

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
MONDAY, DECEMBER 10, 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
MIKE PALLANEZ	COMMISSIONER PCT. 4
BETTY JO ROONEY	TAX ASSESSOR
BERTA RIOS-MARTINEZ	COUNTY CLERK
JERRY SOTELLO	J.P., PRECINCT
CAROL OFENSTEIN	COUNTY TREASURER

1. Invocation, Pledge of Allegiance & Welcome to New Commissioner, Pct. 4

Judge Beard led the invocation and Pledge of Allegiance.

Judge Beard said it is her pleasure to welcome our newest Commissioner, Commissioner Pallanez. She said he was sworn-in last week, and will participate in the formal swearing-in ceremonies in January.

2. Minutes / additions / corrections / approval

The minutes from the Nov. 19, 2012, meeting were presented for approval.

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

3. Treasurer

A. General Bills / Discussion and appropriate action

Treasurer Ofenstein noted that a truck was purchased out of the Sheriff's Awarded Account at a cost of \$29,000. The money in the account comes from seizures.

Judge Beard asked if we are subject to bids on this account. (Had there been another purchase from the same vendor which would result in exceeding the bid limit?) Treasurer Ofenstein said she assumes so, and was unaware of the purchase until she received the invoice. She will check on this.

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

Three walk-in bills were presented from AT&T and Pinnacle Propane.

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

Commissioner Ortega abstained from the Pinnacle Propane bills.

Treasurer Ofenstein said \$11,750 has been received from the Department of Agriculture, which is owed to Engineer Travis Roberts for grant work.

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

Treasurer Ofenstein said the phone line has been cancelled at the community center in South County.

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 presented the reports to Commissioners.

Treasurer Ofenstein said she is showing a positive balance in the Courthouse Preservation fund because she needs to transfer \$3,931 to the Texas Class account.

Commissioner Killingsworth suggested that, as there are still costs associated with the re-modeling project at the Old Library, the funds be kept in the checking account for now.

Treasurer Ofenstein said she also needs to transfer \$9,480 from Texas Class into the general fund.

Commissioner Killingsworth made a motion to transfer \$9,500 from the Texas Class account into the general fund. Commissioner Ortega seconded the motion, which passed unanimously.

C. Proposals to provide Retail Electrical Power to County

1. Review of competitive process used to solicit proposals & recommendations from Treasurer regarding which proposals are best

Judge Beard said the Treasurer's Office solicited proposals and went through the appropriate competitive process, as discussed with the County Attorney.

Treasurer Ofenstein said only two firms responded with proposals. Two other firms responded but did not submit proposals. Triangle included taxes. Cavello, which is the current provider, is a state firm through the GLO. They gave two rates, one is fixed and the other fluctuates. A Cavello rep told Mrs. Ofenstein that once some repairs are made on a station in the Odessa area, the fluctuating rate will decrease. Treasurer Ofenstein recommended staying with Cavello.

2. Discussion and appropriate action concerning proposals and entering into new agreement for electrical power

Commissioner Stone made a motion to approve the fluctuating agreement with Cavello. Commissioner Ortega seconded the motion, which passed unanimously.

D. 2013 Texas County & District Retirement System Plan

1. Review Current Plan

Treasurer Ofenstein reviewed the rates for the last few years. For 2013, the recommended rate is 10.24 percent.

She said Commissioners need to decide if they want to include a Cost of Living increase for retirement.

Commissioner Killingsworth said Commissioners need to know the costs associated with an increase.

Treasurer Ofenstein will get more information, and this item will be revisited later in the meeting.

Later in the meeting, Treasurer Ofenstein said there is a flat rate increase option, as well as a retiree by retiree option, which is based on time.

Either way, it will cost the County about \$4,000. However, the time-based option benefits the retirees more because the longer they've been retired, the more benefits they'll receive.

Commissioner Killingsworth said the TCDRS should come next year during budget discussions to explain and assist with the retirement rate.

Commissioner Killingsworth made a motion to increase the cost of living adjustment for County retirees at the 60 percent CPI which increases the County's contribution to the TCDRS an addition .22 points. Commissioner Ortega seconded the motion, which passed unanimously.

2. Discussion and appropriate action concerning renewing current plan or making adjustments to plan

E. Other general administrative & procedural matters related to Treasurer's

Office / Discussion and appropriate action for work of Treasurer's Office to go forward

(Note: End of year closeout matters will be considered later in this agenda)

4. Officials' Monthly Reports / Discussion and appropriate action

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. Resolution in support of Sul Ross State University & acknowledgment of recent support & cooperation by the Texas State University System / Discussion and appropriate action

Judge Beard said in the last few weeks, there's been a great deal of discussion, which was stirred up by an ill-advised idea to move Sul Ross to the Texas Tech System.

