

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
TUESDAY, JANUARY 29, 2013, AT 9:00 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>MIKE PALLANEZ</b>	<b>COMMISSIONER PCT. 4</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>

**1. Minutes / additions / corrections / approval**

*The minutes from the January 14, 2013, meeting were presented for approval.*

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

**2. Treasurer**

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

*Treasurer Ofenstein noted that the bills included an accidental extra payment to the Appraisal District. The report includes quarterly payments to the State, workman's comp and health insurance.*

*There was some discussion about a computer purchase for the jail. Commissioners concurred that the purchase should not come from Capital equipment, as this fund was established to cover only major Capital expenditures. This issue will be revisited at the next meeting.*

*Some other utility bills were incorrectly coded, and Commissioners will visit on a one-on-one basis with the Treasurer to get them corrected.*

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

*Commissioner Ortega abstained from 79832; Commissioner Killingsworth abstained from 79437; and Judge Beard abstained from any KALP bills.*

**B. Financial Reports / Updates, Discussion, Review and appropriate action concerning the following:**

<i>Specified Activity Report</i>	<i>Cash Report</i>
<i>Cash Flow Predictions</i>	<i>Payroll Reports</i>
<i>Budget Analysis Usage Report</i>	<i>Check Register</i>
<i>Receipt File Listings</i>	<i>Other Financial Reports as Requested by Commissioners</i>

*Treasurer Ofenstein reviewed end of year account balances, and said that tax collections are only about \$6,000 short with four days to go until the tax payment deadline.*

*Commissioner Killingsworth made a motion to transfer \$5,000 from TexClass Courthouse Preservation into the Courthouse Preservation fund, which was seconded by Commissioner Ortega, which passed unanimously.*

**C. Update on Tax Collections**

*Tax Collector Betty Jo Rooney said that as of yesterday, the County is at 66.3 percent with three days left for collection in January. For the full month of January in 2012, the County was at over 80 percent of total collections. She said collections have been steady for the last week, and she is hopeful that the County will end January better than last year.*

**D. Request to assist Extension Service to prepare for moving to new location (records management assistance/ Discussion and Appropriate action**

*Linda Arndt, an employee of the Treasurer's Office, will help the Extension Service office with organization and preparation.*

**E. Authorization of February Debt Payment from I&S or other appropriate funding sources/ Discussion and appropriate action**

*Treasurer Ofenstein is asking Commissioners to authorize debt payment in the amount of \$471,789.46.*

*Judge Beard said Commissioners meet again Feb. 11, and Commissioners could authorize payment, along with a date. Payments are due beginning Feb. 13 and shortly thereafter.*

*Commissioner Killingsworth noted that the total amount is not in the bank right now, so Commissioners cannot authorize the full amount.*

*Commissioner Killingsworth moved to authorize one payment of \$17,296.47 due Feb. 13. Commissioner Ortega seconded the motion, which passed unanimously.*

*The payments are made electronically.*

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

***3. 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 Stone, and passed unanimously.*

***4. 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; emergency management issues related to communications & public information; emergency management issues related to County insurance coverage; personnel issues related to emergency response, exercises & drills; matters related to pending & future Homeland Security & FEMA Grants and other funding; and matters related to 911 & 911 addressing / Discussion and appropriate action***

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

***C. Big Bend Amateur Radio Club Emergency Radio Communications***

***1. Review role of BBARC in emergency communications***

*Judge Beard said the BBARC plays a critical role in emergencies.*

*Bob Ward and Dave Cockrum were present to review their role.*

*Dr. Cockrum said BBARC first helped when a woman went missing after the chili cook-off in 1976 when emergency responders couldn't communicate in*

*South County. He reviewed national emergencies when traditional communication methods have failed and Ham Radio operators have been able to provide service. Dr. Cockrum reviewed how Ham radio operates, including the use of many, many frequencies.*

*Communications emergencies are becoming more common due to the increased use of cell phones. In an emergency, cell towers become crowded and overloaded; cell phone communications frequently fail.*

*Ham operators can fill in all sorts of communication gaps in many different situations.*

## ***2. Securing & placing equipment with Big Bend Amateur Radio Club through Rio Grande Council Of Governments and Brewster County Emergency Management / Review***

*Judge Beard said Homeland Security funding has been secured to purchase updated equipment for placement with BBARC.*

## ***3. Approval of agreement between Big Bend Amateur Radio Club and County and County/State concerning placement of above equipment***

