

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
TUESDAY, MARCH 26, 2013, AT 1:30 P.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 "COACH" PALLANEZ</b>	<b>COMMISSIONER PCT. 4</b>
<b>BERTA RIOS-MARTINEZ</b>	<b>COUNTY CLERK</b>
<b>JERRY SOTELLO</b>	<b>J.P., PRECINCT 1</b>
<b>CAROL OFENSTEIN</b>	<b>COUNTY TREASURER</b>
<b>BETTY JO ROONEY</b>	<b>TAX ASSESSOR</b>
<b>RONNY DODSON</b>	<b>SHERIFF</b>
<b>STEVE HOUSTON</b>	<b>COUNTY ATTORNEY</b>

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

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

*The minutes from the March 11, 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. Resolution in Memory of Mayor Clouse / Discussion and appropriate action***

*Judge Beard said that with the passing of Mickey Clouse, we have lost a leading citizen and dedicated public servant.*

*She read the resolution for the record.*

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

***3. Treasurer***

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

*Treasurer Ofenstein said quarterly reports, including workman's comp and insurance payments are included in the bills.*

*She said the Sheriff spent \$17,000 from the awarded account on an automobile.*

*Commissioner Stone asked about a \$1,700 bill from DML Clocks in the awarded account. Sheriff Dodson said it was for the removal of equipment from an old vehicle to the new one.*

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

*One walk-in bill from Compass Electric for \$3,200 to repair the stove at the jail was presented.*

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

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

***Specified Activity Report***

***Cash Flow Predictions***

***Budget Analysis Usage Report***

***Receipt File Listings***

***Cash Report***

***Payroll Reports***

***Check Register***

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

*Treasurer Ofenstein reviewed the reports with Commissioners.*

***C. 2011 Stonegarden Grant/ Final authorization to proceed / Discussion and appropriate action***

*Chief Deputy Ryan Skelton said the grant was approved. He provided Commissioners with a list of equipment which will be purchased with the grant funding. A copy of the list of equipment and which agency it is being placed with is attached and made a part of these minutes.*

*Commissioner Killingsworth made a motion to authorize proceeding with the grant, which was seconded by Commissioner Ortega, and passed unanimously.*

*Sheriff Dodson and other Alpine Police Department officers left the meeting immediately after the vote.*

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

*Treasurer Ofenstein said she needs permission to move \$3,200 from the Jail Infrastructure fund to the General Fund, and \$13,200 from the Courthouse Preservation fund to the General Fund.*

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

#### **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. Brewster County On Site Disposal Permitting Program (Septic Tank Inspection)**

##### **A. Update on program by Virgil Clark, County Contract Septic Tank Inspector & Program Administrator / Discussion and appropriate action**

*Mr. Clark said that in 15 years, they've issued 547 permits for septic tanks. With the help of two grants, 96 septic tanks have been provided to low to moderate income families in South Brewster County.*

##### **B. Report on recent successful TCEQ Audit of Program / Discussion and appropriate action**

*About three weeks ago, TCEQ sent an auditor to make sure that administrative procedures are being correctly followed. They made no findings of discrepancy.*

#### **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; 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***

*Judge Beard gave the report. She asked for comments on reinstating the burn ban.*

***B. Burn Ban / Discussion and appropriate action concerning reinstating Burn Ban***

*Commissioners concurred that it is wise to reinstate the burn ban.*

*Judge Beard prepared a draft of an order that includes outdoor cooking guidelines and welding conditions. No permitting process for welding will be ordered at this time.*

*Commissioner Killingsworth made a motion to approve the burn ban order as presented, which was seconded by Commissioner Stone, and passed unanimously.*

***C. Discussion and appropriate action for general administrative work of the Emergency Management Department 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 a new water line was run across Pena Park to provide water to the trees. Two men are working on the dirt for the track at Terlingua CSD. The rest of the crew is working at the Old Library.*

***B. General matters related to County Dump Days, Trash Abatement, Junkyard Regulation & related matters / General discussion concerning current issues & tools available to address various problems***

***with roadside trash, junk vehicles and mobile homes, old tires and similar issues.***

*Judge Beard said Commissioners have a general packet to remind them about the various things the County can do related to trash abatement, junkyard regulations and various other environmental matters.*

*They have had good success in the past with “Dump Days,” days on which citizens can bring their junk, etc., for disposal by the County.*

*Commissioner Killingsworth said Dump Days have been very beneficial, and she would like to continue with the projects. She said it is time to schedule another round of Dump Days, perhaps for this summer.*

