because they ARE public.

So, if a public servant attempts to interfere with your right to possess, copy, distribute – or talk – about a public record, it should be reported to the County Attorney. Because THAT really is a criminal offense called Official Oppression.”

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

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK