

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
TUESDAY, SEPTEMBER 24, 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. Minutes / additions / corrections / approval**

*The minutes from the September 9, 2013, were presented for approval. Commissioner Ortega made a motion to approve the minutes, which was seconded by Commissioner Killingsworth, and passed unanimously.*

**2. Recognitions / Recognize Edie Elfring for Volunteer Service to County (Gardening at Ratcliff Gardens) / Discussion and appropriate action**

*Commissioner Ortega made a motion to recognize Edie Elfring for her work. Commissioner Stone seconded the motion, which passed unanimously.*

**3. Treasurer**

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

*Commissioner Killingsworth said there is a duplication in the jury payments. Treasurer Ofenstein said they will look into it.*

*Judge Beard said there are some large bills related to paving costs; paving materials are very expensive.*

*At the next meeting, Commissioners will discuss how to split the library payments between Alpine and Marathon.*

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

*Judge Beard abstained from 82932 and 82933; Commissioner Killingsworth abstained from 82968.*

***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 said a large payment came in from HIDTA Friday. Commissioner Killingsworth asked if we would need to draw from reserves for payroll. Treasurer Ofenstein said she doesn't think so, and that she thinks things will pick up enough next month that we won't have to then, either.*

***C. Grant Matters / Approval of modification for FY 2012(G12SW0004) / FY 2013 (G14SW0004) Grant Awarded for the Brewster County Sheriff's Office in support of West Texas HIDTA Multiple initiatives / Discussion and appropriate action***

*Treasurer Ofenstein said the modification is to change the expenditure request to purchase another K-9 unit.*

*Commissioner Killingsworth made a motion to approve the modifications to the HIDTA grant for fiscal years 2012 and 2013. Commissioner Ortega seconded the motion, which passed unanimously.*

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

***4. Alpine Housing Authority / Request to waive payment in lieu of taxes / Discussion and appropriate action***

*Imelda Natera, the executive director, was present to make the request for the waiver.*

*Commissioner Stone made a motion to approve the request to waive payment in lieu of taxes, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***5. 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.*

## **6. 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 they have mowed and patched potholes on Terlingua Ranch Road, and have seal-coated another mile, for a total of four miles this year. They have been blading several roads and are continuing work on the Terlingua school track. They mowed at Pena Park to get it ready for WestFest. The electricity was knocked out there last week, possibly lightning, but it has been repaired.*

*Mr. Causey said they patched the roof the at the jail a few weeks ago, and there were no leaks last week during all the rain. Judge Beard noted that the repairs had been done cost effectively.*

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

*Mr. Causey said he spoke with the City about putting in a line that they could draw off of, and was told they couldn't do it. He said he didn't press the issue due to the many issues at the City right now.*

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

#### **1. Update**

*Engineer Travis Roberts said they will be advertising for bids for concrete curbing for six lanes for the track. Mr. Causey said they are pretty close to finishing with the base.*

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

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

*Presidio County's distributor has been repaired, but the R&B Department will keep the issue on the burner in case they're needed.*

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

## ***7. County Emergency Management Office***

### ***A. General Report including:***

***Recent emergency responses; emergency planning update; recent work with cooperating emergency responders: (ESD #1, all VFD's and EMS); update on needs, programs, training, recent work with other governmental entities; equipment for emergency response and updates regarding needs, maintenance, repairs, replacement and additions; emergency management issues related to burn bans; 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 that things have been quiet. She said the CopSync 911 installation is progressing, but there are still a few offices which need the application downloaded.*

### ***B. Report on FEMA Disaster Recovery Training held in Marfa (September 16, 2013)***

*Mrs. Esparza said that in a major disaster, outside help will most likely have to be brought to help clean up. However, locally, a Disaster Response Team*

*to help with housing, groceries and financial needs, etc., can already be in place and ready to go. She will be working on putting the DRT together.*

***C. West Texas Ambulance Service (WTAS) Contract for 911 Ambulance Service in N. Brewster County / County Judge's request for approval / Discussion and appropriate action***

*Judge Beard said Mark Scudder came by this morning, but she told him she didn't think he needed to be present; he is available if needed.*

*The contract has some modest fee increases built in. Judge Beard reviewed those numbers with Commissioners. She has proposed a three-year term, and the contract also includes two additional years upon agreement by both parties.*

*Commissioner Pallanez relayed a process in Ector County through which citizens pay a monthly fee as a kind of insurance for ambulance transfers.*

*Without an ESD in North Brewster County, Judge Beard doesn't see how we could work a similar process. She believes an ESD would be a good thing, but doesn't know that it will ever happen.*

*Commissioner Killingsworth made a motion to approve a three-year contract with WTAS, with a provision of two one-year extensions. Commissioner Ortega seconded the motion, which passed unanimously.*

***D. Discussion and appropriate action for general administrative work of the Emergency Management Department 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.) / Discussion and appropriate action to complete & closeout this grant project***

*Mr. Roberts said he doesn't have any information to report. However, he did say we need to make sure to transfer ownership of the equipment to the Water Corp. so that it is not on Brewster County's books.*

*Commissioner Killingsworth said they are trying to find some documents to make sure that it's done correctly. Mr. Roberts will work on it.*

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

***1. Update***

*Two representatives visited the site last week, and the process should start soon.*

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

*project*

**9. Pending Renovation & Maintenance Projects**

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

*Judge Beard said the paint on the exterior is coming along, as are repairs to the stucco and patching around the doors.*

**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 will meet with Mark Hannan after court. They are going to discuss a screen and projector.*

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

**10. Texas Agrilife Extension Service / 4-H 5K Run / Judge's request to endorse and request for individual contributions to assist with run / Discussion and appropriate action**

*Judge Beard said we do not have funding to sponsor an event of this nature. More information has been sought. Judge Beard suggested individual donations be sought from those who are interested in the Courthouse.*

**11. Permian Basin Community Centers / County Judge's request to renew PBCC contract with County to provide MHMR Services for County / Discussion and appropriate action**

*Judge Beard said we contract with Permian Basin Community Centers to provide MHMR services in our County. The State used to provide the service directly, but hasn't done so for about 15 years. PBCC has worked with us for a number of years to provide mental health deputy services. Mark Davis, a licensed mental health worker, has been a certified peace officer for many years and responds to mental health calls. Through a state grant program, we can receive \$1,958.33 monthly to help with our mental health deputies. Judge Beard recommended renewing the contract.*

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

## ***12. Courthouse Preservation / Brewster County Historical Commission Chair and County Judge***

### ***A. General discussion concerning restoration, preservation, maintenance & repair issues in Old Courthouse, means of funding work, outlook for THC funding, Local Historic Preservation Funds and related issues***

*Judge Beard said that she and Historical Commission Chair Travis Roberts have assembled some information about courthouses in Texas. She said we are going to talk about funding issues and what needs to be done.*

*Mr. Roberts said he had a call last week from THC's architect. THC received \$4 million in the last session for courthouse restoration. THC's architect said they are calling courthouses which have been in the application process to find out if there's an emergency they may need help with to figure out how to distribute the \$4 million. She said no decisions have been made, but it has been suggested that maybe THC and the Counties could split costs 50/50.*

*Mr. Roberts gave Commissioners copies of the applications, which goes three rounds. He has increased construction costs, etc., based on national increases.*

*Judge Beard said when you accept funding from THC, they demand an easement on your entire courthouse. There are other strings attached. For instance, they would want our parking lot restored to green space, which would cause a problem, particularly when we have juries report. In the past, the HVAC system which would be mandated would be very, very costly. Even what you hang on the walls could be mandated.*

*Judge Beard suggested that we address these matters in a comprehensive way, rather than piecemeal, in 2015, when we will have paid off a large debt.*

*One of the reasons we've not been funded before, and maybe the driving reason, is that THC does not like the additional structures on the property, namely the Annex.*

*Through the years, Brewster County has tried to take care of the old Courthouse.*

*Mr. Roberts reviewed some of the history of the Courthouse, which was completed in September 1888, at a cost of \$27,000.*

### ***B. Discussion followed by walking tour of Old Courthouse to view & discuss preservation, repair & maintenance needs in Old Courthouse / return to Commissioners Court for further discussion concerning these issues***

*Commissioners then walked around the interior and exterior of the old courthouse. Mr. Roberts and Judge Beard pointed out areas of special concern, discussed what had been done in the past, and what needed to be done in the future.*

*After the walking tour, Commissioners were re-seated in the Commissioners Courtroom. Mr. Roberts said the County may need to create a new master plan so that further down the road, as things move forward, it has something to present to THC. The current plan is old and unworkable in parts.*

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

#### ***13. Veterans Service Officer Vacancy, Consideration of Appointment of Officer***

*Judge Beard said interviews were conducted at the last meeting. References have been checked since then.*

##### ***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 11:07 a.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 Veterans Service Office. The courtroom was cleared of all but Commissioners Court.*

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

*At 11:17 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss the Veterans Service Officer position. 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 appoint Gerardo Gonzales as the County Veterans Service Officer. Commissioner Ortega seconded the motion, which passed unanimously.*

#### ***14. Confer with Legal Counsel concerning Pending Litigation Issues:***

##### ***A. 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***

- 1. Announce Granting of County's Motion for Summary Judgment /Recognize work of County Attorney Steve Houston and Greg Hudson (Hudson & O'Leary, LLP) and TAC***
- 2. Executive Session Pursuant to Section § 551.071, to confer with legal Counsel about:***
  - (1) 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 11:20 a.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to Section §551.071 of the Government Code, VTCA, to discuss litigation related to the Olibas case. Commissioners recessed the County Judge's office, where attorney Greg Hudson participated telephonically.*

***Reconvene in Open Session***

*At 11:40 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to discuss legal matters related to the Olibas case. Judge Beard asked if there was any action to be taken as a result of the executive session.*

*No action was taken, although Judge Beard said Commissioners appreciate Greg Hudson and County Attorney Steve Houston for their untiring and extremely competent work on this matter.*

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

***15. Brewster County Treasurer's Office & Brewster County Tourism Council***

- 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, Pending Litigation and Consultation on a matter in which the duty of the attorney of the governmental body under the Texas***

***Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflict with this chapter (Privileged Matters)***

*At 11:42 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 recessed the County Judge's office, where attorney Greg Hudson participated telephonically.*

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

*At 12:35 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in 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. Judge Beard asked if there was any action to be taken as a result of the executive session.*

*No action was taken.*

***16. County Administrative Services Position***

***A. Update***

***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, 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 1:36 p.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 about the County Administrative Services Position. The courtroom was cleared of all but Commissioners Court.*

***Reconvene in Open Session***

*At 1:55 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in 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, and to confer with legal counsel. 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***

*Commissioner Killingsworth made a motion to postpone filling the position for County Administrative Services, which was seconded by Commissioner Ortega, and passed unanimously.*

***17. National Friends of the Library Week / Letter for Friends of APL / Discussion and appropriate action***

*Judge Beard read aloud a letter she proposed to send acknowledging the hard work of the Friend of the Library, and thanking them.*

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

***18. Far West Texas Judges & Commissioners Conference held at Study Butte September 18th – 20<sup>th</sup> / Report***

*Commissioner Killingsworth said there were around 65 elected officials in attendance. There were also more vendors than ever before. The event is growing, and folks are looking forward to next year.*

***19. Texas Commission on Indigent Defense / Indigent Defense Grant / Discussion and appropriate action to conclude application and move forward with processing including reporting plan from District Clerk***

*Conrad Arriola told Commissioners that the 2012 funds haven't been released yet due to a reporting problem in the District Clerk's Office. Once the reporting is complete, the funds will be released.*

*Judge Beard explained that these Indigent Defense funds are meant to help the County with court-appointed attorneys.*

***A. Executive Session Pursuant to Section § 551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee***

*At 2:02 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 District Clerk's Office. The courtroom was cleared of all but Commissioners Court. The District Clerk joined Commissioners Court shortly thereafter.*

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

*At 2:20 p.m., Commissioners reconvened in open session. Judge Beard announced that they had been in 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 District Clerk's 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***

#### ***20. Public Information Procedures / Review***

*Judge Beard said there are standard procedures which ought to be followed when requests for public information are made. County offices have the right to request that public information requests be made in writing. When the request is in writing, there is more clarity about what is requested and what is provided. Particularly when requests are accusatory, it is important to document how the request was complied with, etc.*

*Commissioner Killingsworth said we also need to be cautious and protect our records. It is better if copies are given to requestors than to provide original records for unsupervised examination.*

### ***SUPPLEMENTAL AGENDA***

#### ***1. Personnel / Confer with Legal Counsel / Legal issues related to status of employees and contractors, FLSA, Obamacare, IRS matters and related issues***

*This executive session was unnecessary.*

- 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, Pending Litigation and Consultation on a matter in which the***

*duty of the attorney of the governmental body under the Texas  
Disciplinary Rules of Professional Conduct of the State Bar of Texas  
clearly conflict with this chapter (Privileged Matters)*

*Reconvene in Open Session*

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

*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**