

**CALLED MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
MONDAY, DECEMBER 17, 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
MIKE PALLANEZ	COMMISSIONER PCT. 4
BETTY JO ROONEY	TAX ASSESSOR
BERTA RIOS-MARTINEZ	COUNTY CLERK
JERRY SOTELLO	J.P., PRECINCT
RONNY DODSON	SHERIFF

To discuss and take action as appropriate on the following:

1. Minutes / additions / corrections / approval

The minutes from the Dec. 10, 2012, meeting were presented for approval. Commissioner Stone made a motion to approve the minutes, which was seconded by Commissioner Killingsworth, which passed unanimously.

2. Recognitions

A. Pilot Club & Chamber of Commerce / December 6, 2012 Christmas Parade & Tree Lighting

Judge Beard praised the Pilot Club and Chamber of Commerce for the parade and tree lighting.

B. Brewster County Courthouse Decorations / John Milan, Road & Bridge Crew, B.J. Gallego et al

Judge Beard praised Mr. Milan, Mr. Gallego and the Road & Bridge crew. She said the lights and courthouse decorations are the best ever.

3. Presiding Officer's comments re conduct of and procedures followed before and during Commissioners Court meetings / Discussion and appropriate action

Judge Beard said the way Commissioners conduct their meetings was recently misrepresented. She wants to clarify how the meetings are conducted.

The procedures for being on the agenda for County Department Heads requires a written request, seven days before the meeting. An item is not guaranteed to be on the very next agenda. Scheduling an agenda is by priority and workload and what else is already on an agenda.

Regular meetings are held on the second Monday and fourth Tuesday. Times and dates are subject to change; called meetings are held as needed.

Agenda requests should be in writing and include all supporting materials. Five copies of each are needed.

Currently, Commissioners are not being provided with supporting materials in a timely fashion. They need them well before the meeting. Commissioners cannot be expected, in good faith, to take action without having supporting materials well in advance.

The public has the right to observe deliberations during meetings. The chair has the right to call upon citizens when necessary on specific agenda items. This judge allows public comment on specific agenda items. The chair has the right to limit the time of the comments. Those commenting should identify themselves for the record so comments can be attributed in the minutes.

Commissioners expect those commenting to do so in a civil manner.

About once a month, public comment is included on the agenda in order for citizens to comment on something that is not on the agenda. However, in these cases, Commissioners are limited to an informational response. The best way for citizens to approach County issues is for them to contact their Commissioner. Often, especially on Road & Bridge issues, the matter can be addressed at that level.

4. Treasurer

A. General Bills / Discussion and appropriate action

Treasurer Ofenstein said her office received money from the TxDOT Border Colonia access grant. It has been paid out.

Walk-in bills from McCoys and Judge-elect Roy Ferguson were presented, as was an electrical bill for \$3,201.15 to convert electrical service for the new oven range at the jai. There were questions as to why the correct range was not ordered in the first place. It was suggested that Nolan Fowler or John Valencia could assist in making decisions like this in the future.

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

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 fund balances with Commissioners.

C. Matters related to 2012 End of Year Closeout

1. 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

Treasurer Ofenstein said the biggest differences are in Elections and in Non-Departmental, which will probably require amendments.

She said she would first review the line item transfers, followed by the budget amendments, which are recorded and made a part of these minutes.

2. Line item transfers & Budget amendments for all County

Departments:

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

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

Commissioner Killingsworth suggested that during the budget process next year, Communications line items throughout the County should be streamlined where possible.

During discussions about budget amendments, Treasurer Ofenstein said that only \$100,000 of the budgeted \$320,000 PILT funds had been placed into the general fund. After putting in another \$100,000, Treasurer Ofenstein said that leaves \$120,000 that can cover all of the budget amendments.

Commissioner Killingsworth made a motion to transfer \$95,900 to the General Fund to amend the Elections, Non-Departmental, Contract Services,

EOC, Extension Service, Autopsies and Maintenance & Equipment budgets. Commissioner Stone seconded the motion, which passed unanimously.

Commissioner Killingsworth made a motion to transfer \$235,000 from the General Fund to the Road & Bridge budget. Commissioner Stone seconded the motion, which passed unanimously.

Commissioner Killingsworth made a motion to transfer \$0.05 from Capital Projects to the General Fund to close the account. Commissioner Stone seconded the motion, which passed unanimously.

Commissioner Killingsworth made a motion to transfer \$100,000 from PILT funds to I&S, which was seconded by Commissioner Stone, and passed unanimously.

Commissioner Killingsworth remarked about the means and procedures of budget amendments, noting that the County, overall, was within budget, but that some departments were over and some substantially under; perhaps budget amendments done in this fashion do not present a clear picture of the County overall. Judge Beard and Commissioner Stone remarked that it was also important to have a clear picture of each department's expenditures.

