

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
MONDAY, MARCH 9, 2009
10:00 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
JERRY SOTELLO	JUSTICE OF THE PEACE
BERTA RIOS MARTINEZ	COUNTY CLERK

1. Invocation and Pledge of Allegiance

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

2. Minutes / additions / corrections /approval

The minutes from the Feb. 9, 2009, meeting were presented for approval. Commissioner Ortega made a motion to approve, which was seconded by Commissioner Killingsworth, and passed unanimously.

3. Treasurer

A. General Bills / Discussion and appropriate action

Mrs. Ofenstein said the medical insurance was paid, as were the contracting agencies. The Elections Department includes a check to ES&S for software programming.

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

Mrs. Ofenstein presented one walk-in bill for trimming elm trees at the tax office for a total of \$489.44. Commissioner Stone made a motion to approve the bill, which was seconded by Commissioner Killingsworth, and passed unanimously.

Mrs. Ofenstein noted that she will be paying the Grand Jury from Friday, March 6, 2009.

B. County & District retirement System / Update & discussion concerning changes in contributions

Mrs. Ofenstein said she has received an estimate from TAC for the 2010 rate at 9.4 percent, which is up from 8.18 percent.

TCDRS wants a total of 29 percent from the last quarter of 2008.

C. Account for receipt of donations to Emergency Responders & VFD's / Discussion and appropriate action to authorize account

Judge Beard said there currently is not an account for donations. She believes it is a good thing to have so that there is a quick and easy vehicle for donations to be made.

Commissioner Stone made a motion to set up a fund for donations, which was seconded by Commissioner Killingsworth, which passed unanimously.

D. Other matters related to Treasurer's Office / Discussion and appropriate action

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. 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), equipment rentals; 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 said crews have been touching up roads in South County. They brought the water truck on March 3 to help with the Loma del Norte fire. A hauler truck broke down and was towed by Skelton Trucking to be fixed. They used the dump trucks to fill in. They built a gate at the old dump ground in Marathon to keep people from going in and dumping trash, and performed general maintenance at Pena Park,

along with maintenance on several pieces of equipment.

B. Border Colonia Access Paving Grant / S. County Project

1. General Update from Pct. 2 Commissioner and Grant Administrator

Grant Administrator Jerry Carvajal said TxDOT is still reviewing the engineering contract; he will hopefully receive approval pretty soon. The Environmental Assessment is almost complete. He is still working on a project schedule, which is due by Monday.

Commissioner Killingsworth said they are still waiting on an easement and survey as well. County Surveyor Steve Walker is working on it.

2. Discussion and appropriate action for work of grant to go forward

C. Cooperative Projects for other Governmental Entities / Need to not schedule additional projects until current County Public Infrastructure Projects are completed / Discussion and appropriate action

Judge Beard said the County's tradition is to help out fellow governmental entities whenever we can – paving, light construction, etc.

However, what she would like to communicate at this time is that the County's plate is going to be very full for the next months, and we are unable to take on anything except items of an emergency nature.

When the County projects are complete, we'll be able to step back up to the plate and help them out.

Commissioner Ortega made a motion authorizing Judge Beard to communicate that information with fellow entities, which was seconded by Commissioner Stone, and passed unanimously.

D. Compensation matters related to Road & Bridge Department Employees

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

At 10:20 a.m, Judge Beard announced that the Commissioners Court was going into Executive Session to discuss compensation matters related to Road & Bridge Department Employees, pursuant to Section §551.074. The courtroom was cleared.

Reconvene in Open Session

2. Discussion and appropriate action resulting from Executive Session

At 10:23 a.m., the Commissioners Court reconvened in open session. Judge Beard announced that the Court had been in Executive Session pursuant to Section §551.074 to discuss matters related to compensation in the Road & Bridge Department, with a particular focus on the work load of senior management. Judge Beard asked if any action was to be taken as a result of the Executive Session.

Commissioner Killingsworth made a motion to pay the Road & Bridge Superintendent an additional \$200 per pay period for managing the County Infrastructure Projects. Commissioner Ortega seconded the motion, which passed unanimously.

E. Community Facilities / Dedication of Red Pattillo Community Center and Groundbreaking for S. County Emergency Response Center on April 3, 2009 / Update / Discussion and appropriate action to carry out preparations for these activities

Commissioner Killingsworth said both events are scheduled, and the plaque for the Pattillo dedication is ready to go.

Judge Beard said the plan right now is to have a groundbreaking at the ERC, and then go the community center for the dedication.

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

6. 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 said he is still working with the 2007 Homeland Security Grant. He will begin using 2008 funds pretty soon. He said the County will be audited by Homeland Security sometime this summer.

B. Loma del Norte Fire beginning on March 3, 2009 / Report

1. Discussion of particular issues related to this wildfire

Mr. Santry said the first call came to Sheriff's Department at 1:51 p.m. Tuesday, March 3. People were reporting seeing smoke to 911. The Alpine Volunteer Fire Department reported to the scene and requested assistance. The Forrest Service was called.

Once Mr. Santry arrived on the scene, the Forrest Service Operations Center out of Grandbury called him for an update. Mr. Santry told them he saw a tremendous cloud of smoke behind a hill. They asked if there were any houses; Mr. Santry told them he could easily see 15-20 houses, but could not see past the smoke. The Forrest Service said they would send help, and they did.

On Wednesday, the Forrest Service had a small crew at the scene and brought a tanker and a spotter. On Tuesday and Wednesday, a DPS helicopter was being used to visualize the fire. They were unable to get a truck into the area. Fixed aircraft were used to spread fire retardant, and Mr. Santry said they did a great job.

On Tuesday, the prevailing wind was blowing east. On Wednesday, it was blowing north toward more homes.

Mr. Santry said he would like to put on the record the names of the departments which responded with both personnel and equipment. They include: Brewster County Sheriff's Office, Road & Bridge Department, Alpine VFD, Alpine Police Department, Texas Forrest Service, Marathon VFD, Terlingua VFD, Fort Davis VFD, Davis Mountains Resort VFD, TxDOT and the State Game Warden.

Mr. Santry said that without all these responders, the fire would have been much worse and done far more damage. He said they had good luck and good coordination.

As of this morning, the actual acreage burned is estimated at 3,026. Some of it was back-burned and some of it was caused by wind change. Fifteen homes were saved and 50 homes were threatened.

Judge Beard noted that the homes involved are generally pretty expensive.

Mr. Santry said they all have propane tanks as well.

Mr. Santry said he will be submitting some of the cost to TxDOT for reimbursement for personnel.

He has spoken with the Forrest Service about a workshop for landowners which teaches them to not allow the grass to grow right up to their homes or right up to the propane tank. There may be a need for the same program in South County.

Judge Beard said the offer ought to be made to Sunny Glenn Estates and others.

Mr. Santry said the area needs more firefighters. He said the Alpine VFD has 24 firefighters. On Tuesday, 19 responded; on Wednesday, there were four available.

Judge Beard said we are chronically short-handed and more community participation is needed.

Mr. Santry said there has been some trouble with employers letting the volunteers leave work to fight fires.

Judge Beard said it is time to again to remind the community that everybody needs

to work together in a fire. Without the volunteers, firefighting cannot be done. She said the Forrest Service is great, but it takes a while for them to get here, and there's always a chance that they will be unable to come due to bigger fires elsewhere in the state.

2. Thank Firefighters, Emergency Responders and other Agencies which assisted

Commissioner Ortega made a motion to formally thank the responders, which was seconded by Commissioner Stone, and passed unanimously.

C. Update on recent issues & work related to burn bans, prescribed burning & emergency communication, and report on positive meeting with officers of New Prescribed Burning Association / Discussion and appropriate action

Judge Beard said there is definitely some disinformation being put out about prescribed burning and this Commissioners Court. She said the issue does not concern acceptable rangeland practice. The Commissioners Court is talking about being good neighbors.

Mr. Santry said a meeting to create a TransPecos Prescribed Burning Association was held Feb. 25. He and Judge Beard later met with the officers of that association, and told them the County is not against them. The need is for better communication. He said they were very cordial and he thinks they'll have good relations with them.

Commissioner Ortega said he believes the County should adopt the Department of Agriculture plan.

Mr. Santry said the Texas Commission on Environmental Quality also has a plan.

Mr. Santry said another meeting of the TransPecos Association is scheduled, and he plans to attend.

D. Sources of funding for equipment for Emergency Responders & Firefighters / Update

Mr. Santry said he spoke with the COG and learned that, short of furniture, most equipment will be able to be purchased with Homeland Security grant funds.

E. Telephone for Public Information Officer / Discussion and appropriate action

Judge Beard said that the PIO needs a cell phone to be able to communicate during an incident.

Mr. Santry said, ideally, all media should be directed to the PIO.

Commissioner Ortega made a motion to provide a cell phone to the PIO, which was seconded by Commissioner Stone, and passed unanimously.

F. Discussion and appropriate action for general work of Emergency Management Department to go forward

7. Salary Grievance Committee / Select additional 2009 Citizen Members of Committee (by lot)

Three names were selected at an earlier meeting from a pool of the previous year's grand jurors. Two of those chosen declined, so Judge Beard said two more names need to be drawn.

Those drawn include Javier Moya and Corina Brown. They will be contacted by the Clerk's Office.

8. Tax Sale held on March 3, 2009 & disbursement of 2007 Excess Proceeds / Report from Tax Assessor/Collector / Discussion

Tax Assessor/Collector Betty Jo Rooney said the Tax Sale included 34 properties for a total of \$170,750. All properties sold. After tax payments are made, anything left over will go to excess proceeds.

Also last week, her office received the excess proceeds from the December 2006 and February 2007 tax sales, which will be disbursed to the appropriate entities. Excess proceeds must be held for two years before disbursement.

COMMISSIONERS TOOK A FIVE MINUTE RECESS AND RETURNED FOR SESSION AT 10:58 A.M.

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 for Alpine VFD & Brewster County Emergency Operations Center)

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

Brewster County Jail Renovation (focus on update of electronics)

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

A. General matters related to all projects

1. Bidding for materials & subcontracts / Discussion and appropriate action

Judge Beard said she believes bidding will start shortly, although no definitive plans have been made. All of the documents are ready, except for the Alpine Fire Station plans. As soon as they are ready, she thinks bidding will start.

2. Temporary Employees / Matters related to retaining temporary employees

Judge Beard said the County is ready to start hiring when the time is right.

3. Cement Bid opened on December 15, 2008 / Discussion and appropriate action

Judge Beard said no action is recommended at this time.

B. Matters related to specific projects

1. Fire Station for Alpine VFD & EOC / General update re plans & scheduling

Until the final plans are ready, there is not much to be done. Judge Beard said she has asked the gas company to go ahead and proceed with relocating the line to the north end of the property, although she does not have a time frame.

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

Update re site preparation & discussion concerning upcoming work

Frenchie Causey said the pad was finished Feb. 26.

3. S. County Emergency Response Center

a. Update on Site preparation, including installation of Septic System, water tap & temporary facilities for workers / Discussion and appropriate action regarding installation of OSS system & providing on site temporary accommodations for works, pad & road preparation

Mr. Causey said they started the pad there Monday, March 2. Last Tuesday they excavated everything they needed out of the pad and got the corners squared away. They are waiting to start on the sub-base until after the soils test, which will probably be tomorrow. He said they need to get the back hoe down there because there are a lot of old footings on the property that need to be dug up.

Commissioner Killingsworth said the septic system plans have been sent to a registered sanitarian, Darrell Ryan. He called and said there is an issue with the floor drain going under the bay area where there will be an oil receptor. It takes a special TCEQ permit. It is going to require a re-design because the receptor cannot be placed above the septic tank.

b. County Roads in and adjacent to new site and proposed new county roads in and adjacent to site

1. Update on relocated roads and/or taking additional roads into County system to provide improved access for ERC & neighboring property (Allen Lane on west side & unnamed road on east side of property) / Discussion and appropriate action to go forward with taking these roads into County System

No update was given.

c. RGEC Electrical Power Lines & Helipad / Update / Discussion and appropriate action concerning moving lines

Commissioner Killingsworth said she's filled out all the applications for temporary power at the site.

Judge Beard said she would really like to tie down the floating easement from

RGEC so that everybody knows exactly where the power line should go.

Commissioner Killingsworth said she is in the process of working that out with RGEC.

d. Matters related to site engineering and surveys / Update

The site will be surveyed this Thursday.

4. Jail Renovations / Update

Judge Beard said this project is in a holding pattern. Mr. Butler has done a detailed study of the control room.

5. Construction Assistance for Alpine Public Library / Update

Judge Beard said the pad is complete. Next time Mr. Butler makes a visit, the library building committee will meet with him just for an update and coordination.

10. Pending Grant Matters

A. Colonia Construction Fund Application / (2nd Septic Tank Replacement Grant Application for S. Brewster County)

1. Update and general discussion regarding this program

Jerry Carvajal said the resolution for the application is in the amount of \$500,000 for septic tank replacements in South County. The match will be not to exceed five percent of the grant amount, or a total of \$25,000.

2. Consider the authorization of and the submission of a program year 2009 TXDBG Colonia Construction Fund Application to the Office of Rural Community Affairs / Discussion and appropriate action

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

3. Public Hearings & Notices for this grant / Discussion and appropriate action

Mr. Carvajal said a public hearing will be held in 30 days.

4. Other general administrative matters related to applications for grant /

Discussion and appropriate action to go forward with grant application and program

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

- 1. Update & General Administrative Matters regarding grant***
- 2. Marathon Street Paving Project / Update / Discussion and appropriate action concerning conclusion of this phase of project***

Mr. Carvajal said the Marathon street grant is completely closed out.

3. Study Butte Water Corporation Tank Project

- a. Update***
- b. Report concerning tank site relocation and approval of tank site "swap"***

Mr. Carvajal said the USDA has approved the land swap and the documents have been submitted in Fort Stockton.

c. Discussion and appropriate action for project to go forward

C. TCEQ Solid Waste Grant

1. Update & report on current grant for Countywide Cleanup

Mr. Carvajal said the grant expires in June. He said he will review the invoices and let the Commissioners know how many more times they have available for emptying the containers.

2. Future solid waste grant opportunities / Discussion and appropriate action

D. Upcoming ORCA Grants / Impact of Federal Stimulus package / Discussion

Mr. Carvajal believes Texas will receive about \$7 billion which will be allocated across the state. He doesn't expect much for Brewster County. ORCA still hasn't decided how to disburse the funds for CDBG grants. He thinks Brewster County may be eligible for \$60,000 or \$70,000, above the present pending ORCA grant.

11. County Clerk & County Judge / Request for Resolution expressing concern about

any State legislation & Unfunded Mandates which result in additional burdens of County & District Clerks Offices / Discussion and appropriate action

Judge Beard said she and County Clerk Berta Martinez are noticing that in every session of the Legislature, multiple bills are introduced without any consultation with Clerks' Offices which put an increased work load on the Clerks' Offices.

Judge Beard thought it would be advisable if the County would express its concern in a general resolution. She read the resolution for the record.

Commissioner Ortega made a motion to approve the resolution, which was seconded by Commissioner Stone, and passed unanimously. A copy of the resolution is attached and made a part of these minutes.

12. County Judge / Building Maintenance Issues

A. Tax Office front door replacement / Update

Judge Beard said the materials for the doors have been ordered, and the hardware will be reconditioned.

B. Courthouse Painting / Discussion concerning need for & timing of project (2010 Proposed)

While the Courthouse looks now like it needs a paint job, with everything else that is going on this year, Judge Beard suggested deferring to 2010. She said Road & Bridge has done the painting in the past, and they will be busy this year.

13. Fuel Taxes / Proposals to tax Motorists based on number of miles driven and unfairness of this system to residents of large rural counties / Discussion and appropriate action to express concern about this means of Taxation at the State of Federal level

Judge Beard said she has heard several proposals about taxing motorists based on the number of miles they drive. She said Brewster County needs to continue to follow these proposals because they are so unfair to people who live in large rural counties. Commissioners also expressed concern.

14. Tourism Council / Update on Roadside Interpretive Sign Project / Discussion and appropriate action to go forward with project

Ron Sanders said he spoke with Chris Weber at the Alpine office of TxDOT this morning. He said if the Tourism Council will update its proposal, he will get it to the District Office in El Paso. Weber said there is a question about whether TxDOT will

provide the installation, but he would like to be able to do it.

Mr. Sanders said he spoke with Mr. Weber about the possibility of stimulus money. Mr. Weber said as soon as the proposal is submitted at the District office, Mr. Sanders should call the El Paso office to talk about stimulus money.

15. Commissioner Pct. 2 / Adoption of Resolutions resulting from discussion at February 24 Commissioners Court meeting concerning: burn bans & prescribed burning, and opposing creation of Pecos River Authority

Judge Beard said the Commissioners have a condensed resolution regarding the Pecos River Authority to consider.

Commissioner Ortega made a motion to approve the resolution, which was seconded by Commissioner Killingsworth, and passed unanimously. A copy of the resolution is attached and incorporated into these minutes.

Judge Beard said the resolution concerning burn bans and prescribed burning is a draft, and she said she is not exactly sure about the contents of the resolution. Good progress is being made in working with the prescribed burning association. She asked Commissioners if they would like to recess so that she and Commissioner Killingsworth can work it out, or they can wait and see how things go with the new TransPecos Association.

Commissioner Stone said he would like to see how things go with the Association, and the other Commissioners concurred.

16. Sheriff's Department / Request for authorization to receive surplus U.S. Military Property / Discussion and appropriate action

Chief Deputy Ryan Skelton said he has received information about the Sheriff's Department applying for surplus military property. The Department must apply to be eligible to received surplus. They plan specifically to apply for some weapons.

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

Commissioner Ortega 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