The support for Sul Ross in the days since has been astounding and heartening, she said. The Chancellor has visited, and reiterated the Texas State System's support on several occasions.

Judge Beard suggested a Commissioners Court resolution in support of Sul Ross remaining in the Texas State System, and a letter to Chancellor McCall in appreciation of his work.

Commissioner Killingsworth made a motion approving the resolution and letter, which was seconded by Commissioner Ortega, and passed unanimously

6. Tax Assessor Collector / Renewal of Surety Bond for Tax Assessor Collector which expires on December 31, 2012 / Discussion and appropriate action

This bond is, as required by the state, \$52,000.

Commissioner Killingsworth made a motion to approve the surety bonds for Betty Jo Rooney and her staff. Commissioner Ortega seconded the motion, which passed unanimously.

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 said things have been very quiet.

B. Bill from Allied International Emergency, LLC / Discussion and appropriate action concerning why bill was incurred, source of payment and making payment

Mr. Santry said the County has received a bill for \$1,872 from Allied International. He said on Tuesday, Sept. 25, he was notified that a deputy sheriff, while patrolling on Hwy. 90, encountered a cloud of mist, and then began driving across hard white granules. He exited the vehicle, and upon returning the vehicle, became dizzy.

A HAZMAT team was requested by the Sheriff's Office. The Alpine VFD said they did not have enough people to respond. Neither did Fort Stockton have a HAZMAT team. Allied International, a Midland firm, was eventually contacted, and said they could respond, but needed a contract first. It was decided that the receipt of the contract by Mr. Santry by email would suffice. Once the email was received, the representative called Mr. Santry and said they were on their way.

However, at 1:55 a.m., Chief Deputy Skelton said the substance had been determined to be hail. Allied International was contacted and told their services would not be needed after all.

Judge Beard said Mr. Santry acted on the best information he was given, and Allied International did send a team, which is not without cost.

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

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

Deputy EMC Betse Esparza gave a brief review of a FEMA planning meeting she attended in Marfa last Wednesday.

8. Road & Bridge Department / Community Facilities

A. Road & Bridge Superintendent's Report

General updates on maintenance and repairs for all county roads & state of County Roads System; 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 crews have been working a lot at the Old Library. They worked on patching potholes in Marathon, and they are cleaning turn-outs on Benge Road and Mills Road, which will continue through the first of the year. They are still mowing right-of-ways in Terlingua Ranch, and are almost finished. They will be getting inspection stickers for all the vehicles this year. Signs and sign posts are being replaced throughout the County.

Commissioner Ortega said a court bench has been donated from the old federal courthouse, and the Road & Bridge crew needs to pick it up.

Mr. Causey said they are still trying to clean up at the Marathon Community Center, and they need to drop off some scrap metal in a container which is going to be picked up Thursday. The other trash will be sent to the dump.

Commissioner Pallanez asked which cattle guards are maintained by the County.

Mr. Causey said the County only maintains those cattle guards which are on County roads.

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

9. Pending Infrastructure Grant Matters

A. Colonia Construction Fund Application (S. County 2nd Septic Tank replacement program) / Final Review of Project by Commissioner, Pct. 2 Kathy Killingsworth

Grant Administrator Jerry Carvajal said he submitted the final paperwork a couple of weeks ago. He hopes that reimbursement will be received before the end of the year.

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

1. Update on progress after award of bid

Engineer Travis Roberts said most of the parts should be completed by the end of the week, after which the unit will be fabricated. It should then be brought to the site, hopefully about mid-January.

A replacement unit to be used as a back-up has now been approved by TCEQ.

2. Reverse Osmosis Water Treatment Unit / Issues related to delayed payment to Engineer by State / Discussion and appropriate action to see that Engineer is timely paid

This item was addressed earlier in the meeting.

3. Discussion and appropriate action to go forward with grant project

C. 2013-2014 TXCDBG Application Process / Marathon Water Supply Corp. improvements

1. Update

2. Discussion and appropriate action to go forward with application

10. Judge's comments & discussion concerning federal & state grant mandates and other Federal requirements for County offices requirements and their impact on County, with particular emphasis on those impacts on matters in items 10 & 11 / Discussion

Judge Beard said there is a large number of federal requirements which impact County offices. This has been addressed several times as it pertains to law enforcement. It needs to be addressed over and over again, as it has an effect on tax dollars and County time. In today's meeting, both items 11 and 12 are largely driven by federal requirements.

11. Brewster County Sheriff's Chief Deputy Ryan Skelton / Local Border Security Grant Program Presentation

A. Review of Border Star Grant Operation by Joint Operation Intelligence Centers and Administered by Texas Rangers / Review Application, reporting requirements, overtime & overtime policy for this grant and other law enforcement grants, fuel and operation cost reimbursements and other matters related to this grant / Discussion

Chief Deputy Skelton said the Border Star grant has come up for application again. It is now called the Local Border Security Program and is run out of the Joint Information Center in Marfa. This grant allows deputies to work overtime on grant-related projects, and covers fuel reimbursement. Deputy Skelton said he is trying to pare down the grants in which the Sheriff's Office participates. The grant does depend on CJIS reporting. Conrad Arriola said the County is at 73 percent CJIS reporting. Judge Beard said it is decreasing, and is unacceptable. The State has a 90 percent disposition completeness requirement for grant funding.

Deputy Skelton said this grant involves a massive amount of reporting from both the Sheriff's Office and the Treasurer's Office. He said it would be a back-up grant to Stonegarden.

Commissioner Ortega made a motion to approve a resolution allowing for the application for Border Star. Commissioner Killingsworth seconded the motion, which passed unanimously.

B. CJIS Disposition Completeness Reporting as it impacts this grant application and other law enforcement, JAG, VOCA & VOWA grants grant matters / Discussion

Judge Beard said a plan is needed for CJIS reporting at the front end in the jail. Deputy Skelton said the jail has been given new codes, etc. He said he is still trying to figure out where the problem lies.

Judge Beard said she understands there are various issues, and that she appreciates Deputy Skelton's leadership, but just about everybody else in the state has been able to get to 90 percent.

Later in the meeting, Deputy Skelton said he checked with the jail about CJIS reporting. He said the jail needs help, as there is a large stack of reporting waiting for completion. Judge Beard said they will address the issue at the Dec. 17 meeting.

C. Discussion and appropriate action re application for this grant

12. District Clerk Joann Salgado / Presentation concerning United States Department of State, Bureau of Consular Affairs, El Paso Passport Agency / New regulations concerning facilities for offices that issue passports / Discussion and appropriate action

Judge Beard said the Passport Office through the Department of State has new requirements concerning the type of facility from which passports can be issued.

She said it looks likely that the offices of the old District Judge will be available soon.

District Clerk Jo Ann Salgado said the passport agency wants a separation between passport acceptance facilities and those which produce identifying documents. They want separate work stations, entrances, etc. Currently, the District Clerk's Office and County Clerk's Office are located in the same area with the same entrance. The County Clerk's Office issues birth certificates, which are identifying documents.

Mrs. Salgado said once a location has been determined, the Passport Agency will be notified and will hopefully put their blessing in writing.

Judge Beard said the current District Clerk's Office could also be walled off, and a separate entrance created. Or, the office could quit accepting passports, which is not ideal.

The tentative plan is for the District Clerk to take over the District Judge's office, once the new judge has officially announced where he intends to office.

13. County Holiday Schedule for 2013 / Proposal to keep number of holidays the same as in 2012 / Discussion and appropriate action to adopt schedule

Commissioner Stone made a motion to accept the holiday schedule with a correction to the New Year's Eve date, which was seconded by Commissioner Killingsworth, and passed unanimously.

14. Matters related to 2012 End of Year Closeout

A. Treasurer's Workshop / General discussion regarding end of year closeout matters, financial reports, budget line item transfers and amendments, general discussion regarding projected end of year financial status

Judge Beard said that for a number of months, there have been several intensive discussions about the County's financial state in order to recognize and be proactive about financial issues. It the Commissioners' goal to preserve the County's financial position.

Treasurer Ofenstein explained some issues related to grants, including closing some of them out, and transferring some of the older fund balances into the general fund.

She said there should be many budget line item transfers. She said all departments have come in under budget, except for Elections. About \$3000 was received from HAVA last week, and she expects another \$3000 in the next couple of weeks, which will help tremendously.

Line items transfers do not have to be approved by Commissioners within a department; however, Judge Beard said she likes for Commissioners to be aware of them.

B. Projections concerning financial status at End of Year / Discussion and appropriate action

Treasurer Ofenstein said the balances fluctuate.

After discussion with Commissioner Killingsworth, it was determined that \$304,000 was left in the General Fund as of Nov. 30. Mrs. Ofenstein reviewed the balances of several other accounts.

Treasurer Ofenstein has determined a possible \$50,000 I&S shortage in mid-February. Tax Collector Betty Jo Rooney said collection are looking about the same as this time last year.

Should funds have to be transferred to I&S next year, Commissioner Killingsworth said we may want to re-consider how we deal with that during the budget process. She said it is not something we want to continue to do.

C. Line item transfers / Budget amendments for County Departments:

<i>County Judge</i>	<i>County Attorney</i>
<i>County Clerk</i>	<i>County Treasurer</i>
<i>County Veteran's Office</i>	<i>Tax Assessor-Collector</i>
<i>Non-Departmental</i>	<i>Courthouse</i>
<i>Contracting Agencies</i>	<i>County Jail</i>
<i>Community Facilities</i>	<i>Constable Pct. 1, 2, & 3</i>
<i>Emergency Management</i>	<i>Sheriff</i>
<i>County Court</i>	<i>Extension Officer</i>
<i>District Clerk</i>	<i>Exten. Serv. (Home Agent)</i>
<i>District Court</i>	<i>Road & Bridge Department</i>
<i>Justice of the Peace 1, 2, & 3</i>	<i>Records Management</i>

Discussion and appropriate action concerning above transfers & amendments and end of year closeout

15. Recognitions

A. Resolutions of appreciation upon the pending retirements of Honorable Ken DeHart, Margie Brooks (394th Court Coordinator), & Lorina Uranga County Attorneys Office & Senior County Employee

Judge Beard read the resolutions for the record.

She began with Margie Brooks. Commissioner Ortega made a motion to approve the resolution, which was seconded by Commissioner Killingsworth, and passed unanimously.

Judge Beard then read the resolution for Judge DeHart. Commissioner Ortega made a motion to approve the resolution, which was seconded by Commissioner Killingsworth, and passed unanimously.

Judge Beard then read the resolution for Ms. Uranga. Commissioner Ortega made a motion to approve the resolution, which was seconded by Commissioner Killingsworth, and passed unanimously.

16. Old Library Renovation

Recess

Reconvene at 203 N. 7th Street (Old Library) for walk through tour of facility & inspection of work in progress. Return to Commissioners Courtroom & reconvene for any additional discussion related to ongoing renovation

Commissioners recessed and then reconvened at the Old Library, where Judge Beard lead a tour of the offices and work in progress.

They reconvened at approximately 11:30 a.m. in the Commissioners Courtroom.

17. Brewster County Child Welfare Board / Request for Appointment of Board Member

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 11:30 a.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to §551.074 of the Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee related to the Brewster County Child Welfare Board. The courtroom was cleared of all but Commissioners Court.

Reconvene in Open Session

At 11:32 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss appointments to the Brewster County Child Welfare Board. She asked if there was any action to be taken as a result of the executive session.

B. Discussion and appropriate action resulting from Executive Session

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

18. Brewster County Groundwater Conservation District / Board Vacancy / Personnel

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 11:33 a.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to §551.074 of the Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee related to the Brewster County Groundwater Conservation District. The courtroom was cleared of all but Commissioners Court.

Reconvene in Open Session

At 11:40 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss appointments to the Brewster County Groundwater Conservation District. She asked if there was any action to be taken as a result of the executive session.

B. Discussion and appropriate action resulting from Executive Session

Commissioner Ortega made a motion to appoint Tim Leary as a rural representative, which was seconded by Commissioner Stone, and passed unanimously.

19. Public Comment

No public comment was made.

20. General Personnel Matters / Upcoming Evaluations / Discuss procedures & methods for evaluating performance of employees, officials & board members appointed by Commissioners Court (Road & Bridge Superintendent, Veteran's Service Office and various other County Boards and County Affiliated Boards)

Judge Beard said she wants Commissioners to begin thinking about evaluation. She said she would like some input concerning the procedures. A specific instrument was used for Supt. Causey's previous evaluation, and Commissioners agreed that it worked well. They agreed that Judge Beard should develop an instrument for the Veteran's Service Office.

21. Marathon Visitor Contact Center / Tourism Council / Request to approve renewal of agreement concerning property / Discussion and appropriate action

The company which owned the space where the center is located has been sold. A new agreement is necessary.

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

22. Clarify & confirm canvass of November 6, 2012 General Election, including tabulation / County Clerk / Discussion and appropriate action

A phone call was placed to attorney Greg Hudson.

Judge Beard said she had previously contacted him because there was a question about the canvass.

Mr. Hudson said he believes the issue is simple. The election was held Nov. 6. It is required that Commissioners canvass the election, which they did. However, a member of the public has come forward and said that the canvass did not include an official tabulation for each canvass. Mr. Hudson said there is a provision in the Election Code that does state that the canvassing authority shall act upon an official total for each candidate. He said a tabulation was not presented to the Commissioners for their action at the time they canvassed the vote, but that does not effect the outcome of the election or the official canvassing. (Commissioners did have a full tabulation before them, but it wasn't included in the canvass.)

However, he said, historically, he believes that the County's record would not be complete without the tabulation. He is recommending that the Commissioners ask the County Clerk today for a tabulation, and that it be included in the minutes.

So basically from a historical standpoint, Judge Beard confirmed, Mr. Hudson is recommending that a tabulation be voted upon. But, she said, it does not in any form or fashion affect the outcome of the election. Mr. Hudson concurred, and said he had confirmed that with the Secretary of State.

Commissioner Killingsworth made a motion to include a tabulation of the Nov. 6 General Election in the minutes. Commissioner Ortega seconded the motion, which passed unanimously.

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

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK