

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY, SEPTEMBER 9, 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>BERTA RIOS MARTINEZ</b>	<b>COUNTY CLERK</b>
<b>BETTY JO ROONEY</b>	<b>TAX ASSESSOR</b>
<b>JERRY SOTELLO</b>	<b>J.P. PRECINCT 1</b>
<b>CAROL OFENSTEIN</b>	<b>TREASURER</b>

**1. Invocation, Pledge of Allegiance**

*Judge Beard lead the invocation and the Pledge of Allegiance.*

**2. Minutes / additions / corrections / approval**

*The minutes from the August 27, 2013, 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 presented three walk-in bills: the first from Jeanette Duer, a court-appointed attorney ad litem, for \$187.50; the second from the District Court for \$869.25; and the third from Deputy Chris Roach for \$605 for K-9 certification.*

*Commissioner Ortega made a motion to approve the general bills and the walk-in bills. Commissioner Killingsworth seconded the motion, which 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  
Grant Reports*

*Payroll Reports  
Check Register  
Transfers  
Personnel/Overtime Reports  
Other Financial Reports as  
Requested by Commissioners*

*Treasurer Ofenstein reviewed the reports with Commissioners.*

***C. 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 is going to postpone her retirement until a few things in her office can be straightened out. Commissioners expressed appreciation to the Treasurer.*

***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. 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 two miles of Terlingua Ranch Road were seal-coated last week. He has ordered enough rock for two more miles. Tool boxes*

*have been installed on the trucks. Crews picked up some brush and limbs which will be donated to the AHS bonfire.*

***B. Trenching/Boring Permit/ Applicant: Aldo Valenzuela, Location Mountain View/Mosley Loop/ Discussion and appropriate action***

*Mr. Causey said about 150 ft. of trenching is probably going to be necessary down the side of Mountain View to connect at Mosley Loop.*

*Commissioner Pallanez suggested finding out where city water is also available, and find out if folks out there can connect.*

*Judge Beard said we need a solution to this constant need to trench across the newly paved road.*

*Judge Beard said we need some more information, and to find out if we can work with the City on a comprehensive solution.*

***C. Terlingua CSD Track Construction***

***1. Update***

*Crews are working on straightening out the track and on drainage for the track.*

***2. Discussion and appropriate to conclude project***

***D. Possible Cooperative Project / Assistance to Presidio County with completing and meeting deadline for Grant Paving Project (under deadline) in Presidio, Texas (2-3 days estimated time) / Discussion and appropriate action***

*Judge Beard said it is her understanding that Presidio County's distributor is broken, and they have asked for our assistance on what is probably a two- or three-day project. When we've helped before, we've been reimbursed.*

*Commissioner Stone made a motion to approve the assistance, once Mr. Causey has had a chance to review the project. Commissioner Ortega seconded the motion, which passed unanimously.*

***E. Community Facilities / Judge's comments concerning management of community facilities by Commissioner in whose precinct the facility is located and related matters***

*Judge Beard said the facilities within a specific precinct, namely Community Centers, are under the management of the Commissioners in whose precinct it is located. Those Commissioners, generally on an individual basis, make the basic management decisions for the operation, use and maintenance of those facilities.*

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

***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, matters related to 911 EMS in County; and matters related to 911 & 911 addressing / Discussion and appropriate action***

*EMC Betse Esparza said there was a small fire at the Claridge Apartments which was quickly extinguished. She said she will participate in a Disaster Recovery course in Marfa on Monday, Sept. 16.*

***B. CopSync Matters***

***1. Emergency Notification System to be paid for with Homeland Security Grant Funding / Discussion and appropriate action concerning ratifying purchase***

*Judge Beard said there are occasionally funds which can be accessed on a very short timeframe. Funds became available to utilize for CopSync notification in areas needing security outside of law enforcement.*

*Commissioner Killingsworth made a motion to approve the installation of CopSync in County offices in the amount of \$3,600. Commissioner Ortega seconded the motion, which passed unanimously.*

***2. CopSync 911 / Update / Tech issues with installing the CopSync911 application***

***a. Executive Session Pursuant to Section § 551.076, Government Code, VTCA, Deliberation Regarding Security Devices or Security Audits***

*At 9:27 a.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to Sections §551.076 of the Government Code, to discuss a security device. The courtroom was cleared of all but Commissioners Court and the Emergency Management Coordinator.*

***Reconvene in Open Session***

*At 9:39 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss courthouse security. Judge Beard asked if there was any action to be taken as a result of the executive session.*

*No action was taken.*

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

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

***7. Pending Infrastructure Grant Matters***

***A. 2011/2012 Texas Department of Rural Affairs Grant Program (R.O. facility for Study Butte Water Corp.) / Discussion and appropriate action to complete & closeout this grant project***

*Engineer Travis Roberts said the project is nearing completion. All of the final paperwork has been submitted.*

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

***1. Update***

*Commissioner Ortega read a letter from TXCDBG announcing that Brewster County has received funding in the amount of \$168,637 for the project.*

*Mr. Roberts said they will need to work on the RFP process and TCEQ approval.*

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

## **8. Pending Renovation & Maintenance Projects**

### **A. Old Library Building Renovations / Update**

*Judge Beard said they are continuing to work on the exterior to prepare it for painting.*

### **B. Annex Renovations & upcoming work on other County Buildings**

#### **1. Commissioners Courtroom Renovations**

##### **a. Acquisition of AV/Tech equipment for Commissioners Court/Discussion and appropriate action regarding acquisition of AV/Tech items for courtroom**

*Commissioner Killingsworth said she hopes to start looking into it this week.*

##### **b. Discussion and appropriate action to go forward with and complete Commissioners Courtroom renovations**

## **9. Request for Proposals to provide Food Services for Brewster County Jail/Discussion and appropriate action**

### **A. Review RFP and proposals received by September 4, 2013, deadline/ Open proposals or Consideration of extension of deadline for receipt of proposals**

*Judge Beard said we put out an RFP for food service. The deadline was Sept. 4. We have only received one proposal from Five Star Correctional Services.*

*Sheriff Dodson said another company was interested, but transporting food service here was not cost effective for them.*

*Judge Beard noted that if the only bid is not opened, you can extend the deadline without having to go through the entire RFP process again. However, if the bid is open and rejected, you must repeat the entire process.*

*Judge Beard recommended extending the deadline. Commissioner Killingsworth suggested 30 days. Sheriff Dodson agreed.*

*Commissioner Killingsworth made a motion to extend the deadline to Oct. 11, 2013. Commissioner Stone seconded the motion, which passed unanimously.*

### **B. Discussion and appropriate action concerning how to proceed with evaluation of proposals, including establishing review panel for proposals and possible utilization of outside financial analysis of proposals**

*Judge Beard said that evaluating proposals like this can get kind of complicated. Representatives from the Sheriff's Office, Jail and Treasurer's Office, and possibly our CPA's office may be prudent.*

*Commissioner Killingsworth said we first need a baseline on what it costs now. Sheriff Dodson indicated that those calculations were available.*

### ***C. Discussion and appropriate action concerning proposals***

#### ***10. Personnel Matters, Constable Pct. 3 / Issues related to TECLOSE Certification, Training, Insurance Coverage and other related matters concerning Constable Pct.3 position***

##### ***A. Executive Session Pursuant to Section § 551.071, Government Code, VTCA, Pending Litigation and Consultation 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 conflict with this chapter. (Privileged Matters and Personnel Matters) 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, and consultation with County Attorney***

*At 10:00 a.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to Sections §551.071 and 551.074 of the Government Code, to discuss the appointment, employment, evaluation, reassignment, duties, compensation or dismissal of a public officer or employee, and to consult with the County Attorney. The courtroom was cleared of all but Commissioners Court and the County Attorney.*

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

*At 10:20 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss personnel issues related to the Precinct 3 Constable. Judge Beard 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 authorize the County Attorney to write a letter to the Precinct 3 Constable outlining the certification requirements of the office. These requirements must be completed by Sept. 27, 2013, or the office will be forfeited. In the letter, please set out that a weapon must not be carried without TECLOSE certification. Commissioner Ortega seconded the motion, which passed unanimously.*

**11. C.N. 4094, State v. Charles Jenkins, 394<sup>th</sup> District Court / Consultation with County Attorney**

**A. Executive Session Pursuant to Section § 551.071, Government Code, VTCA, to confer with legal counsel 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 conflict with this chapter. (Privileged Matters and Personnel Matters), 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 10:24 a.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to Sections §551.071 and 551.074 of the Government Code, to discuss the appointment, employment, evaluation, reassignment, duties, compensation or dismissal of a public officer or employee, and to consult with the County Attorney about privileged matters. The courtroom was cleared of all but Commissioners Court and the County Attorney.*

**Reconvene in Open Session**

*At 10:40 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss personnel issues and pending litigation. Judge Beard asked if there was any action to be taken as a result of the executive session.*

*No action was taken.*

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

*Judge Beard said this case was dismissed in March, and was only recently brought to Commissioners' attention. She emphasized that Commissioners Court had nothing whatsoever to do with the dismissal, and was not consulted before the motion for dismissal was entered.*

**12. Personnel Matters, Treasurer's Office**

**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, and pursuant to Section § 551.071, Government Code, VTCA, to confer with legal counsel 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 10:44 a.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to Sections §551.074 and 551.071 of the Government Code, to discuss the appointment, employment, evaluation, reassignment, duties, compensation or dismissal of a public officer or employee in the Treasurer's Office, and to confer with legal counsel. Commissioners Court moved into the County Judge's office in order to confer with attorney Greg Hudson telephonically.*

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

*At 12:00 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss personnel issues in the Treasurer's Office. Judge Beard asked if there was any action to be taken as a result of the executive session.*

### ***C. Discussion and appropriate action resulting from Executive Session***

*Judge Beard said Commissioners were happy to receive word from Treasurer Ofenstein saying she is postponing her retirement.*

*Commissioner Killingsworth made a motion to create an administrative services position for the County under the supervision of Commissioners Court. The duties will be outlined at a later date; for the time-being, the person will be trained in accordance with the Treasurer's Office. Commissioner Ortega seconded the motion, which passed unanimously.*

*Commissioner Killingsworth made a motion to accept applications and resumes for the administrative services position, which was seconded by Commissioner Ortega, and passed unanimously.*

*Commissioner Killingsworth said she would like to include Treasurer Ofenstein's input in the selection process; Commissioners concurred.*

## ***13. Veterans Service Officer Vacancy, Interview Applicants for position and Consideration of appointing Veterans Service Officer***

### ***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 (Conduct interviews in Executive Session)***

*At 1:15 p.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to Section §551.074 of the Government Code, to discuss the appointment, employment, evaluation, reassignment, duties, compensation or dismissal of a public officer or employee in the Veteran's Service Office. She said they would first discuss the job duties, after which they would begin interviewing candidates. The courtroom was cleared of all but Commissioners Court.*

*Each candidate for the position was called individually into the Courtroom.*

***Reconvene in Open Session***

*At 11:44 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss personnel issues in the Veteran's Service Office. Judge Beard asked if there was any action to be taken as a result of the executive session.*

*No action was taken.*

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

*Judge Beard said further announcements related to the position would be made at a subsequent meeting.*

***14. Brewster County Tourism Council***

***A. General update, including advertising and promotional activities / Interaction with regional, state and national media / matters related to website and social media / Cooperative efforts with other Travel & Tourism Associations and Groups / Data & Statistics concerning travel, visitation in county and region / recent Tourism Council meetings***

*Judge Beard said that this will be a standing report on the agenda henceforth, along the lines of those given by the Road & Bridge and Emergency Management departments.*

*Executive Director Mike Davidson reviewed information which was given to Commissioners, including a graph which shows an upward trend in tourism dollars spent. He also reviewed website visitation.*

*They will participate again in the State Fair this year. A German tour group is due here in October.*

*Ron Sanders said he is proposing that they contract and participate with the Marathon and Big Bend Chamber of Commerce in promotional activities. Each would submit a \$15,000 budget annually. Expenditures would be treated like any other Tourism Council expenditure and would be submitted to the Treasurer's Office.*

*Commissioner Killingsworth said that, with the budget, a plan should be submitted.*

***C. Financial reports / Discussion and appropriate action***

*Treasurer Ofenstein noted that rent is being paid to the County by the Tourism Council for the space across the street, but is still being paid to Mike*

*Davidson, as well, as he has been unable to move in due to the lack of phone or internet service, which should be installed Friday.*

*Mr. Sanders reviewed the current financial report with Commissioners.*

***C. Contracts over \$5,000/ Request for approval***

- 1. Contract for \$12,000 with KWES Channel 9 for TV ads Midland/Odessa Market/ Discussion and appropriate act***
- 2. Contract for \$12,030 with KOSA Channel 7 for TV ads Midland/Odessa Market/ Discussion and appropriate action***

*Mr. Davidson said this has been something they've been talking about for several months, and have decided that advertising during the evening news in the Odessa/Midland area would be beneficial. The advertising will be staggered on the two channels, and will run through mid-November.*