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

## ***5. 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 many roads have been bladed around the County, thanks to recent snows. The crew disassembled the donated judge's bench from the old federal courthouse, and several other donated materials from the same building. They performed some maintenance at County facilities and continue to work on the Old Library building.*

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

*Engineer Travis Roberts said the money has been received from TxDOT to pay for the base materials. He said the project is complete.*

***C. Commissioner Pct. 4 Mike Pallanez / Double Diamond Veterans Addition / Initial Discussion concerning taking these roads into the County Road System / Opportunity for comment***

*Judge Beard made a few general comments about the process.*

*She said the County has limited resources and the road system is a huge challenge. Due to limited financial resources, we have to proceed judiciously and carefully when expanding the system. Commissioners try to listen very carefully when constituents have needs. The process is not immediate. Input is necessary, not just from those who want a road taken into the system, but from the Road & Bridge Department, the Commissioner in whose precinct the road is located, and from legal advisors.*

*After that, if there is strong enough interest, there is a two-step process, the first for preliminary approval, followed by final approval.*

*Commissioner Pallanez said this is the first step. The Veterans Addition is located approximately 12 miles south of Alpine on Hwy. 118. There are 35 lots, all of which have been sold. There are currently 15 houses in the addition. People who live there need to have access in and out of their property, as do emergency vehicles. Commissioner Pallanez said there are about 3.2 miles of road.*

*He said a mail-out was sent to all of the property owners with 100 percent return. He knows of one family who was opposed.*

*James Richardson, a property owner, said he hopes to be building this year or next year. He is in favor of the County taking over the roads, and understands the reality of money and resources. However, he believes that equal tax payment means equal service.*

*Janet Moeller explained that it is sometimes hard for servicemen to get to her home due to bad roads. Her husband is a doctor at the hospital, and needs to be able to get to work when he's needed.*

*Bluejay Murphy said the roads can be very bad. His wife is an emergency nurse and needs to be able to get to work.*

*Christian Hirsch said rocks stick up out of one road. He was concerned last year when they needed an ambulance. It was able to get through, but it was a worry.*

*Earl Pittman said he is not in favor of these roads being included in the County system. He said they are interested in the maintenance of the road, and he has performed maintenance himself over the years. Mr. Pittman said at least 95 percent of the traffic is people going to and from their homes. County tax dollars will be spent on the road. Those dollars will be collected mostly from people who will never use or even see the road. Mr. Pittman said he was never contacted about the possibility of the County taking over the roads; he believes an agreement is possible between the corporation and the property owners to provide maintenance. He suggested a tax and escrow plan for property owners.*

*Commissioner Pallanez and Supt. Causey will begin looking at the costs, and the item will be discussed again on a future agenda.*

**6. Renovation of Old Library for County Offices and “in house” renovations in annex, including current Juvenile Probation offices, Commissioners Court and adjacent offices**

**A. Update, including report on donated materials/fixtures for Commissioners Courtroom**

*Judge Beard said work is proceeding nicely. The south end is basically complete. The Tourism Council offices and the north restrooms are nearly redone.*

*Judge Beard said that up to this point, our crews have been working in unoccupied space and not in people’s work space. She said when we start on the annex, some overtime payment will be necessary so that crews can work on Fridays, and get it done in possibly 30 days. The work will be disruptive, but will hopefully be done quickly.*

*The bench donated from the old federal court building will be fit well into a renovated Commissioners Courtroom. We were also given the paneling and a couple of nice oak doors.*

**B. Discussion and appropriate action to go forward with project**

**7. S. County Emergency Response Center / Commissioner, Pct. 2 Killingsworth**

**A. General update on facility, occupants and contributions which facility makes to public safety and County business**

*Commissioner Killingsworth said she met with ESD #1 last week, and they are helping defer costs of the operation of the facility. They make a \$10,000 annual*

*payment to the County. Terlingua Fire and EMS are both housed there. The J.P. as well as two sheriff's deputies have office space there as well.*

***B. Rain Catchment Project for facility***

***1. Review of Project & need for project / Discussion concerning sources of water for Terlingua Fire & EMS***

*The gutters need to be connected to tanks which will be purchased by Terlingua Fire & EMS. The ESD will pay for the retainer wall and slab. Mr. Roberts will help with the engineering. It is a 20,000 gallon tank and will be placed on the south side of the building.*