*In the next couple of months, Judge Beard will include the topic on the agenda.*

### ***C. Update on TEEEX Maintenance Workshop on March 19, 2013***

*Judge Beard said she and Supt. Causey agree that turnout was good and the presentation was well-done.*

### ***D. Reporting of car crashes on County Roads to Road & Bridge Department by investigating agency***

*The scene of a recent car crash was the bridge on the Old Marathon Highway. A car hit the guard rail on the County’s only bridge and knocked it over. Unfortunately, Mr. Causey wasn’t informed about the broken guard rail by the Sheriff’s Office, the investigating office, and found it on his own about three weeks later.*

*Judge Beard said Commissioners need to determine if and how to repair the bridge. The answer is NOT to do nothing.*

*Chris Weber, TxDOT area engineer, who was present, has been researching the issue. He said there is no good way to repair the rail. Both sides of the structure would have to be re-built at a cost of \$75,000. Rebuilding the bridge would cost nearly \$250,000. He said through 2017, there are no available federal funds for the bridge. To repair the guard rail, TxDOT could provide assistance.*

*Mr. Weber said he would recommend making it a low water crossing. As long as the appropriate signage is in place, guard rails do not have to be installed.*

*Judge Beard explained that the County inherited the bridge from the State when the Marathon Highway became Old Marathon Road. This is a very old bridge.*

*Commissioner Stone said he believes a low water crossing is the appropriate solution.*

*The next agenda will include action on the general topic of what to do about the scene of the accident, the bridge on the Old Marathon Road.*

- 1. Executive Session Pursuant to § 551.071, Government Code, VTCA, 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 2:06 p.m., Judge Beard announced that Commissioners Court was into executive session to discuss issues related to the reporting of car crashes on County roads, pursuant to §551.071, Government Code, VTCA. The courtroom was cleared of all but Commissioners Court and the County Attorney.*

### ***Reconvene in Open Session***

*At 2:11 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss issues related to reporting car crashes on County roads. She asked if there was any action to be taken.*

*No action was taken.*

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

***E. Discussion and appropriate action for general work of Road & Bridge to go forward***

### **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***

*Engineer Travis Roberts said the contractor arrived on site yesterday. They are bringing in equipment and will be working the rest of the week this week and probably all of next week. The old unit has already been uninstalled.*

*There is currently no access easement to the site; the Water Supply Corp. has asked Mr. Roberts to discuss the issue with an adjacent property owner.*

*Otherwise, the project is on schedule.*

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

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

***1. Update***

*Mr. Roberts said he understands that the funds have not yet been released.*

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

***9. Study Butte Water Supply Corporation***

***A. Judge & Commissioners' comments concerning need for ongoing Communication between County & other entities whose grant applications the County sponsors, administers & finances***

***B. Update on status of SBWSC and significant issues now facing SBWSC***

***C. Report from Jacob & Martin (SBWSC Engineers) for proposed USDA project for SBWSC***

***D. Discussion and appropriate action concerning general role of County in assisting SBWSC***

***10. CJIS Reporting Update / Discussion and appropriate action to continue to improve reporting***

***11. Treasurer & Commissioners Court / Matters related to duties related to Administering & supervising employee use of credit cards and/or making purchases and/or incurring expenses which must be paid for at time of purchase or time the service is rendered***

***A. General discussion of issues including review of current status of County credit cards, need to be able to make & document County purchases in an expeditious, efficient manner, and need for County to directly pay for authorized expenses for travel***

*Judge Beard explained that we have been wrestling with issues related to credit cards for some time, and she believes that we are at an impasse.*

***B. 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, with focus on duties as related to the above types of purchases***

*At 2:55 p.m., Judge Beard announced that Commissioners Court was into executive session to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee, with focus on duties as related to the above types of purchases, pursuant to §551.071, Government Code, VTCA. The courtroom was cleared of all but Commissioners Court and the County Treasurer.*

***Reconvene on Open Session***

*At 3:11 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss issues related to employee duties and credit cards. She asked if there was any action to be taken.*

***C. Discussion and appropriate action resulting from Executive Session and from discussion under Item A***

*Commissioner Killingsworth made a motion to create two credit card accounts. The first credit card account will include by name Judge Beard, Frenchie Causey, Carol Ofenstein and Berta Martinez. The second account will include by name all Commissioners. Commissioner Ortega seconded the motion, which passed unanimously.*

*Commissioner Killingsworth added that a generic credit card will be kept in the Treasurer's Office to be used for travel purposes.*