3. Projections concerning financial status at End of 2012 / Discussion and appropriate action

D. County Judge's request to delegate Treasurer & Judge to pay any bills which must be paid in interim, before first 2013 meeting

Commissioner Killingsworth made a motion to delegate the judge and treasurer to pay any bills necessary before the end of the year, which was seconded by Commissioner Stone, 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

5. Officials' Monthly Reports / Discussion and appropriate action

There were no reports presented.

6. 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

Mr. Santry said things are still quiet.

B. Current Hazardous Wildfire Conditions in County / Review recent assessment of conditions by Texas Forest Service and others

1. Recommendation to Reinstate Burn Ban / Recommendation to Limit Outdoor Burning to Closed Containers / Discussion and appropriate action

Mr. Santry said that, based on personal observation, conditions around the County are dangerous, and after speaking with the Texas Forest Service, he recommends that the burn ban be renewed.

Judge Beard noted that Commissioners use several forms of data which they use to make decisions on burn bans. They generally don't act without information from the Texas Forest Service, which they have at this time.

Commissioner Killingsworth said she believes it is appropriate to adopt the burn ban with modifications about outdoor cooking, and permitted welding.

Commissioner Killingsworth made a motion to adopt a burn ban, with the following modifications: Use of cooking stoves fueled by "white gasoline," or enclosed outdoor cooking grills or pits fueled by propane, natural gas, or wood will be permitted during the burn ban; commercial businesses/vendors may also use fire for outdoor cooking or heating in order to operate the business. The fire must be screened and in a pit or fire ring; outdoor welding will be permitted, except on "Red Flag" warning days. Interested parties must seek a welding permit and follow welding guidelines as prescribed by Commissioners Court. Permits may be obtained from County Commissioners.

Commissioner Stone seconded the motion.

Commissioner Pallanez confirmed that if one Commissioner is unavailable, another Commissioner can issue a welding permit.

The motion passed unanimously.

2. Recommendation to Restrict Fireworks Sales, prohibiting certain aerial fireworks / Discussion and appropriate action

Mr. Santry said this goes hand in hand with the burn ban, and restricts the sale or use of rockets with sticks or missiles with fins.

Commissioner Killingsworth made a motion to restrict the use and sale of rockets with sticks or missiles with fins, which was seconded by Commissioner Stone, and passed unanimously.

C. Discussion and appropriate action for general administrative work of

Emergency Management Office to go forward

7. 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 finished cleaning and filling up the metal recycling container in Marathon, and hauled several loads of trash, including the disposal of several tires (on a COG solid waste grant). They have also been cleaning water drains on roads, and mowing right-of-ways.

B. TxDot Border Colonia Access Paving Grant / Administrative Matters related to concluding Project / Discussion and appropriate action

Treasurer Ofenstein said the final bill has been paid.

8. Pending Infrastructure Grant Matters

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

Commissioner Killingsworth said she believes construction will begin after the first of the year.

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

- 1. Update*

Judge Beard said she has nothing to update, and Commissioner Ortega is not present; he was called away unexpectedly.

2. Discussion and appropriate action to go forward with application

9. General County Personnel Matters / Review of Policy Adopted on August 28, 2012, (Freeze on addition of more County Employees & procedures for review of vacancies in larger county departments)

Judge Beard said the policy was adopted as a result of a number of meetings in regard to County finances, and as a result of the budget process and current economic conditions. The policy stated that no full-time positions would be added through 2013, and the policy will be reviewed in 2014. In larger departments (those with four or more employees), there would be a systematic review to determine in a position should be filled. Smaller departments are already stretched to the bone.

10. DPS CJIS Disposition Completeness Reporting (State Mandated Criminal History Reporting)

A. Update & review of significance of 90% disposition completeness requirement

Commissioners first addressed the issue on Feb. 13, 2012. The issue had been flagged by the COG as it was announced that certain Homeland Security grant funding would be tied to the completion rate. Judge Beard reviewed the numerous other meetings throughout the year when the issue was re-addressed.

The cut-off date was Sept. 1, 2012, and Brewster County fell way short. We are now ineligible for Homeland Security and some law enforcement grants; next year, it will be worse, and likely will effect agencies such as the Family Crisis Center and Children's Advocacy Center.

Shaun Barak has brought the juvenile probation office up to 100 percent, and is aware of the issues. He has been tasked with helping other departments come into compliance.

Judge Beard is asking that Mr. Barak be compensated for his work.

Commissioner Stone made a motion to compensate Mr. Barak, which was seconded by Commissioner Killingsworth, and passed unanimously.

Judge Beard asked about the large stack of forms at the jail. She has been repeatedly advised that there is a backlog going back to the previous jail administrator.

Sheriff Dodson said the current jail administrator, her secretary and the SO secretary will be working on the issue. Deputy Ryan Skelton said the stack they began working on last week has been reduced by half.

Judge Beard said the DPS system is flawed as it does not directly show where the problem lies. She said the new officers need to be trained from the start so that the codes are entered properly.

Commissioner Killingsworth said that once we're caught up, we need a checks and balances system to make sure we don't fall behind.

Judge Beard said the bottom line is that the Sheriff's Office is getting the benefit of the impacted grants, and the system needs some leadership and to get cleaned up.

Commissioner Killingsworth reviewed the County's grant-funding policy, including that the County does not pay up front; grant money must be received before payment to vendors can be made.

B. Personnel Matters / Duties & Performance of County Department Heads and County Employees and duties of non County Department Heads who are required to make CJIS reports to DPS

1. 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 executive session was not necessary.

Reconvene in Open Session

2. Discussion and appropriate action resulting from Executive Session

C. Discussion concerning means of improving reporting / appropriate action to improve CJIS disposition completeness reporting

11. HIDTA Grant Southbound Interdiction Position (Border Patrol / Sheriff's Office Position)

A. Review of Presentation on August 13, 2012

Sheriff Dodson told everyone that he is on the HIDTA board in El Paso. Two of the deputies are HIDTA officers, and his office also employs an analyst. When the officers are involved in a HIDTA case, the SO receives 20 percent of any forfeitures.

HIDTA/Border Patrol Agent Ken Rhode said \$8,000 would be allocated for fuel. There is a total of \$52,000 from the 2011 budget available. If Commissioners approve, he said he can extend the allocation for six months. A Border Patrol HIDTA analyst will assist with bookkeeping duties.

Commissioner Killingsworth said Commissioners were concerned about having to pay unemployment and/or workers compensation if the grant expires. Agent Rhode said there is no anticipation of the funds expiring, and he said it includes salary and fringe benefits.

Judge Beard asked who is going to hire the individual.

Sheriff Dodson said the Sheriff's Office will hire; he said Border Patrol will probably have no say.

Judge Beard said she is more comfortable with the Border Patrol doing a background check with the Sheriff's Office – Border Patrol should be involved in hiring.

Commissioner Killingsworth asked if there was any way the employee could be paid directly by Border Patrol. Agent Rhode said HIDTA is a state program, so it wouldn't be possible.

Judge Beard she believes Border Patrol is the better equipped agency to handle southbound interdiction.

B. Personnel Matters

1. 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

At 10:27 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 HIDTA Grant Southbound Interdiction position. The courtroom was cleared of all but Commissioners Court, Sheriff Dodson, Deputy Skelton and Agent Rhode.

2. Discussion and appropriate action resulting from Executive Session

At 10:51 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss personnel issues related to the HIDTA Grant Southbound Interdiction position. She said further discussion was necessary before Commissioners take action.

C. Update & Discussion of issues raised on August 13, 2012, and other issues related to this possible HIDTA program

Judge Beard said she thinks it's important to abide by those procedures that were talked about earlier related to the hiring freeze of Sept. 28, 2012. She asked if the Sheriff concurred that there are two grant positions in the S.O. which will not be filled because there are no funds to pay for them as the grants are no longer available. Sheriff Dodson concurred.

Commissioner Pallanez asked if that puts the department in a bind. Sheriff Dodson said it does.

Agent Rhode explained that if the 2011 money is not expended by the end of the year, it will become unavailable. More funds for subsequent years should be available.

Commissioner Stone asked how long the County would be committed. Agent Rhode said the program could be terminated at any time. Judge Beard asked, if the program is not working, can the County withdraw? Agent Rhode said it could.

Judge Beard asked the Sheriff if he'd be willing to include the Border Patrol in the hiring process. He said he would. Agent Rhode said the Border Patrol would be willing to be involved in that process.

D. Discussion and appropriate action concerning this HIDTA grant

Commissioner Killingsworth made a motion to approve the HIDTA grant Southbound Interdiction position with the understanding that the U.S. Border Patrol will be involved in the hiring process, as well as the supervision, of the employee. It is also understood that the two grant position lost will not be filled.

Commissioner Stone seconded the motion, which passed unanimously.

12. Issues related to Overtime & Comp time compensation to County Employees / General Discussion (No action)

Judge Beard said the County is not in a position today, and probably won't be until well into next year, to make decisions regarding compensation. Some pretty strong financial adjustments have recently been made.

Deputy Skelton has asked for a discussion about overtime.

Judge Beard said Commissioners Courts all over the state struggle with the issue, but when it is owed – overtime is owed. She said changing the policy can lead to a lot of dissension. Commissioners Court must proceed carefully.