***2. Discussion and appropriate action concerning going forward with Rain catchment project***

*Commissioner Ortega made a motion to approve moving forward with the project under the supervision of Commissioner Killingsworth. Commissioner Stone seconded the motion, which passed unanimously.*

***C. Management of South County Emergency Response Center Facility***

***1. General review of management plan & operations to date***

*Commissioner Killingsworth said using the County crews for maintenance is working out very well. She said there is an MOU with the ESD, which picks up 2/3 of the cost of maintenance and expenses of the building. The County provides a part-time groundskeeper.*

***2. Costs of operations and contributions from ESD #1***

***3. Discussion and appropriate action concerning County Management of Facility***

***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***

*Mr. Roberts said the equipment should be there mid-March. It shouldn't take very long to install. The plant should be producing water the first of May, maybe sooner. The old unit has been removed by the plant operators.*

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

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

***1. Update***

*There was no new information to present.*

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

***9. Brewster County Historical Commission / Travis Roberts, Chairman***

***A. Update on work of Commission***

*Mr. Roberts said the group assisted in putting on the 125<sup>th</sup> anniversary of the founding of Brewster County in 2012. They had two applications for historical markers this year, including Captain Shepherd's Inn in Marathon and the J.C. Bird house on Lockhart. Commissioners Courts funds \$2,200 annually for the History Fair at Sul Ross in February.*

***B. Request for appointment of County Historical Commission Members for 2013-2014/ Discussion and appropriate action***

*Mr. Roberts read the names of the appointees for the record.*

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

*The appointments are as follows: Mellea Bell, Paul Olsen, Kathleen Olsen, Judith Parsons, Dr. Paul Wright, Ike Roberts, Robert Mallouf, Pete Salas, Jr., Travis Roberts, Bill Ivey, Alberto Garcia, Raymond Skiles, Andy Cloud, Jodye Stone, Valynda Henington, Barney Nelson, Bill Roberts, Thomas Mangrem, Janice Moss, Dr. Jerry Eoff, Kathy Donnel, Matt Walter and Kip Sullivan. Non-voting members include Julia Moss and Mickey Clouse.*

*Commissioner Stone abstained from the appointment of Jodye Stone.*

***C. Discussion and appropriate action for general work of County Historical Commission to go forward***

***10. Marathon Museum Society / Request for Renewal of Contract for use of County owned facility / Discussion and appropriate action***

*Commissioner Ortega said the society does an excellent job.*

*Mr. Roberts said the facilities include the old school house the old jail.*

*Commissioner Ortega made a motion to renew the contract for a 10-year period, which was seconded by Commissioner Killingsworth, and passed unanimously.*

**11. 2013 Salary Grievance Committee / Draw additional names for Citizen members of committee to replace any who have declined to serve / Discussion and appropriate action**

*Of the first three names drawn, one person declined.*

*Commissioner Stone drew a new name, Cristina Alvarado.*

*She will be contacted by the County Clerk.*

**12. County Judge & County Attorney's Request to Redesignate Terms of County Court (same terms proposed) / Discussion and appropriate action**

*Commissioner Stone made a motion to redesignate the terms, which was seconded by Commissioner Killingsworth, and passed unanimously.*

**13. Contracts for Services with local Non-Profits for services, as budgeted in the 2013 Budget (Alpine Public Library, The Sunshine House, Family Crisis Center, Frontier CASA, Inc., and The Children's Advocacy Center of the Big Bend) / Discussion and appropriate action concerning approving contracts for services in 2013**

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

**14. Pending Litigation / Confer with Legal Counsel, if requested**

***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 10:15 a.m., Judge Beard announced that Commissioners Court was into executive session pursuant to §551.071, Government Code, VTCA, pending litigation, related to the Olibas case. The courtroom was cleared of all but*

*Commissioners Court and the County Attorney. Attorney Greg Hudson was contacted by phone to participate in the executive session.*

***Reconvene in Open Session***

*At 10:35 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session, pursuant to §551.071, Government Code, VTCA. She asked if there was any action to be taken.*

*No action was taken.*

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

***15. County Personnel Matters***

***A. General Comments and Discussion concerning value and quality of County personnel benefits***

*Judge Beard said that the County does its best to provide a decent wage to employees, but it is not a high wage. The County does provide a good benefits package with solid benefits. Commissioners concurred during the budget process that it is time for TCDRA to come and do a review of the plan for employees and commissioners.*

***B. Texas County & District Retirement System***

***1. Upcoming TCDRA general presentations & individual conferences with Brewster County employees and elected officials concerning individual accounts set beginning February 20, 2013***

*A general presentation, followed by individual conferences, will begin Feb. 20. The meeting will be posted so that Commissioners can attend.*

***2. Proposed Presentation to Commissioners Court by TCDRS re County plans & options, to be scheduled sometime in April, 2013 / Discussion only***

*TCDRS representatives will be available in April for review of the overall plan, and Judge Beard said a called meeting may be necessary.*

***C. Personnel matters related to County provision of benefits to employees/programs related to employee health and wellness***

**1. Review Blue Cross/ Blue Shield plan through Texas Association of Counties Group**

*Judge Beard said she believes this is a first rate healthcare plan.*

**2. Discussion of available resources for various wellness programs through Texas Association of Counties or other organizations/sources**

*Judge Beard said she wants to talk about taking advantage of these resources, as they relate to employee compensation, benefits and duties.*

**3. 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 11:10 a.m., Judge Beard announced that Commissioners Court was into executive session pursuant to §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.*

**Reconvene in Open Session**

*At 11:25 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session, pursuant to §551.074, Government Code, VTCA. She asked if there was any action to be taken.*

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

*Commissioner Killingsworth made a motion to authorize the County Judge to communicate with TAC to solicit information on wellness programs that can be offered to County employees. Commissioner Ortega seconded the motion, which passed unanimously.*

**16. Request to Solicit Bid Proposals to supply County fuel (gasoline diesel and propane) Discussion and appropriate action**

*Judge Beard suggested soliciting bids as a matter of best practices. She said we have solicited proposals, but not received a bid for gasoline and diesel.*

*Commissioner Ortega asked about buying our own tanks. Commissioner Stone said we've looked at it a couple of times, and thinks it may be wise to do it again, as high as fuel is.*

*Commissioner Killingsworth made a motion to solicit bids for gasoline, diesel and propane for the County. Commissioner Stone seconded the motion, which passed unanimously.*

*The RFP will include bids with and without tanks, to see what the difference is.*

## **17. Matters related to Interlocal Agreements**

### **A. Middle Pecos Groundwater Conservation District/ Contributions for U.S.G.S. Study/ Update/ Discussion and appropriate action to formalize procedures for contributions**

*Judge Beard said the agreement is in the form of a motion only; she suggested that, for the rest of the payment, some kind of brief memorandum of interlocal agreement is drafted so that it is a more formalized basis for the county's contribution.*

*Commissioner Stone made a motion to solicit an interlocal agreement with the MPGCD. Commissioner Ortega seconded the motion, which passed unanimously.*

### **B. Request to ratify Interlocal Agreement with Pecos County re acting as fiscal agent for Brewster County for 83<sup>rd</sup> Judicial District Budget/ Discussion and appropriate action**

*Commissioner Killingsworth made a motion to ratify the interlocal agreement with Pecos County to be the fiscal agent for the DA's office. Commissioner Ortega seconded the motion, which passed unanimously.*

## **18. CJIS Reporting, as required by State**

### **A. Update**

*Judge Beard said she has been working with Marisa Quintanilla at the COG, who confers frequently with the State about CJIS. Mrs. Quintanilla said she believes grant funding is going to be tied more and more to CJIS reporting. This is of great concern to all who receive Criminal Justice funding.*

### **B. Announce mandatory meeting with representative from the Texas Department of Safety for County reporting agencies and status of CJIS reporting at this point**

*Conrad Arriola said the meeting will be held Thursday at 11:30 a.m. Because we are below the reporting rate (78 percent), the meeting is mandatory. Judge Beard reiterated her frustration that the DPS reporting mechanism doesn't specify where the shortfall is. She is in discussions with the County Attorney in Jeff Davis County to consider people to come in and help us. There is grant funding available for that, but she doesn't think it is worth it because of the strings attached. She said it probably better if the County pays for it ourselves.*

*Mr. Arriola said Mr. Brewer is training at the jail today, and will be working in the clerks' offices tomorrow ahead of the meeting Thursday.*

*Judge Beard reiterated previous comments by Commissioner Killingsworth that once we have obtained 90 percent, we need to make sure there is follow-up so that we stay at or above that rate.*

*Judge Beard said she is concerned that there is some resistance to the idea of having someone come in and help, at least from one department.*

***C. Discussion and appropriate action to obtain 90% disposition completeness, as required by State***

*Commissioner 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***