- 3. Agreement for \$5,000 with AJR media for full page ad in San Antonio Life, and in bound, print publication placed in 10,000 hotel rooms in San Antonio/ Discussion and appropriate action***

*Mr. Davidson said that one of the committee members looked into advertising benefits in the San Antonio area. The area is going to be hard to crack as many of those travelers are headed to the Hill Country.*

*Commissioner Killingsworth made a motion to approve the following contracts for advertising: \$12,000 to KWES; \$12,030, to KOSA, and \$5,000 for San Antonio Life. Commissioner Ortega seconded the motion, which passed unanimously.*

***D. Visitor Stations / Visitor Contact facilities for Marathon / Discussion and appropriate action concerning:***

***1. Site Selection Process***

***A. Judge's Comments concerning review of legal, regulatory, and engineering cost benefit issues in selecting any sites for County use***

*Judge Beard said that Commissioners Court may often have some concerns outside those at the top of the Tourism Council's agenda. She said it is an exciting time for the Tourism Council, particularly as related to the Midland/Odessa area. As a lawyer, Judge Beard said when addressing problems, she tends to see the legal issues first.*

*Commissioners Court needs to address legal issues first. For instance, when selecting a site, if there are many legal impediments, there is no point in going forward. The site which drew her concern, along with that of engineer Travis Roberts, is that in the U.P. right-of-way. U.P. significantly restricts activities and structures in its right-of-way. It is also a TxDOT right-of-way. There are very significant access and traffic issues, engineering issues, drainage issues, etc. TxDOT is not amenable to the site. Judge Beard noted that even if TxDOT did deem the site acceptable, actual approval could well take several years. It would also require a sublease. It is not a viable site for any County project.*

*Judge Beard said she is asking Commissioners Court to join her in deeming the site unacceptable, with the goal of bringing these issues to a resolution.*

***B. Request to determine that site in TxDot/U. P. Right of Way not suitable for County use for above purposes/ Discussion and appropriate action***

*Commissioner Ortega made a motion to deem the site inappropriate for County projects, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***2. Proposal to relocate current Visitor Station to 809 E Hwy 90 site to be leased)/ Discussion and appropriate action***

*Commissioner Ortega said that after the studying the issues with the current site, this site was proposed. It is next to Sixto's station, and he is willing to lease what is about 3-4 acres of land at the front of the property. There is space for RV's to pull in.*

*Commissioner Ortega made a motion to relocate the visitor station to 809 E. Hwy. 90, which was seconded by Commissioner Killingsworth, and passed unanimously.*

*Commissioner Ortega will bring a contract back to Commissioners for approval.*

***3. Request to endorse concept of an additional Visitor Contact Center to be located in downtown Marathon in an existing building (storefront) operation of that Center to be by contract with a Marathon organization, such as the Chamber of Commerce or other local group/ Discussion and appropriate action***

*Judge Beard said there is some interest in having a visitor contact center in downtown Marathon.*

*Mr. Sanders said some Marathon business owners have suggested a picnic area in downtown instead.*

*Commissioner Killingsworth said she doesn't see how that falls in with the mission of the Tourism Council.*

*Mr. Sanders was in agreement, as was Judge Beard.*

*Commissioner Ortega said that, as of Friday, they still were hoping for a storefront for a visitor contact facility.*

*Judge Beard said that this is where she sees some confusion. Tourism money is not community development money.*

*Commissioner Ortega said he thinks they would like do a billboard and some brochures.*

*Judge Beard said the issue is now a little different because the concepts keep changing.*

*Commissioner Ortega said that we should put aside this issue until everything is clarified.*

***E. Administrative matter / Ratify Redrafted Order Creating Tourism Council, as amended and clarified / Discussion and appropriate action***

*Judge Beard said Greg Henington pointed out a couple of weeks ago that there is not readily available an order creating the Tourism Council, as amended. Judge Beard has prepared such a document. One amendment will reflect the new ex officio voting member as the chairman of the County Historical Society, and that the voting membership will remain at a total of 11.*

*Judge Beard reviewed the amendments in more detail.*

*Commissioner Ortega made a motion to ratify the re-drafted order creating the Tourism Council, which was seconded by Commissioner Killingsworth, and passed unanimously.*

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

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***VAL CLARK BEARD, COUNTY JUDGE***

***ATTEST:***

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***BERTA RIOS- MARTINEZ, COUNTY CLERK***