

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
TUESDAY, JULY 24, 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

To discuss and take action as appropriate on the following:

1. Minutes / additions / corrections / approval

The minutes from the July 9, 2012 meeting were presented for approval. Commissioner Ortega made a motion to approve the minutes, which was seconded by Commissioner Killingsworth, and passed unanimously.

2. Memorials / Memorial Resolution for former Commissioner, Pct. 4, Abelardo Leyva

Judge Beard noted that several family members were present at the meeting, including Commissioner Leyva's wife, Lydia. Judge Beard said he was quite, strong and a good listener. She said he was a delight to work with. Even after he became ill, he continued on with his responsibilities with great diligence.

Judge Beard read the memorial resolution for the record. It is attached and made a part of these records.

Commissioner Ortega made a motion to adopt the resolution, which was seconded by Commissioner Stone, and passed unanimously.

3. Recognitions / Post Park / Recognize Tyler Curtis for work being performed at Park to attain Eagle Scout Badge/ Commissioner Pct. 3

Commissioner Ortega said it is moving that a young gentleman like Mr. Curtis wants to do such public service. He wants to recognize him for his service.

4. Treasurer

A. General Bills / Discussion and appropriate action

Treasurer Ofenstein noted that August insurance payment to TAC, state quarterly payments, and jury payments. She said there is a \$37,982 reimbursement from Homeland Security.

Commissioner Ortega asked why there wasn't a payment for the Sheriff's portion of the AT&T bill at the Marathon Justice Center. Treasurer Ofenstein explained that it's included in the Sheriff's Department's total long distance bill.

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

Commissioner Killingsworth abstained from 77135.

Several walk-in bills were presented, including: \$5,720.98 for prisoner's board; a \$19.49 reimbursement to Judge Beard for election workers' lunch; four invoices from Hewlett Packard for the DA's office; and \$120 for printco for construction signage.

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

Judge Beard abstained from the elections lunch bill.

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 reports with Commissioners.

It was noted that a transfer will be necessary soon. It will be further discussed during the budget workshop.

Commissioner Killingsworth made a motion to move specified funds from the general fund into Courthouse Preservation. Commissioner Ortega seconded the motion, which passed unanimously.

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

2009 Operation Stonegarden Grant

Operation Linebacker

HIDTA / Lonestar

Border Star JAG

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

Before going into the workshop, Treasurer Ofenstein said the I&S payment are due Aug. 15. She pays them electronically, which means they need to be done Aug. 13. The payment totals \$84,621. There is only \$24,000 in the account now.

Commissioner Killingsworth said she wants to make sure the 2012 and 2013 fiscal years are kept separate so there is no shortage for debt payments. Discussion between Treasurer Ofenstein and Commissioner Killingsworth about the debt payments due in the next several months followed.

Commissioner Killingsworth made a motion to transfer \$100,000 of the PILT payment into I&S. Commissioner Ortega seconded the motion, which passed unanimously.

Commissioner Killingsworth made a motion to approve making the debt payments on or before Aug. 13. Commissioner Stone seconded the motion, which passed unanimously.

Commissioner Killingsworth made a motion to fund the San Vicente and Terlingua school districts in the amounts of \$102,711.09 and \$34,237.02, respectively, from the 2012 PILT payment. Commissioner Ortega seconded the motion, which passed unanimously.

5. Officials' Monthly Reports / Discussion and appropriate action

There were no monthly reports presented.

6. Tax Assessor Collector

A. 2012 Certified Tax Roll as presented by Tax Assessor Collector / Discussion and appropriate action

Ms. Rooney said she's not received anything from the Appraisal District, yet. Tomorrow is the last day to certify the tax roll. It looks like the certified roll will be about 1/10 of a percent higher than last year. More information about the tax rate will be shared during the budget workshop.

B. Other general matters related to 2012 Tax Roll, effective Tax Rate and 2013 Budget / Discussion and appropriate action

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) cattle guards, fences and other means of containing livestock, safety issues and equipment 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 there has been some good rain in South County. They have been blading roads. Right now, crews are doing some mechanic work on the equipment. They fixed a generator at the South County ERC. He said most of the crew has been working on the remodel at the old library building, and they've spent some time mowing right-of-ways.

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 they still haven't made the trade on materials, but that will finish out the project.

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; emergency management issues related to burn 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, mark EMC's birthday / Discussion and appropriate action

EMC Tom Santry said things have been very quiet. He said there has been some controlled burning since the burn ban was lifted.

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

9. County IT Services

A. General update on transition to contract provider and progress / Discussion and appropriate action for general IT work to go forward

Commissioner Killingsworth said all the site walls have been transferred, and things are working well.

B. Discuss & consider Nectar Computers proposal to install wireless network in the Courthouse / Discussion and appropriate action

Commissioner Killingsworth said the entire courthouse would be wired for \$3,325. It would be a secure network for public and employee use, and would be encrypted.

Mr. Hannan has recommended that those offices with big databases not use the wireless network.

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

10. County Judge / Permian Basin Community Center / Request to extend agreement for Mental Health Services / Discussion and appropriate action

Commissioner Ortega made a motion to extend the agreement, which was seconded by Commissioner Stone, and passed unanimously.

11. Texas Department of Motor Vehicles Imposition of Optional Fees (Calendar Year 2013) / Discussion and appropriate action

Judge Beard said we cannot increase the fee, as we are already at the max. Therefore, there is no action necessary.

12. Pending Infrastructure Grant Matters

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

1. Update on Project & Application Process

Commissioner Killingsworth said all of the installation is complete. There is just some final paperwork left to complete. Fifty-one systems were installed this go-round, bringing the total to approximately 100.

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

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 needs to submit the plans to TCEQ.

