

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY, JANUARY 12, 2009  
10:00 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 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>MATILDE PALLANEZ</b>	<b>COMMISSIONER PCT. 4</b>
<b>BETTY JO ROONEY</b>	<b>TAX COLLECTOR</b>
<b>CAROL OFENSTEIN</b>	<b>TREASURER</b>
<b>JERRY SOTELLO</b>	<b>J.P., PRECINCT 1</b>
<b>STEVE HOUSTON</b>	<b>COUNTY ATTORNEY</b>
<b>RONNY DODSON</b>	<b>SHERIFF</b>

**1. Invocation and Pledge of Allegiance**

*The invocation and Pledge of Allegiance were led by Judge Beard.*

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

*The December 15, 2008, minutes were presented for approval.*

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

**3. Treasurer**

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

*Treasurer Ofenstein explained that the total of the general bills is large because the remaining short term county debt has been paid off. There are also two bills for more than \$8,000 to Texas Disposal Systems. She said it should only have printed once. Also, the one check has been written, but she is holding it while discussions continue about the possibility of TDS donating the tipping fees, which were incurred on account of the County's site preparation work for the new library.*

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

## **B. Remaining 2008 Closeout Matters**

*Mrs. Ofenstein said she has nothing to report at this time on remaining closeout matters.*

- 1. Update**
- 2. Discussion and appropriate action**

## **C. Other matters related to Treasurer's Office / Discussion and appropriate action for Treasurer's work to go forward**

*Mrs. Ofenstein said that if any of the Commissioners would like to have the 2008 financial information which was in their Financial Report binders, they should come by her office and she will give it to them.*

*Judge Beard said that a meeting has been scheduled Jan. 21 with Department Heads to discuss operation of the County budget in the current economic context.*

## **4. Officials' Monthly Reports / approval**

*Commissioner Stone read the monthly reports for the record.*

*Commissioner Ortega made a motion to accept the reports, which was seconded by Commissioner Pallanez, and passed unanimously.*

## **5. Salary Grievance Committee / Select 2009 Citizen Members of Committee (by lot)**

*The Salary Grievance Committee is a statutory committee which is mandated for use in case an elected County official objects to his/her salary as set by Commissioners Court. Members are selected once a year by lot, and the pool is comprised of citizens who served on Grand Juries in the previous year.*

*The names of Zana Moore, Roger Siglin and Sage Wisner were drawn. The County Clerk will send a letter to these citizens. If they decline to serve, more names will be drawn.*

*Judge Beard noted that in the 17 years she has been serving, the Committee has never been called into action.*

## **6. Road & Bridge Department / Community Facilities**

### **A. Road & Bridge Superintendent's Report**

***General updates on maintenance and repairs for all county roads; road materials including fuel, supplies, including usage & inventories & future needs; 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); facilities (yards in Alpine, Marathon and S. County) and community facilities (assistance with maintenance and other related issues); assistance to other governmental entities and emergency responders; personnel issues, vacancies, new hires, performance and safety*

*Supt. Frenchie Causey gave the update. He said crews have started dirt work at the library site. The construction fence was put around the perimeter, but was blown down by wind and will have to be replaced. Construction fence is going to be placed at the fire station site soon. In Precinct 4, they cleaned up trash at Cactus Street and installed "No Littering and Dumping" signs. They have also been doing some mechanical work on some equipment.*

*Half the crew was out last week sick, but he expects everybody back this week.*

## ***B. TxDOT Border Colonia Access Paving Grant***

### ***1. Update***

*Grant Administrator Jerry Carvajal said he working on the environmental assessment at this time. He is waiting for the contract for TxDOT approval. Once that is done, he'll start work on a project schedule.*

*Commissioner Killingsworth said they are also working on the easement at Terlingua Springs Road.*

### ***2. Discussion and appropriate action***

## ***C. Confer with County Attorney concerning possible claim against County related to work done by Road & Bridge Department at 300 Blk E. Holland Ave.***

