

**CALLED MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
THURSDAY, OCTOBER 31, 2013, AT 9:00 A.M.**

Judge Beard called this meeting to order. She welcomed Tom Williams, whom she recently appointed as Precinct 2 Commissioner. She said she feels like she made the very best choice. Commissioner Ortega was absent as his mother recently had surgery. Officers present are listed as follows:

**VAL CLARK BEARD
ASA "COOKIE" STONE
TOM WILLIAMS
MIKE PALLANEZ
BERTA RIOS MARTINEZ
JERRY SOTELLO
CAROL OFENSTEIN**

**COUNTY JUDGE
COMMISSIONER PCT. 1
COMMISSIONER PCT. 2
COMMISSIONER PCT. 4
COUNTY CLERK
J.P. PRECINCT 1
TREASURER**

To discuss and take action as appropriate on the following:

1. Treasurer

A. General Bills / Discussion and appropriate action

Treasurer Ofenstein said there is nothing unusual to report; however, the Tourism Council bills are included as they were not included at the last meeting. Commissioner Stone made a motion to approve the general bills as presented, which was seconded by Commissioner Williams, and passed unanimously.

Judge Beard abstained from any In & Out Rental and KALP bills.

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***

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 the County is going to begin leasing a new postage machine, which will save the County \$700/month.

2. Matters related to Stone Garden Grant Administration & other Law Enforcement Grant Administration / Issues related to Commissioners Court / Sheriff's Department / Treasurer's Office

A. Update on grant administrative assistance which can be provided by Rio Grande Council of Governments

Judge Beard said we are short-handed in the Treasurer's Office. We need some temporary, experienced help to assist with our grant reporting, particularly related to Stone Garden. Judge Beard, Treasurer Ofenstein and Deputy Skelton have been working together to come up with a solution. The COG is always available to provide assistance. If a temporary employee doesn't work out, the COG can step in and provide that function.

B. Consideration of approving temporary part time position for Administration of Law Enforcement / Homeland Security Grants / Training & support which can be provided by the COG / Discussion and appropriate action

Commissioner Stone made a motion to approve the temporary part-time position, which was seconded by Commissioner Williams, and passed unanimously.

C. Means and amount of compensation & hours required / Discussion and appropriate action to approve position and/or other appropriate action to ensure continuity in grant administration

Judge Beard said that, with law enforcement grants, there are funds to pay for administration within the grant. It will take a little while to get the funds in place, so the County will need to front the money for about a month or so.

Deputy Skelton has suggested compensation of \$18/hour for 12 hours of work a week.

Commissioner Stone made a motion to approve the \$18/hour rate, not to exceed 12 hours a week. Commissioner Williams seconded the motion, which passed unanimously.

Judge Beard said there is someone with experience interested in the position, who is not a present County employee.

3. Personnel / Matters related to filling pending vacancy in office of County Judge

A. Confer with Counsel on Privileged Legal Matters

1. Executive Session Pursuant to Section § 551.071, Government Code, VTCA, 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 9:13 a.m., Judge Beard announced that Commissioners Court was going into executive session, pursuant to Section §551.071 of the Government Code, to confer with legal counsel on privileged matters. She said Commissioners Court is not going to be making an appointment, nor are they going to be considering applications or speaking with interested parties. They are going to be setting out systematic procedures for filling the vacancy. She said it is a complex process and requires clarity. The courtroom was cleared of all but Commissioners Court, and attorney Greg Hudson was contacted telephonically.

Reconvene in Open Session

At 10:05 a.m., Commissioners reconvened in open session. Judge Beard announced that they had been in executive session to confer with counsel about procedures for filling the County Judge vacancy. Judge Beard asked if there was any action to be taken as a result of the executive session.

2. Discussion and appropriate action resulting from Executive Session

B. Discussion and appropriate action concerning adopting procedures for appointment of Successor County Judge, including time frame for appointment and related issues

Judge Beard said Commissioners asked Mr. Hudson if he would convey in open session some of the things he conveyed to Commissioners during executive session.

Mr. Hudson was contacted by telephone and spoke to everyone via speaker phone.

Mr. Hudson applauded Commissioners for opening up the process to those who wish to submit an application for consideration.

He said he drafted a memo for the Court and the public to explain the process. He said he hopes that it is widely distributed in the community.

He said there are requirements to be County Judge, including being over 18 years of age, no felony convictions, a resident of Texas for the last 12 months and a resident of Brewster County for the last six. A bond of \$1,000 must also be posted.

Judge Beard retains her duties until her successor is qualified, along with all of her duties, including the consideration and selection of her replacement. She will have a vote in the process. She will continue to preside over Commissioners Court.

There will need to be an open meeting of Commissioners Court, with a majority vote for an appointee who will take the position once they qualify, on or about Jan. 2.

Mr. Hudson said anyone who holds an existing office must resign their office in order to seek the appointment. An incumbent official, or a city official, who applies to be a candidate, and perhaps the appointment – this needs clarification -- may trigger the resign to run statute.

Folks who are either City or County elected officials need to talk with their counsel to make sure they understand the resign to run statute.

He said he hopes his memo is helpful and urged anyone with questions to seek clarification.

Ray Hendryx, KVLF, asked about the majority vote.

Mr. Hudson said as long as there is a quorum, then a majority of Commissioners have to vote for a candidate. If there is a deadlock, then no one is appointed until a majority vote is cast.

John Waters, Big Bend Gazette, asked about an approximate date when the vote may take place.

Judge Beard said Commissioners Court will lay out a proposal in a moment, including a timetable and procedures.

Mr. Hudson said he will remain on the line throughout the discussion.

As a result of the executive session, Judge Beard said she has a proposal which she wishes to make to Commissioners Court.

First, she said that the Court agrees that an orderly transition is important.

The pending vacancy was announced Oct. 22, 2013, and has already been widely publicized, so the consensus of the court is that no further advertising is necessary. Commissioners concurred.

The vacancy is for the last year of Judge Beard's term, until the next general election in November 2014. There is a long learning curve for this position. We need to move ahead in the process.

The Court is looking for applicants who meet the statutory and Constitutional requirements, and also one who is familiar with the structure of County government.

Commissioners are looking for stability and someone who expects to be long-term. Travis Roberts has been working on a project which documents all of the County Judges of Brewster County. Since 1887, we've only had 16, so we do have a tradition of lengthy service. In other words, Commissioners are not looking for a short-term placeholder.

Judge Beard's office has created a five-page job description. It is concise.

Is the Court's consensus that anyone who wishes to apply should review the description. Mr. Hudson has also suggested providing copies of a legal publication which describes the position. Judge Beard said she is asking personally that applicants be willing to work with her beginning in the latter part of November in order to make a smooth transition .

Judge Beard laid out a timeframe as follows:

Letters of application will be accepted until 5 p.m. on November 12, 2013. (There will not be an application form.) Letters should set out why the applicant is interested in the position. Letters should be accompanied by a very complete resume. Any other documents which an applicant thinks are relevant can be submitted. The letters and the resumes, when submitted, become public documents. As Mr. Hudson cautioned, those in office may have resign to run issues and should be clear about those laws before an application is submitted.

Judge Beard said a meeting will be posted and held Nov. 15 for the purpose of conducting interviews with the applicants. If there are a large number of applicants, Judge Beard said she thinks it is acceptable that a meeting be held even before then to screen candidates. This would likely be at the end of Nov. 12.

Judge Beard suggested that the posting for Nov. 15 includes action to make the appointment. She said she can foresee situations, however, where it may not be possible to come to an agreement on that date. Thus, a fallback agenda will be posted for Nov. 19, when a called meeting will be held anyway to take care of business before the Thanksgiving holiday.

Judge Beard said she would entertain a motion to adopt the procedures and the timeline as she just set out.

Commissioner Stone made a motion to adopt the timeline and procedures, which was seconded by Commissioner Pallanez, and passed unanimously.

C. Other administrative matters related to filling vacancy including acceptance of retirement/resignation / Discussion and appropriate action

Judge Beard said that her resignation letter needs to be accepted. It states that her resignation is effective Jan. 2, 2014.

Commissioner Stone made a motion to accept the letter of resignation, which was seconded by Commissioner Pallanez, and passed unanimously.

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

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS- MARTINEZ, COUNTY CLERK