C. 2013-2014 TXCDBG Application Process

1. Public Hearing Reports / Commissioner Pct. 3 Ruben Ortega

Commissioner Ortega said 37 people attended the hearing. There were some good ideas presented. He believes they are going to apply for a back-up well for the Marathon Water Supply Corp.

2. Discussion and appropriate action concerning submittal of application & related matters

13. Courthouse Grounds and other County grounds / Update concerning protecting pine trees from pine bark beetles / Discussion and appropriate action

Judge Beard said Extension Agent Logan Boswell has said the best thing to do is to keep the trees from getting stressed, so they have been doing lots of watering. Should the beetles be detected, Mr. Boswell can spray the trees.

14. Pending Litigation / Consultation with 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 2011-10-B0192-CV, Kassandra Mead, Applicant, VS. Sheriff Ronny Dodson, Brewster County, Texas, Respondent, In the 394th Judicial District Court, Brewster County, Texas

A. Executive Session Pursuant to § 551.071, Government Code, VTCA, to seek the advice of counsel concerning pending litigation, a settlement offer, and/or privileged matters

At 9:43 a.m., Judge Beard announced that Commissioners Court was into executive session pursuant to §551.071, Government Code, VTCA, to discuss pending litigation related to the Olibas and Mead cases. The courtroom was cleared of all but Commissioners Court. Attorney Greg Hudson participated by phone.

Reconvene in Open Session

At 10:37 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session related to the Emergency Management Department, pursuant to §551.071, Government Code.

Judge Beard commented that while both suits are styled against the Sheriff's Department and the County, the bottom line is that it is our taxpayers' money that is at stake, even when covered by an insurance policy.

Judge Beard asked if there was any action to be taken as a result of the executive session.

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

Commissioner Killingsworth made a motion to allow Greg Hudson to join the plaintiffs in requesting another mediation hearing in the Pascual Olibas case on behalf of the County to possibly reach a settlement. Commissioner Ortega seconded the motion, which passed unanimously.

Commissioner Killingsworth made a motion to request that Sheriff Ronny Dodson meet his statutory duties in the development of policies relating to qualifying bailbondsmen to write bonds in the County by Aug. 6, 2012. Commissioner Ortega seconded the motion, which passed unanimously.

15. Chapter 60, Texas Code of Criminal Procedure Disposition Completeness Reporting

A. Update

Conrad Arriola said that the County is at about 63 percent compliance, as concerns adult criminal cases. As concerns juvenile cases, we are at about 68 percent.

Mr. Arriola said we're still trying to pinpoint exactly where the reporting is lacking.

Judge Beard said she believes there is a need for another directive from Commissioners Court.

Commissioner Killingsworth made a motion that all employees in all courts use their time efficiently in order to enter information relating to criminal procedure disposition. Time is of the essence as grant funding for the County is dependant upon reaching the 90th percentile. Commissioner Ortega seconded the motion, which passed unanimously.

***B. Personnel Matters / Duties of County Department Heads in Reporting
C. 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***

Reconvene in Open Session

D. Discussion and appropriate action resulting from Executive Session

16. Grant Assurances, Terms and Conditions / Need for Compliance by all County Departments / Discussion and appropriate action

Judge Beard said she thinks Commissioners need to remind all department heads that the terms and conditions of grants must be followed. The federal government can ask for repayment of a grant if they are not followed.

17. 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 she believes that there are some cuts that can be made, and they are reflected on the current worksheet.

She think there are even more cuts that can be made. Commissioners are going to have to decide what they want to do in regard to increased revenues, where they want to allocate PILT, and increases in rates.

She said she doesn't see a way to get the budget done without some increases in rates.

Judge Beard said she hopes to develop a strategy for being less dependent on the PILT payment.

Treasurer Ofenstein said she and the Tax Assessor received the best possible figures from the Appraisal District last Friday. She reviewed the formula for the effective tax rate, and also discussed the rollback rate, which is very high, a difference of about 15 cents.

Right now, transferring the PILT payment covers 35 percent of the debt. Without the PILT, the debt rate is raised to 9 cents.

Using those figures, Treasurer Ofenstein said the budget "breaks even."

Judge Beard said Commissioners Court has committed to making some sort of transfer to keep the debt rate low.

Commissioner Killingsworth suggested making just a \$100,000 transfer each year over the next three years to "wean" the budget off of the PILT dependence.

When using a transfer for debt payment, Treasurer Ofenstein said the worksheet shows a positive balance.

Commissioner Killingsworth said that is based on revenues this year, which are now falling short of the budget.

Discussion continued about the tax rate. Treasurer Ofenstein has run several figures, and says minor changes could generate significant revenue.

Commissioners noted that whether or not the I&S rate or M&O rate is increased, the taxpayer is still the one writing the check. The question is what they're most comfortable writing a check for: operations or debt.

Commissioners talked about the tax rate for a \$100,000 home.

They then discussed the possibility of pay increases.

Commissioner Killingsworth noted that raised the tax rate by one cent would provide a three percent “across the board” raise to employees.

Judge Beard noted that it’s possible, due to health insurance cost increases, that, even with a raise, employees who carry their families on their policy could end up with less take home pay.

Judge Beard noted that there are some personnel issues which need to be addressed, such as how to supplement the County Attorney employees as the number of hot checks submitted to the County Attorney’s office for prosecution is declining substantially due to the use of debit cards, and the need for janitorial services at the old library building.

Commissioner Ortega asked about budgeting the Tourism Council’s use of office space at the old library building. Judge Beard said it needs to be considered an included.

A discussion followed the possibility of transferring enough of the PILT this year to cover next year’s debt payment.

Judge Beard said that, in the next pass on the budget, she’ll cover many of the things talked about today.

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

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK