

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
MONDAY, FEBRUARY 9, 2009
9:00 A.M.**

Judge Beard called this meeting to order. Officers present are listed as follows:

VAL CLARK BEARD	COUNTY JUDGE
ASA STONE	COMMISSIONER PCT. 1
KATHY KILLINGSWORTH	COMMISSIONER PCT. 2
RUBEN ORTEGA	COMMISSIONER PCT. 3
MATILDE PALLANEZ	COMMISSIONER PCT. 4
BETTY JO ROONEY	TAX COLLECTOR
CAROL OFENSTEIN	TREASURER
BERTA RIOS MARTINEZ	COUNTY CLERK
JERRY SOTELLO	J.P. PCT. 1
STEVE HOUSTON	COUNTY ATTORNEY

1. Invocation and Pledge of Allegiance

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

2. Minutes / additions / corrections / approval

The January 27, 2009 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 & Infrastructure Project Bills / Discussion and appropriate action concerning payment

Treasurer Ofenstein said that the non-departmental bills are high because they include quarterly reports. The bills also include a \$98,495 paving grant payment. There is a bill from the Sheriff's Office for a laptop which was accidentally pulled from the General Fund. It should come from Asset Forfeiture.

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

Treasurer Ofenstein presented one walk-in bill for caliche at the library site for

\$7,110.

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

B. Presentation regarding Hill County Software / Software upgrade for Treasurer's Office / Treasurer's request to participate in trial project / Discussion and appropriate action

Mrs. Ofenstein said Hill Country has finished updating the accounting software and would like to work with the Treasurer's Office for a trial project.

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

C. Treasurer & Sheriff / Seizure Account Report Certification and Asset Forfeiture Report / Request for approval / Discussion and appropriate action

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

D. Quarterly Report / Discussion and appropriate action

Mrs. Ofenstein provided a detailed review of the last quarter of 2008.

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

E. Court Costs / Family Protection Fee / Review State's inability to accept this fee & to rescind collection of fee / Discussion and appropriate action

Judge Beard explained that the State is not accepting the payments because it thinks the fee may be invalid.

Mrs. Ofenstein said she is suggesting that the County rescind the vote taken in either 2005 or 2006 to charge the \$1 fee, which at the time was required by the State.

Judge Beard said it his her recommendation to go ahead and rescind the fee.

Commissioner Killingsworth made a motion to rescind the fee, which was seconded by Commissioner Ortega, and passed unanimously.

F. Other matters related to Treasurer's Office / Discussion and appropriate action for Treasurer's general work to go forward

Mrs. Ofenstein said she is going to pay debt on the jail this week for \$163,411.25; that leaves only one more payment this year on debt service for \$16,000.

4. Officials' Monthly Reports / approval

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. Sheriff's Office / 2008 Citation Data / Discussion and appropriate action

Administrative Assistant Judy Stokes provided Commissioners with the data, and compared it with 2007.

Commissioner Ortega made a motion to accept the data, 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/ road materials including fuel and 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. Causey said crews are continuing work at the library site. The bulldozer broke last week and he is working on repairs. One crew member is working on cleaning up the community center in Marathon. They have been spreading top soil at the Post Park, getting ready to plant some grass.

B. Confer with County Attorney concerning possible claim against County related to work done by Road & Bridge Department at 300 Block E. Holland Ave., Alpine, Texas

- 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 9:23 a.m., Judge Beard announced that Commissioners Court was going into Executive Session to confer with the County Attorney.

Reconvene in Open Session

2. Discussion and appropriate action resulting from Executive Session

At 9:35 a.m., the Commissioners Court reconvened in open session. Judge Beard announced that the Court had been in Executive Session conferring with the County Attorney regarding a possible claim against the County related to work done by the Road & Bridge Department at the 300 Block of E. Holland. Judge Beard asked if any action was to be taken as a result of the Executive Session.

Commissioner Killingsworth made a motion authorizing the County to pay Invoice No. 3121 in the amount of \$2,856.28 for the damages incurred on the 300 Block of E. Holland Ave. Commissioner Ortega seconded the motion, which passed unanimously.

C. Discussion and appropriate action for general work of Department to go forward

7. Tax Assessor Collector / Report on Tax Collections / Discussion and appropriate action

Betty Jo Rooney said tax collections have been slow. The County is at 77.38 percent. At this time last year, the County was at 80.35 percent. Ms. Rooney said the other taxing entities in the County are also experiencing slow collections, especially Terlingua ISD.

Ms. Rooney said delinquency letters are ready to be mailed out. She said that both larger and smaller taxpayers are delinquent, and many mortgage companies are wanting to make payments.

8. Request to U.S. Post Office to replace Downtown Alpine Mail Drop Boxes / Discussion and appropriate action

Judge Beard noted that these particular drop boxes were convenient for the County offices. An employee could walk to the drop boxes, rather than having to drive the Post Office, saving time and fuel.