Judge Beard said she believes that the issue is that some of the law enforcement grants are now refusing to pay a couple of different types of overtime.

Deputy Skelton agreed. He reviewed the County's overtime policy and how it effects the grant overtime policies. Treasurer Ofenstein expounded on the issue.

Deputy Skelton said he would like Commissioners to consider paying deputies "time-and-a-half." He concurred with Judge Beard that legal advice is absolutely necessary.

Commissioner Killingsworth asked if a supervisor has to approve overtime.

Deputy Skelton said there is not a lot of control on overtime now, unless it really starts to add up. He has asked Deputies to please be disciplined about their County overtime. Chief Deputy Skelton is interested in developing procedures which would result in more control of overtime.

Commissioners concurred that they will seek legal advice, and Judge Beard said it is going to take some time before they can come to any decision.

13. 2012 Audit / Selection of Auditor / Discussion concerning means of selection of Auditor and discussion and appropriate action concerning selecting auditor for 2012

Judge Beard asked if they think it is appropriate to seek Requests for Proposals, or would they like to continue with the same auditor.

Treasurer Ofenstein said she works very well with the current auditor.

Commissioner Killingsworth said she think it's important to establish a good working relationship with an auditor, and sometimes that takes a long time.

Commissioner Stone said it is good that the current auditor is here, and always gives a rapid response when called.

Commissioner Killingsworth made a motion to engage Skinner & Lara for the 2012 audit, which was seconded by Commissioner Stone, and passed unanimously.

14. Renovations (“In House” work by County Road & Bridge Crew) / County Offices

A. Update / Old Library Project

Judge Beard said the project is proceeding; the south part of the building is almost complete.

B. Dry walling in relocated Justice of the Peace, Pct. 1 offices, in portions of County Attorney’s offices, and other portions of Annex / Discussion and appropriate action

Judge Beard said in the new JP’s office, which will be where Juvenile Probation is now, drywall work is needed. Two of the doors need to be closed off during the drywalling. The drywalling will make the office much lighter and therefore, a better workspace.

C. Commissioners Courtroom Renovation & Update / Discussion and appropriate action

1. Update / Discussion concerning goals of renovation

Judge Beard said a small expansion is planned once the Extension Service office is moved. It will allow for more public seating. When an issue is of interest, it’s “standing room only” in the present courtroom. A little more room will make the Commissioners Courtroom more comfortable for our citizens.

2. Tech Committee for Commissioners Courtroom Electronic Updates / Judge’s request to Delegate Commissioner, Pct. 2, PIO, Judge’s Administrative Assistant & Judge to work with Nectar Computers, and if necessary make preliminary purchases of electronic equipment from 2012 Budget

Once the courtroom is expanded, Judge Beard hopes to make Commissioners Court more technologically current.

She asked that Commissioners appoint a tech committee under Commissioner Killingsworth’s leadership.

Commissioner Stone made a motion to appoint the committee as outlined above, which was seconded by Commissioner Killingsworth, which passed unanimously.

3. Discussion and appropriate action to go forward with “in house” renovation

15. Upcoming 2013 Legislative Session / General Discussion of issues & challenges in next Session

Conrad Arriola said Brewster County is generally very active and aggressive when it come to bills which could effect us. School funding, water legislation, etc. are all kept a close watch on. As of now, there is no big legislation, but there are always things coming up. Pre-filing has already started, said Judge Beard. Border Colonia issues and subdivision regulations are also watched, along with unfunded mandates and general County issues.

A report from V.A. Stevens, our legislative consultant, has been given to Commissioners.

Judge Beard said Brewster County Day has not yet been set, but the invitation has been received.

16. Public Comment

No public comment was made.

17. County & County Community Facilities Review

a. Courthouse Grounds / Early 2013 update / County Judge

Johnny Milan is handling the landscaping. Judge Beard said she has some spring flower bulbs ready to donate.

b. Marathon Community Facilities & Post Park, Commissioner, Pct. 3 Ortega

Commissioner Ortega can give an update at the next meeting.

c. Pattillo Community Center & S. County ERC, Commissioner, Pct. 2 Killingsworth

Commissioner Killingsworth said the building needs to be repainted, especially under the front porch. There is also a large crack in the dyrwalling inside which needs to be repaired.

18. Announce 2013 Swearing In Ceremonies

Judge Beard said swearing in ceremonies will be held at 9 a.m. on Jan. 2. She explained that Texas law provides for continuity of office-holding. Those who have been sworn-in once hold their offices until they are sworn-in again.

19. Merry Christmas!

Judge Beard wished everyone a Merry Christmas and a peaceful season.

Commissioner Killingsworth 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