### ***1. Executive Session with County Attorney – Pursuant to Section §551.071, Government Code, VTCA, to confer on a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Chapter (Privileged Matters)***

*At 10:13 a.m, Judge Beard announced that the Commissioners Court was going into Executive Session to confer with the County Attorney concerning a possible claim against the County related to work done by the Road & Bridge Department at the 300 Block of E. Holland, pursuant to Section §551.071. The courtroom was cleared.*

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

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

*At 10:25 a.m., the Commissioners Court reconvened in open session. Judge Beard announced that the Court had been in Executive Session pursuant to Section §551.071 to confer with the County Attorney on privileged matters. Judge Beard asked if any action was to be taken as a result of the Executive Session.*

*No action was taken.*

#### ***D. Discussion and appropriate action for general work on Department to go forward***

### ***7. Sheriff's Office***

#### ***A. Acknowledge Donation from Mary V. Stringfellow***

*Sheriff Ronny Dodson said Mrs. Stringfellow donates \$500 every year to the Sheriff's office. Commissioner Ortega made a motion to accept the gift, which was seconded by Commissioner Killingsworth, and passed unanimously.*

*Thanks were expressed to Mrs. Stringfellow.*

#### ***B. Acknowledge Donation of used boat from Texas Parks & Wildlife***

*Sheriff Dodson said the Department has been working on the donation for a couple of years.*

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

#### ***C. Proposed purchase of used transport vehicle (under bid limits) utilizing trade in and other special fund assets on hand / Discussion and appropriate action***

*To purchase the vehicle, Sheriff Dodson said he wants to use the \$1,500 in his budget, trade in the current transport vehicle and take the remainder from asset forfeiture funds. The transport vehicle is used to take MHMR patients to Big Spring, and to transport prisoners all over the State, and sometimes the country.*

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

### ***8. County Boards / Discussion and appropriate action to fill vacancies and made reappointments on the following Boards:***

**A. Brewster County Groundwater Conservation District Board**

**B. 2010 Complete Count Committee (Census Bureau Program)**

**1. 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 11:17 a.m., Judge Beard announced that the Commissioners Court was going into Executive Session to discuss the appointment, employment, evaluation, reassignment, duties, compensation or dismissal of a public officer or employee, pursuant to Section §551.074. The courtroom was cleared.*

**Reconvene in Open Session**

**2. Discussion and appropriate action resulting from Executive Session including appointments to fill vacancies on above two boards**

*At 11:36 a.m., the Commissioners Court reconvened in open session. Judge Beard announced that the Court had been in Executive Session considering appointments to County Boards, pursuant to Section §551.074 to. Judge Beard asked if any action was to be taken as a result of the Executive Session.*

*Commissioner Killingsworth made a motion to appoint the following directors to the Brewster County Groundwater Conservation District: Chachi Hawkins (Pct. 1); Phillip Smith (Pct. 2); Ike Roberts (Pct. 3). Commissioner Ortega seconded the motion, which passed unanimously.*

*Commissioner Killingsworth made a motion to appoint the following to the 2010 Complete County Committee: Paul Olson (Pct. 1); Tom Williams, Alan Baker, Kathy Killingsworth (Pct. 2); Ruben Ortega (Pct. 3); Ambrosio Valles (Pct. 4); and in an ex officio capacity, Leo Ofenstein and Matt White. Commissioner Ortega seconded the motion, which passed unanimously.*

*Judge Beard said that if additional members are needed for the complete count committee, they will be appointed. She also noted that the most difficult issues related to the Census are in South Brewster County, which is why more members were appointed to that Precinct.*

**9. Pending Community / Public Safety Infrastructure Projects, including:**

**Major Projects:**

**South County Emergency Response Center (Housing for Terlingua**

*Medics, Terlingua VFD, Deputy, J.P. & related support space)*

*Alpine / N. Brewster County Area Emergency Response Center (Fire Station & Housing for Alpine VFD & Brewster County Emergency Operations Center)*

*Marathon Law Enforcement Facility (Housing for Deputy, J.P. Pct. 3 & training room)*

***Smaller Projects:***

*Vehicle & Equipment Storage Building (shed design) for South Brewster County on 23221 FM 170, near Terlingua & Study Butte*

*Repairs & Modifications to Old County Library Building, 203 N. 7<sup>th</sup> Street, Alpine, for use by County*

*Outdoor Meeting Space for Marathon Town Square, adjacent to Community Center*

*Construction assistance for Alpine Public Library, a non-profit corporation*

***Discussion and appropriate action regarding the above projects including:***

***A. General Update***

***B. Site Preparation / All Projects / Update / Discussion and appropriate action to go forward with site preparation***

*Judge Beard said that site preparation has commenced. In addition to the fire station project, the County is also helping out with the Alpine Public Library.*

*Mr. Causey said the four corners at the library site are marked. They are still waiting on the plat survey from Steve Walker, and on the physical survey from the engineer. They are also waiting on a test for material at the library site.*

*Mr. Causey said the rest of the concrete was removed at the fire station site. The posts are up for the construction fence.*

***C. Issues related to bidding subcontracts and materials, including timing of bid process and going forward with bids***

*Judge Beard said things are starting to roll pretty quickly on the design phase, and*

she is expecting various sets of plans for this phase to come in shortly, first on the Alpine fire station, to be followed by the Terlingua fire station. She said the Marathon site plan is basically set. Once the designs are fairly stable, they will look at the bid process. She said it is an interesting time because materials costs are coming down.

**D. Temporary County Employees for Projects / Update / Discussion and appropriate action concerning hiring temporary employees**

Judge Beard said a questionnaire and employment application have been created so that, at the appropriate time, they will be ready to advertise.

**E. Sale of House situated on 400 N. 8<sup>th</sup> Street (Williams Property) / Update / Discussion and appropriate action to go forward with sale**

Judge Beard said they are still developing a little more history so that an effective advertising campaign can be conducted.

**F. Order of work / Major Projects preceding small projects**

Judge Beard said major projects will precede the smaller projects, from both the planning and priority standpoint. With costs as they are now, there is the possibility that the larger projects will do better budget-wise than had been anticipated. The major projects need to be completed or get close to completion so that any surplus resources can be used for the smaller projects.

**G. Requirement for design work for smaller projects / Review**

Judge Beard said all projects must have design work.

**H. Groundbreaking Ceremonies / Discussion and appropriate action**

Judge Beard asked the Commissioners to check their calendars and call in their conflicts for the remainder of January and February.

**I. Review of Insurance Coverage for Projects / Treasurer / Discussion and appropriate action to secure adequate coverage for Projects**

Judge Beard said a lot of review has been done to make sure coverage is appropriate.

Mrs. Ofenstein said she received an insurance policy from the library board, which she and Megan Antrim reviewed, and it looks good. It is a construction policy with \$1.4 million coverage.

***J. Bills / All Projects / Discussion and appropriate action concerning payment of bills***

*Mrs. Ofenstein said the construction fencing for the library has been paid for, as has a rebar grade at the library site.*

*Judge Beard said this item is going to be regularly placed on the agenda for a review of the bills.*

*Mr. Causey noted that the fencing was purchased for all of the sites.*

*Judge Beard said purchases for each project need to be kept track of very tightly.*

***K. Design & Planning Workshop / Scheduling***

*Judge Beard asked Commissioners, again, to call in their conflict dates in order to begin scheduling some workshops.*

***L. Other general administrative matters related to going forward with above projects / Discussion and appropriate action***

***10. Pending Grant Matters***

***A. 2007 ORCA Infrastructure Grant / Discussion and appropriate action (Marathon Street Paving and Study Butte Water Corp. Improvements)***

***1. Update & General Administrative Matters regarding grant***

*Mr. Carvajal said the Marathon street paving was completed in November.*

***2. Study Butte Water Corporation Tank Project***

***a. Update***

*He said that sometime in January, he will start the procurement process to purchase the materials for the reverse osmosis system for the water tank in Study Butte. They are still waiting for RD to approve the acquisition of the tank.*

*He said the 2009 Colonia Construction grant applications are due March 22, and the priorities are first time water and sewer at a \$500,000 maximum.*

***b. Discussion and appropriate action for grant to go forward***

***B. TCEQ Solid Waste Grant / Update / Discussion and appropriate action concerning going forward with this grant project***



*The contract expires June 30. Each of the three roll-off containers have a total of four pick ups each. Commissioners Killingsworth and Ortega said they have had the South County and Marathon containers emptied once each.*

## **11. Emergency Management Department**

### **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; and personnel issues related to emergency response***

*EMC Tom Santry said the department is about three-quarters of the way through the grant. Only the sheriff's office and fire department expenditures are yet to be completed.*

*The AVFD is in the process of ordering equipment for the ladder truck.*

*The AVFD has scheduled HAZMAT training for this year, at the technical level. Two other jurisdictions have been invited. The dates are not yet set.*

### **B. Proposed contract with Alpine Volunteer Fire Department concerning use & occupancy of new fire station facilities & services provided**

*Judge Beard highlighted the proposed contract. She said it is basically a move from one facility to another under the same terms. There will be no significant change in the relationship between the County and AVFD, except the County will now house AVFD. There is a recital that AVFD provides firefighting in the north part of the county, and a recital that the County understands and agrees that AVFD will simultaneously be providing services not only to the County but the City under a separate agreement, and that the County intends that this fire station will be used to benefit both the County and the City of Alpine.*

*Judge Beard said that everyone who lives in the City is a constituent of the County, and the fire station is for everyone's benefit.*

*The contract requires the AVFD to remain current in training, and provide basically the same services that they provide now.*

*The County will house the department and pay electricity and gas at the fire station. The fire department will make their arrangements for water, just as they do now. The County will insure the facility, and any equipment that belongs to the County, just as it does now.*

*Commissioner Ortega made a motion to approve the contract, which was seconded*

*Judge Beard said one project that could be considered are roads because most of the money used for that type of project is in materials rather than employees. She asked Mr. Carvajal to speak about the issue from the standpoint of grants.*

*He said he is trying to keep track of what is coming out of Washington. In early November, EDA asked for possible projects from all area COGs. He began work on it, and a week later was told to hold off. He is unsure yet if future requests will come from Washington or from the State. He is keeping an eye on the issue, and will keep the Commissioners informed.*

## **18. Concept of Emergency Services Districts**

### **A. Reaffirm Commissioners Court's endorsement for this means of providing Emergency Medical Services to areas with limited resources**

*Judge Beard said there are some discussions going on which originated in Presidio County which greatly concern her and Jeff Davis County Judge George Grubb. Brewster County wrestled for a number of years with providing emergency services to its citizens, and has reached an equilibrium with those services. The County is vast and diverse. The concept that concerns Judge Beard is entering into a giant emergency services district to provide EMS services in three counties. The concept was posed to Judges Beard and Grubb, both of whom oppose the idea as there is enough specialized territory as it is.*

*She thinks a discussion about the problems that would arise from a giant district is prudent, as is a discussion about the possibility of any positives that would benefit constituents.*

### **B. Discussion concerning pitfalls of giant, multi County Regional Emergency Medical Services Provider**

*Commissioner Killingsworth, who led the effort to establish the ESD in South County, said the ESD has been beneficial to the area. She also helped Jeff Davis County establish its ESD. She believes having those local ESDs which understand the needs of such diverse areas has been very beneficial. She recommended that neighboring counties look at creating their own ESDs. On a grand scale, it is very hard to operate and recognize the needs of outlying rural areas, she pointed out.*

*Commissioners had previously received a copy of a letter from Alan Baker, Terlingua Medics director. The concerns in that letter were touched on by Commissioner Killingsworth and shared by the other Commissioners.*

*Judge Beard noted that EMC Tom Santry deals with emergency services on a daily basis, and asked him to comment.*

*He said he believes it is a matter of looking at the issue from all angles. He said he thinks the quality of care would suffer if a giant district was created.*

by Commissioner Killingsworth, and passed unanimously.

### **C. Burn Ban**

#### **1. Update on current conditions for wildfire in County**

Mr. Santry said he would very much recommend that a burn ban be approved right away. He said there haven't been any large fires, but with the wind blowing like it has been, there could eventually be a big one.

He said the forestry service is also recommending a burn ban. The burn ban is in effect for 90 days, at which time its status will be reviewed.

#### **2. Discussion and appropriate action concerning enacting ban**

Commissioner Ortega made a motion to enact a burn ban, which was seconded by Commissioner Killingsworth, and passed unanimously.

### **D. General Administrative Matters / Discussion and appropriate action for work of Emergency Management Department to go forward**

#### **12. Commissioner Pct. 4 / Issues related to trash collection on Cactus Street / Discussion and appropriate action**

Commissioner Pallanez explained that the problem has been solved for the time being with the use of "no littering" signage.

#### **13. Proposed Lajitas Municipal Utility District / Notice of intent to introduce proposed Legislation / Discussion and appropriate action**

Judge Beard said that she copied the Commissioners on the formal notice of the proposed Lajitas Municipal Utility District.

#### **14. 2009 Legislative Issues / General Discussion concerning upcoming State legislative issues which could impact County in this legislative session**

Judge Beard said Brewster County is always playing defense during the session. The County's legislative consultant, V.A. Stevens, has done a good job of watching the County's back. Her first task is to monitor water issues, and Judge Beard suggested that the County continue to monitor all water legislation very carefully.

Other things to watch for include the probable restructuring of TxDOT; any changes to colonia regulations and particularly anything that would hurt the County tax base or the South County real estate market; the appraisal process, and making sure the

*State doesn't take over the process completely.*

*She said she wants Commissioners' input, and asked if there is anything else the County needs to guard against.*

*Commissioner Killingsworth suggested, along with the appraisal process, revenue caps are an issue.*

#### **15. County Facilities Employee Work Space / Review of possible 2-year plan**

*Judge Beard gave the Commissioners a worksheet explaining one concept of how the County may have some more space once the old library building is modified.*

*Commissioner Killingsworth noted that, even with that expansion, there will still be a need for space.*

*Judge Beard said she would put the plan on the next agenda so the Commissioners have a chance for further thought and review.*

#### **16. County Clerk**

##### **A. Announce advertising for Elections Supervisor**

*Because Berta Martinez is attending out-of-town training, Judge Beard said the item will be postponed until she is present.*

##### **B. Proposed budget transfers from County Elections Office to fund position**

#### **17. Possible Federal Economic Stimulus Package**

##### **A. Increased cost issues related to Davis Bacon Wage Rates & other Federal Regulations**

*Judge Beard noted that there is no piece of legislation that the County can "grab onto" and know anything for certain. As a rural area, we are always unsure if some kind of population formula will be used that will be applied which will cause the County to get little to nothing.*

*Judge Beard said the Davis Bacon Act, which requires set Federal wage rates, is always a concern with any building project because it requires a wage rate which is usually substantially above the norm for Brewster County. The projects which would be considered need careful review.*

##### **B. Consideration of paving and upgrades of existing County roads and community water projects as possible projects for County, should additional Federal Funding become available / Discussion and appropriate action**

*Commissioner Killingsworth said she would be happy to help Presidio County create its own ESD, which was reaffirmed by the others. Judge Beard said Judge Grubb probably also believes that is the best route.*

*Judge Beard asked Mr. Santry to continue to watch the issue.*

*She said she would contact Rep. Gallego's office and let him know about the Commissioners' concerns. At the next meeting, she will have a draft of a letter to be sent to his office as well.*

**19. Public Comment**

*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**