She read a draft of a letter to the USPS, which asks that the agency replace the drop boxes.

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

9. Personnel / Conduct of Voter Registration & Elections / Personnel Review with

County Clerk & Tax Assessor-Collector regarding duties, employment, compensation of Employees and officeholders as related to voter registration and elections

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, 9:45 a.m., Judge Beard announced that Commissioners Court was going into Executive Session to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee of voter registration and elections. She asked the County Attorney, County Clerk and Tax Assessor Collector to remain for the session.

Reconvene in Open Session

B. Discussion and appropriate action resulting from Executive Session or discussion in regular session

No action was taken.

10. County Judge / Report on TDA sponsored Economic Development Workshop held on January 29, 2009, in Alpine

Judge Beard said nothing really new came out of the workshop, but it is good to go and see what is available on the horizon. TDA discussed several programs in which the County already participates. As far as USDA is concerned, there is not much money available in the way of grants or loans for this part of the state, and what is available usually takes twice as long and costs twice as much, due to USDA requirements.

She said she would pass some information about film locations, which has been profitable in Brewster County, to the Tourism Council.

11. Upcoming 2010 Census / Judge's report on Census Bureau presentation at Chihuahuan Desert Resource Conservation Annual Meeting on January 30, 2009, and ongoing County work to prepare for 2010 Census

The Census Bureau made a presentation at the CDRC meeting, and since that time, Judge Beard has met with Ms. McBride who is the Census rep in Midland. Judge Beard said the Census Bureau appears to believe in doing the best job possible. However, she does not believe they have a good handle on the differences Brewster County has compared to the rest of the state, and to many rural counties, such as how spread about our population is.

12. Commissioners' duties related to County Finances, duties of Commissioners related to County infrastructure projects & duties of Commissioners as related to County employees (with emphasis on Road & Bridge Department)

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 10:08 a.m., Judge Beard announced that Commissioners Court was going into Executive Session to discuss Commissioners' duties related to County finance, infrastructure projects sand County employees. The courtroom was cleared.

Reconvene in Open Session

B. Discussion and appropriate action resulting from Executive Session

At 10:20 a.m., the Commissioners Court reconvened in open session. Judge Beard announced that the Court had been in Executive Session related to Commissioners' duties, pursuant to Section §551.074. Judge Beard asked if any action was to be taken as a result of the Executive Session.

No action was taken.

13. 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 / Discussion

EMC Tom Santry gave statistics for fires in 2008 for Brewster County. He said the 2007 Homeland Security grant is just about completely received, and he is ready to start with the 2008 funds.

B. Wildfire Conditions & Burn Ban Update

Mr. Santry said conditions are critical at the present time.

C. Report on Governors Division of Emergency Management / Public

Information Officer training undertaken by Betse Esparza

Mrs. Esparza said the training she received at GDEM was the best she'd had on any subject. She enjoyed it and found the information useful and sensible, and highlighted what she learned about donations, pool reports and using Spanish to make sure important information gets to the public.

D. Discussion and appropriate action for general work of Department to go forward

14. Request for contract recreational funds from the Big Bend Amateur Softball Association / Discussion and appropriate action

Mo Morrow of the BBASA said they are starting their ninth season. He said they are asking for \$3,000, the same as previous years. The program averages about 200 girls each year from Alpine, Marathon, Fort Davis and Marfa.

Commissioner Ortega made a motion to approve the \$3,000 request, which was seconded by Commissioner Killingsworth, and passed unanimously.

15. Recognition of Dr. Vic Morgan for his leadership and many contributions to Brewster County / Discussion and appropriate action

Judge Beard read a letter wishing Dr. Morgan the best as he prepares for retirement and thanking him for his team spirit throughout his tenure.

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

16. Public Comment

No public comment was made.

RECESS

17. Pending Community / Public Safety Infrastructure Projects Workshop, to discuss

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 for Alpine VFD & Brewster County Emergency Operations

Center)

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

Jail renovations, and Construction Assistance for Alpine Public Library, a non-profit corporation

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. 7th Street, Alpine

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

The Workshop will include:

General Review of all Projects and means of construction (Construction Management)

Review of budgets, designs, site preparation, personnel and temporary employees, discussion of possible phasing of projects and desired designs as related to budget, sequence of projects, purchasing & bids, pending bill costs & availability of materials and matters related to current economic conditions, matters related to utilities, and to neighboring properties, and general consultation with Construction Manager regarding other matters related to these projects

Commissioners Court, along with Construction Manager Danny Butler, gathered around the table to review the blueprints for each major project.

They began with the Marathon Justice Center, which is likely to be the first project completed.

The building will have a front and back porch. It is all wood construction, measuring 34x47 ft., including the porches. There are two offices planned, along with a multi-purpose room and a break room.

The stone used outside could be real stone, or manmade.

Commissioner Killingsworth asked if it would be possible to get smaller prints of the elevations. Mr. Butler said he could get them for Commissioners.

Treasurer Ofenstein asked about the budget for the building.

Judge Beard noted that until the bidding starts, an exact number cannot be given. With this kind of project, once the bids start coming in, a project may be scaled up or down, etc.

Commissioner Killingsworth asked if local contractors will have the opportunity to bid. Mr. Butler said they absolutely will.

Mr. Butler said as materials pricing continues to drop, he is trying to time the bids in order to get the lowest rates.

Talking about the South County EOC, Commissioner Killingsworth asked Mr. Butler to take note of the time of year Down South when pouring concrete and working outside in general, due to the heat.

Mr. Butler then spoke for a moment about the "round robin" structure of when and how the projects will be handled. For example, Road & Bridge crews have been working on the pad for the library site. They will soon begin prepping the Marathon site, and then may start in South County and then come back to Alpine to work at the fire station site. Crews will be working from site to site on different aspects of the projects. A portion of each project may be started or completed, after which crews will need to go to another site to work there for a while.

Mr. Butler said the South County project is by far the most intensive, due to its location and topography.

Commissioners discussed the South County location with Mr. Butler. It was learned that, according to the elevations, the building had been shown in the wrong place. It had actually been placed in an area prone to flooding rather than on the section where the soil samples had been taken.

Mr. Butler made a telephone call to the architect and both and Commissioner Killingsworth spoke with people there so that the site can be corrected.

The South County EOC will house the J.P., Deputy, VFD and EMS, and will include a training room.

Commissioner Killingsworth and Mr. Butler discussed the possibility of a propane generator at the South County EOC. Mr. Butler said he would advise against propane, saying propane generators are unreliable.

The Commissioners next discussed the Alpine Fire Station/EOC.

Judge Beard said a meeting has been held with TxDOT, and they have been extremely helpful. They discussed emergency flashing lights at the entrances/exits to the fire station along Holland Ave. so that passers-by will know to pull over or slow their vehicles so that emergency vehicles can safely exit.

The building will include large bays for fire trucks and small bays for smaller vehicles, and will be finished with stucco and rock. It will also house the EOC, and the County is exploring the use of Homeland Security grant funding to cover the costs of technology, equipment and line extensions.

Mr. Butler said he would like everything to be ready for bid by March 1. The Commissioners Court has pre-authorized Judge Beard to handle the bidding process, so

special meetings for that purpose should not be necessary.

Applications for temporary employees are being prepared and will be available in Judge Beard's office.

Judge Beard said that the big projects need to be completed first, followed by smaller projects.

Mr. Butler walked through the jail this morning, and he discussed the needs there. The bulk of the work needs to be done with the technology console. For instance, placing the television monitors on the wall rather than on the counter tops will clear up a lot of space.

Commissioner Killingsworth said they have discussed in the past a helipad for South County. She said she wants to make sure that the site plan includes space for that possibility.

Commissioners looked over the plans for the new Alpine Public Library, which were drawn by the library's own architect.

Frenchie Causey said he has received a couple of applications from some pretty highly qualified people.

Judge Beard brought up the possibility of volunteer labor. For instance, she said she understands the Big Bend Amateur Radio Club has several members with experience in building.

Mr. Butler said things may work out where volunteer labor is the best way to go. It will make a difference in how far the money will stretch.

18. Infrastructure Projects / Discussion and appropriate action regarding the following:

A. Approve or Modify Designs for:

1. Fire Station for Alpine Volunteer Fire Department and E.O.C.

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

2. Marathon Justice Center (Deputy & J.P. Offices)

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

3. S. County Emergency Response Center / Discussion and appropriate action

Commissioner Killingsworth made a motion to approve the South County design,

based upon placing the facility in the proper location on its tract, which seconded by Commissioner Ortega, and passed unanimously

B. Discussion concerning Jail renovations and small projects / Discussion concerning scheduling smaller projects

C. Sequence & Plan of Work / Discussion and appropriate action to adopt preferred sequence and plan of work

Mr. Butler again outlined the plan to finish up the pad at the library site, then head to Marathon, followed by Terlingua and Alpine. Crews will work on the project as needed, and move on to other projects as needed.

Commissioners briefly discussed temporary living quarters for crews in South County.

D. Purchasing & Bids

(Bidding has been previously authorized by Commissioners Court)

1. Discussion & appropriate action concerning outstanding bid Cement bid opened on December 15, 2008

Mr. Butler said he thinks it would be best to leave the cement bid outstanding for the time being.

2. Announce / Review other upcoming bids

Any materials costing over \$25,000 must go out for bid. Judge Beard said she will need a general list from Mr. Butler of what is needed.

E. Professional Services Contract Approval (Kleinfelder) for soils testing / Discussion and appropriate action

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

F. Procedures related to records keeping, documentation and payments / Review by Treasurer's Office / Discussion and appropriate action

Mr. Butler said separate records will be kept for each major project. A running total will be kept for each project.

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

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK