

**CALLED MEETING OF THE BREWSTER  
COUNTY COMMISSIONERS COURT  
THURSDAY, SEPTEMBER 6, 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</b>      |
| <b>CAROL OFENSTEIN</b>     | <b>COUNTY TREASURER</b>    |

**PUBLIC HEARING ON PROPOSED 2013  
BREWSTER COUNTY BUDGET**

***1. Review of 2013 Proposed Budget***

*Judge Beard explained that in smaller counties without County Auditors, the County Judge serves as the budget officer. It is then her job to make sure that the budget is created and brought to Commissioners Court.*

*Brewster County historically relies on the Treasurer's Office to assist in the development. Commissioners also solicit written input from County officials and department heads.*

*Judge Beard said there is not anything which actually requires that Commissioners Court be involved in developing the budget, but due to her own personal perspective, Judge Beard said she has always involved them.*

*During a series of workshops, Commissioners Court, the Treasurer, non-profit agencies, the Tax Collector, the Chief Appraiser – all are asked for input. A proposed budget has been on file for some time.*

*The County has worked for a number of years to keep the tax rate low. It is facing some challenges this year, and has always tried to operate with reserves. Several financial procedures have been developed to address some looming threats. Judge Beard thanked Treasurer Ofenstein for her help.*

*In the last several years, the tax base has been growing, including a boost from major projects. We don't have any of that this year, and there is nothing on the horizon.*

*The national economy is effecting Brewster County; Judge Beard said we're fortunate not to have had a decrease in the taxable values. The County is facing the same cost increases which families and business are facing. The cost of paving, including fuel, is effecting the Road & Bridge Department.*

*Some new facilities were brought online this year, and have caused some increase in costs.*

*While the State can use attrition to cover workloads with less employees, that is a challenge in a small county. We struggled to provide for a meaningful cost of living adjustment. Employees who make less than \$40,000 annually will see a 1.5 percent increase; that amount will just cover an increase in insurance costs.*

*There aren't any large projects on the horizon. What is being done is being done in-house and expenditures are being kept to a minimum.*

*The budget will not reflect any infrastructure or law enforcement grants. Those are provided for outside of the general budget.*

*Treasurer Ofenstein then reviewed the total budget and the tax rate.*

*The total budget is \$5,709,949. Total debt service is \$579,936. Of that, the I&S tax revenue will be \$477,936, along with \$100,000 from PILT.*

*Total revenue is \$5,000,347.*

*The proposed tax rate is .3622, an increase of approximately two cents. The M&O rate is .2818 and the I&S rate is .0804.*

## ***2. Public Comment regarding 2013 Proposed Budget***

*No public comment was made.*

## ***3. Discussion among members of Commissioners Court and Public***

***NOTE: This budget will raise more total property taxes than last year's budget by \$162,209, and 25% of that amount, \$ 41,208, is tax revenue to be raised from new property added to the tax roll this year.***

# **PUBLIC HEARING REGARDING TAX RATE AND RELATED MATTERS**

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

## ***1. Public Hearing regarding the Proposed 2012 Tax Rate***

|                                    |              |
|------------------------------------|--------------|
| <i>Maintenance &amp; Operation</i> | <i>.2818</i> |
| <i>Interest &amp; Sinking</i>      | <i>.0804</i> |
| <i>Total Rate Proposed</i>         | <i>.3622</i> |

### ***a. Opportunity for Public Comment***

*The proposed tax rate was reviewed. No public comment was given.*

### ***b. Discussion among Members of Commissioners Court and Commissioners Court and Public***

**2. Announce date and time to set Tax Rate and give notice of 2<sup>nd</sup> hearing regarding Tax Rate and other matters related to notice and scheduling**

*The 2<sup>nd</sup> hearing will be held Monday, Sept. 10, at 10 a.m.  
Commissioners will vote on the tax rate on Sept. 17 at 10 a.m.*

**CALLED MEETING AGENDA  
(This meeting will begin following  
Budget Hearing & Tax Rate Hearing)**

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

**1. 2013 Proposed Brewster County Budget**

**A. Discussion**

**B. Adoption, Amendment or other appropriate action concerning 2013 Budget**

*Commissioner Killingsworth made a motion to approve the 2013 budget in the amount of \$5,709,949. Commissioner Ortega seconded the motion.*

*Commissioners Stone, Killingsworth, Ortega and Judge Beard voted in favor of the motion.*

**2. Review Schedule for 2<sup>nd</sup> Hearing on Tax Rate & Adoption of Tax Rate**

**3. Minutes / additions / corrections / approval**

*The minutes of the Aug. 28, 2012, meeting were presented for approval. Commissioner Ortega made a motion to approve the minutes, which was seconded by Commissioner Killingsworth, and passed unanimously.*

**4. Treasurer**

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

*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 77740-41.*

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

*Specified Activity Report  
Cash Flow Predictions*

*Cash Report  
Payroll Reports*

**Budget Analysis Usage Report  
Receipt File Listings**

**Check Register  
Other Financial Reports as  
Requested by Commissioners**

*Treasurer Ofenstein reviewed the reports with Commissioners.*

**C. Designation of County Fiscal Agents for County funded Departments  
which serve more than one County / Discussion and appropriate action**

*Judge Beard said this is a system which works well when there are multi-county departments or entities. For instance, Treasurer Ofenstein serves the Tri-County Juvenile Probation Department. Also on the table is the Pecos County Judge's offer to have Pecos County serve as the fiscal agent for the 83<sup>rd</sup> District Attorney.*

*Commissioner Ortega made a motion that the Treasurer continue to serve as the fiscal agent for the Tri-County Juvenile Probation Department. Commissioner Stone seconded the motion, which passed unanimously.*

*Commissioner Stone made a motion to approve Pecos County as the fiscal agent of the 83<sup>rd</sup> District Attorney's Office, should the Pecos County Commissioners Court approve. Commissioner Killingsworth seconded the motion, which passed unanimously.*

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

**5. Officials' Monthly Reports / Discussion and appropriate action**

**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) 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***

*Commissioner Stone said the crew has mostly been working on the parking lot at the football stadium, along with work at the old library and at the Post Park.*

*Superintendent Steve White thanked Commissioners for the County's assistance on the parking lot. Board members Paul Loeffler, Mo Morrow and Conrad Arriola were also present, as well as Financial Officer Darrell Dodds.*

***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 are working on settling on the materials left on site. There is money left in the grant to purchase them.*

***C. Replacement of Cattleguard on Wagon Road at intersection of FM 1703 / Discussion and appropriate action***

*Judge Beard said public comment was heard at a recent meeting. She said it was necessary to go back and look at the restrictive covenants regarding the property before making a determination. On Page 5, there is a right of ingress and egress for the grantors described as a ranch animals. That right can be eliminated by fencing.*

*Dick Serkland, who lives in Sunny Glen Estates, says he has not seen a cow "look at that cattle guard" in 12 years. He said the guard is sinking due to heavy traffic flow, and that it is a safety issue.*

*Judge Beard said that if a cow or horse gets loose and there is no guard, there are also liability issues.*

*Jerry Denton, also a resident, said he believes there is absolutely no use for the cattle guard. He said the south end of the cattle guard has fallen off, and the weeds have grown so that it's hard to see where the cattle guard is.*

*Pam Turner, also a resident, said that while the Court has the right to repair and replace the cattle guard "in the best interests" of the County residents. She said the County residents want the cattle guard removed.*

*Judge Beard said the County Attorney has been consulted at length, and reminded the audience of the devastating effects when a motorist hits a cow on a highway.*

*Commissioner Stone proposed that the cattle guard be replaced.*

*He made a motion to replace the cattle guard, which was seconded by Commissioner Ortega. The motion passed unanimously.*

*Mrs. Turner asked about the size of the cattle guard.*

*Commissioner Stone said it will be a 20-foot cattle guard (two lanes wide).*

*She asked if Commissioners believe that is in the best interests of the residents. Judge Beard said they take the advice of the County Attorney on legal matters.*

*Judge Beard noted that when they appeared before, there was an attorney representing the property owners. That attorney, Mimi Smith, said then that an acceptable solution was the replacement of the cattle guard with a better cattle guard.*

***D. Community Facilities / Commissioner Pct. 3 Ruben Ortega / Plans to complete Marathon Community Center Porch Project / Discussion and appropriate action to move forward & complete project***

*Commissioner Ortega said he has received some quotes. He plans to use cedar beams to try to match the fire station. The cost will be about \$13,500. He has about \$10,000 which has been raised by the Friends of the Marathon Community Center. He would like to take the remainder from the Community Facilities budget. He will need to make the doors ADA accessible in the near future.*

*Commissioner Ortega made a motion to provide the difference from Community Facilities, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***E. Cooperative Project / Buck Stadium Parking Lot Paving for Alpine ISD / Commissioner Pct. 1 Asa Stone / Discussion and appropriate action regarding completing project***

***1. Update***

*The issue was updated in an earlier discussion.*

***2. Discussion and appropriate action to complete project***

***7. 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 / Discussion and appropriate action***

*EMC Tom Santry is ill, so this item was postponed.*

***B. County Judge's update on regional efforts to mitigate 911 disruptions which have repeatedly been caused by cutting AT&T cable (Latest incident on Monday, August 27, 2012)***

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

***8. 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***

*Commissioner Killingsworth said all of the tanks have been replaced. There may be some close-out paperwork left to complete.*

***2. General and administrative matters related to concluding program, payments to contractors and professionals & other related matters / Discussion and appropriate action to close out grant project***

***B. 2011/2012 Texas Department of Rural Affairs Grant Program (R.O. facility for Study Butte Water Corp.)***

***1. Update / Bid schedule including award date & other matters related to engineering and acquisition***

*Engineer Travis Roberts is working to get everything ready for the bids, which are due tomorrow.*

***2. Discussion and appropriate action to go forward with grant***

***C. 2013-2014 TXCDBG Application Process***

***1. Update***

*Commissioner Ortega said he hopes to have the survey process finished in about five days.*

***2. Discussion and appropriate action to go forward with application***

***9. Request to Replace Range and Convection Oven in Brewster County Jail from Dedicated Funds or Budget Line Items / Discussion and appropriate action***

*Judge Beard the current items are original to the jail, which was completed in 1995. They were new at that time.*

*Ross Burling, who works at the jail, said they would like to replace them with very similar items. What they have been using have given great service, they are just worn out. Commissioners were provided with information about the range and convection oven. The cost for both is about \$16,000, well below bid limits.*

*Judge Beard said the money is available in the jail capital fund.*

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

*Mr. Burling said before they are ordered, he will consult with Courthouse Maintenance to make sure they get the correct wattage.*

## **10. Additional Matters Related to Adoption of 2013 Budget**

### **A. Tri County Juvenile Department**

#### **1. Tri County Juvenile Budget / 2012/2013 Recommendations concerning adoption / Discussion and appropriate action**

*Judge Beard said the budget has been provided for at the current level. There were some issues related to State funding that caused in delay in getting the accurate information. The actual budget will probably be about \$13,500 higher, and Judge Beard said she and the Treasurer are confident they can figure out how to absorb the amount.*

*The State has cut grant funding for the administrative assistant, who has been doing a good job supporting the department.*

*Additionally, there is the ongoing problem of juvenile illegal aliens. Detention costs have escalated exponentially without federal funding to provide for it.*

*Commissioner Killingsworth made a motion to adopt the Tri-County Juvenile Probation budget in the amount of \$118,386. Commissioner Stone seconded the motion, which passed unanimously.*

#### **2. Contracts and Agreements for Detention of Juvenile Offenders**

##### **a. Discussion and appropriate action**

*Judge Beard said the contract with Tom Green County is for \$95/day. She recommended approval of the contract.*

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

##### **b. Review ongoing costs & issues related to detaining Juvenile illegal aliens / Discussion and appropriate action**

### **B. General Personnel Matters related to 2013 County Budget**

#### **1. Request to implement plan to slow increase in number of County**

***Employees and to provide for possible decrease in number of County employees through attrition in larger County Departments by instituting a review process before vacancies are filled in larger Departments (Departments with four or more employees)***

*Judge Beard said that one of the Commissioner Court's responsibilities is to set salaries and wages, and to institute and enforce the budget. She said in this small county, if we cut staff, we cut services. Given the times, however, it is beneficial if we conduct a review each time there is a vacancy in larger departments. The review would have two purposes: 1) to determine if the position needs to be filled or possibly abolished, which would probably be pretty rare; 2) to avoid the tendency to fill a vacancy at the same salary as the person who previously held the position.*

*Judge Beard said the review would be held in partnership with department heads. Commissioners were provided with a proposed policy from Judge Beard.*

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

***2. Commissioners' Court's authority related to fixing salaries/wages in budget / Discussion and appropriate action***

***11. Proposed Order establishing aggregate annual limitations for responding to PIA (request for public information) requests from a single requestor per section 552.275 of the Public Information Act / Discussion and appropriate action***

*County Attorney Steve Houston said if Commissioners pass the order, he will help coordinate it. What the order would allow for is employees who receive a request to keep track of the work and time they spend on the request, and report it to a single coordinator.*

*After 36 hours have been spent on a request, the requestor can be charged for the time. The PIA establishes the fee.*

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

***COMMISSIONERS RECESSED UNTIL 1:15 P.M.***

***12. Pending Litigation / Confer with Legal Counsel***

***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***

- a. Executive session to confer with legal Counsel about:**  
**(A) pending or contemplated litigation; or (B) a settlement offer; or**  
**(2) on a matter in which the duty of the attorney to the governmental**  
**body under the Texas Disciplinary Rules of Professional Conduct of**  
**the State Bar of Texas clearly conflicts with this chapter. (Privileged**  
**Matters)**

*At 1:57 p.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to §551.071 of the Government Code, VTCA, to confer with legal counsel about civil action related the Pascual Q. Olibas and Cheryl Olibas and Freedom Bail Bonds vs. Brewster County. The courtroom was cleared of all but Commissioners Court and the County Attorney. Attorney Greg Hudson participated by phone.*

***Reconvene in Open Session***

*At 2:15 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to confer with legal counsel. She asked if there was any action to be taken as a result of the executive session. No action was taken.*

- b. Discussion and appropriate action resulting from Executive Session**

**13. County Liability Issues concerning larger Chili Cook-Offs / Confer with Legal Counsel**

- a. Executive session to confer with legal Counsel about:**  
**(A) pending or contemplated litigation; or (B) a settlement offer; or**  
**(2) on a matter in which the duty of the attorney to the governmental**  
**body under the Texas Disciplinary Rules of Professional Conduct of**  
**the State Bar of Texas clearly conflicts with this chapter. (Privileged**  
**Matters)**

*At 2:16 p.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to Section §551.071 of the Government Code, VTCA, to confer with legal counsel about privileged matters about county liability issues concerning larger chili cook-offs. The courtroom was cleared of all but Commissioners Court and the County Attorney.*

***Reconvene in Open Session***

*At 2:47 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to confer with legal counsel. She asked if there was any action to be taken as a result of the executive session. No action was taken.*

***b. Discussion and appropriate action resulting from Executive Session***

***14. Grant Matters related to infrastructure, Homeland Security & Law Enforcement Grants***

***A. Grant Eligibility matters related to CJIS reporting (DPS Criminal Justice Information System)***

***1. Update***

*Judge Beard said the Criminal Justice Information System is managed by the Texas DPS. It is information related to an individual's criminal history. Throughout various steps of an investigation, reports needs to be made to DPS. The State has now tied eligibility for Homeland Security grants to a reporting rate of 90 percent from 2006. Brewster County is not at 90 percent and is very likely already ineligible. In the coming year, the rate will be tied to all law enforcement grants and all non-profits.*

***2. County Personnel / Duties & Performance related to CJIS reporting***

***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 1:20 p.m., Judge Beard announced that Commissioners Court was going into 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. The courtroom was cleared of all but Commissioners Court and the County Attorney, County Clerk, District Clerk, Jail Administrator and Sheriff's Office Secretary.*

***Reconvene in Open Session***

*At 1:56 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session pursuant to Section §551.074, Government Code, VTCA. She asked if there was any action to be taken as a result of the executive session.*

*No action was taken.*

***b. Discussion and appropriate action resulting from Executive Session***

***3. Discussion and appropriate action to improve CJIS reporting & ongoing compliance with CJIS reporting requirements***

***B. Confer with legal counsel on matters related to compliance with State & Federal Grant assurances, terms & conditions, & provisions of Texas Election Code***

***a. Executive session to confer with legal Counsel about:***

- (A) pending or contemplated litigation; or (B) a settlement offer; or  
(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.  
(Privileged Matters)***

*At 2:48 p.m., Judge Beard announced that Commissioners Court was going into executive session pursuant to Section §551.071 of the Government Code, VTCA, to confer with legal counsel on matters related to compliance with State & Federal Grant assurances, terms & conditions, & provisions of Texas Election Code. The courtroom was cleared of all but Commissioners Court and the County Attorney. Attorney Greg Hudson participated by phone.*

***Reconvene in Open Session***

*At 3:17 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to confer with legal counsel on matters related to grant assurances and the Texas Election Code and related matters. She asked if there was any action to be taken as a result of the executive session.*

*No action was taken.*

***b. Discussion and appropriate action resulting from Executive Session***

*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***