***12. Brewster County Tourism Council / Report on update to Brewster County Tourism Survey/Study by Texas A&M / Discussion only***

***A. Presentation of Survey***

*Ron Sanders thanked the members of the board for being present. He said they are still reviewing the survey themselves, although it mostly has confirmed a lot of what the board already knows.*

*The survey asked what folks think about law enforcement, in particular Border Patrol. The answers were very positive.*

***B. Discussion***

*Judge Beard asked if any other members of the board wished to comment. Mr. Sanders said it takes a while to go through and digest the information.*

*Tom Williams said a table on page 49 shows how much money is spent per visitor. The numbers show that folks are staying longer and spending more.*

*Mike Davidson said more than 20 percent of those surveyed have visited Big Bend more than 10 times.*

**13. Report & Update from Voter Registrar, Betty Jo Rooney / Discussion and appropriate action concerning ongoing voter registration work**

*Judge Beard said it is important to keep the registration current and make sure people are in the correct precinct. She asked where we stand in terms of the upcoming City election.*

*Ms. Rooney said they have already done a check and found 10 people out of place. The number of registered voters has increased. She said she has also been updating information related to Chapter 19 reimbursement, and hopes that with that funding we'll be able to purchase more scanners soon so that they can be used.*

*Judge Beard said there needs to be a systematic outreach, ie publicity, about how to change voter registration when a citizen moves, especially during the run-up to an election.*

**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**

*No executive session was held.*

**Reconvene on Open Session**

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

**14. "In House" County Renovation Projects**

**A. Update / Old Library / Discussion and appropriate action to go forward with and conclude interior portion of project**

*Judge Beard said she has given the crew a two-week deadline. She thinks it's unlikely that we'll meet it, but the interior of the Old Library is very nearly complete.*

**B. Renovations in Annex / Commissioners Courtroom**

**1. Review of work planned & prospective schedule**

*Judge Beard said she has some draft schedules and a draft floor plan. She said we are working with a lot of re-purposed, re-used materials. There are many things we won't know until we actually begin working with those materials, and there may be some surprises once the old paneling comes off the walls.*

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

***15. Resolution in Support of HJR130 which abolishes requirement certain Counties be divided into not fewer than 4 J.P. & Constable Precincts / Request from Commissioner Cole Hefner, Upshur County / Discussion and appropriate action***

*Judge Beard said HJR130 doesn't directly impact Brewster County, but it would give larger counties a little bit more flexibility. She is presenting it to Commissioners, as a neighborly endorsement.*

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

***SUPPLEMENTAL AGENDA***

***1. County Clerk's request to contract with City of Alpine to provide County Voting Machines for City Election / Discussion and appropriate action to approve machines for City Election***

*Mrs. Martinez provided a contract between the City and the Elections Office. They are asking for two voting machines and four standing booths.*

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

***2. Legislative Update / Discussion and action related to various pending legislative matters which could impact Brewster County***

***A. Legislative matters related to local control and ability of counties to control their own finances and tax rates (S.B. 102 and any related legislation) / Discussion and appropriate action***

*Judge Beard said this comes out of Harris County, which is having its own problems. She thinks it is important to go on record in opposition, as local control of tax rates and budgets is best.*

*Commissioner Stone made a motion to oppose S.B. 102, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***B. Review of Bills Pending Related to Water Resources***

***1. Legislation related to Midland Fresh Water Supply District (C.S.H.B. 64) and other related Bills (Clayton Williams export plan)/ Discussion and appropriate action***

*Conrad Arriola said Rep. Tom Craddick tried to create the District through legislation a couple of years ago. That failed, and they then tried a referendum, which passed. This legislation would give the District's board an exemption from liability for failed projects.*

***2. Pending Water Legislation of concern to Brewster County related to brackish water (S.B. 1284, S.B. 1760, & related bills)/ Discussion and appropriate action***

*Mr. Arriola said this bill would define brackish water as water with 1000-10,000 milligrams of Total Dissolved Solids (TDS). Doing so would take regulatory authority away from groundwater districts.*

***3. Other pending legislation that would affect Brewster County water resources or could negatively impact groundwater conservation districts ability to manage local water resources/ Discussion and appropriate action***

*Commissioner Killingsworth made a motion to authorize the County Judge to act on behalf of Brewster County to oppose C.S.H.B. 64 and S.B. 1284/1760 and any other bills that relate to water that would be detrimental to the citizens of Brewster County. Commissioner Stone seconded the motion, which passed unanimously.*

*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***