

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY, JUNE 8, 2009  
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 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 ASSESSOR COLLECTOR</b>
<b>JERRY SOTELLO</b>	<b>J.P., PRECINCT 1</b>
<b>BERTA RIOS MARTINEZ</b>	<b>COUNTY CLERK</b>
<b>RONNY DODSON</b>	<b>SHERIFF</b>

**1. Invocation & Pledge of Allegiance**

*Judge Beard lead the invocation and Pledge of Allegiance.*

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

*The minutes from the May 26, 2009, meeting were presented for approval. Commissioner Ortega made a motion to approve the minutes, which was seconded by Commissioner Killingsworth, and passed unanimously.*

**3. Treasurer**

**A. Pending Bills**

**1. General Bills**

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

*Judge Beard abstained from the KALP reimbursement bill.*

**2. Infrastructure Projects Bills**

*Commissioner Stone made a motion to approve the infrastructure project bills, which was seconded by Commissioner Pallanez, and passed unanimously.*

*Commissioner Ortega asked about the water bill in Marathon which is upcoming. He said the crews accidentally flooded the area and he feels they should pay the bill. Judge Beard said more will be known in the coming days.*

**3. Discussion and appropriate action concerning bills** VOL. 25 - PAGE 463

**B. County Judge & Treasurer / Review of 2010 Budget Process**

Judge Beard said department heads have been put on notice to be ready for the budget process. Questionnaires will be given to non-profits this week. She thinks the process will go full-speed in the next 10 days.

**C. Clarification of use of comp time / Discussion and appropriate action**

As Treasurer Ofenstein was out of town for training, this item will be placed on the next agenda.

**D. Depository Contracts / Reaffirm that term is four years**

Commissioner Stone made a motion to reaffirm the four-year term, which was seconded by Commissioner Killingsworth, and passed unanimously.

**E. Other administrative matters related to Treasurer's Office / Discussion and appropriate action for work of Treasurer's office to go forward**

**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)*

Commissioner Stone reported that crews have been working on Mosely Loop and several other projects. They are keeping busy.

**B. TxDOT Border Colonia Access Paving grant update / Discussion and appropriate action**

Commissioner Killingsworth learned last week that the easement will take only one document. The easement was passed on in heirship, so others do not need to be secured. She expects it to be on the next agenda.

**C. Permit Application Process for Pipelines / Utilities crossing, boring, trenching or otherwise proceeding in County Road Right of Way / Discussion and appropriate action**

Judge Beard took notes of this discussion at the last meeting and made a record of it. If the Commissioners can come to a consensus, she will get this to the County Attorney to work with the Road & Bridge Superintendent and get the process started.

Commissioner Stone said he thinks a permitting process is appropriate.

Commissioner Killingsworth asked whose responsibility it will be to contact Dig Texas. Judge Beard said it will be the person doing the dig.

Commissioners agreed that a fee for the permit is appropriate, and they agreed that \$50 would be reasonable.

Judge Beard noted that the Road & Bridge Superintendent needs to be involved in the process.

Judge Beard said she thinks Commissioner Ortega's suggestion to let people know when the County is going to pave a road so that they could put casing down for future construction plans is a good idea. However, the County needs to be careful not to promise any paving, but only to note that it is planned, nor should the County assume any liability if all the property owners cannot be contacted.

**D. Buena Vista Subdivision / (S. Brewster County) Commissioner, Pct. 2 / Final action to bring these subdivision roads into County system / (These Roads to be improved pursuant to TxDot Border Colonia Access Paving Grant)**

Commissioner Killingsworth made a motion to bring the Buena Vista Subdivision into the County road system, which was seconded by Commissioner Ortega, and passed unanimously.

Judge Beard said this subdivision is slated to be paved with the Colonia Access Paving Grant.

**E. Personnel / Performance & Evaluation of Road & Bridge Employees as related to safety issues & Railroad Commission of Texas**

- 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 office or employee, 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 9:15 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 §551.071. She said it had also been posted to consult with the County Attorney, but he said that was unnecessary. The courtroom was cleared.

**Reconvene in Open Session**

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

At 9:20 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

consult about a severed gas line at the new Alpine Fire Station site, which was caused by a Road & Bridge employee. Judge Beard asked if any action was to be taken as a result of the Executive Session.

Commissioner Stone made a motion to pay the Railroad Commission fine, which was seconded by Commissioner Pallanez, and passed unanimously.

**F. Discussion and appropriate action concerning updates & improvements to go forward with Road & Bridge Department's work**

**6. Terlingua Common School District Tax Collection Contract / Discussion and appropriate action**

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

**7. Sheriff's Office / Report on sales of vehicles**

Sheriff Dodson said an auction was held Saturday. They sold all of their scrap cars that were being held. The auction raised a little over \$21,000. Twenty cars were sold.

**8. County Judge / Request for Resolution in support of application for American Recovery and Reinvestment Act of 2009, Edward Byrne Memorial Justice Assistance (JAG) Formula Grant Program for Juvenile Probation Department / Discussion and appropriate action**

Judge Beard said the Juvenile Probation Department has not been able, up to this point, to tap into most federal law enforcement funds. This money will be used for laptops and printers, the juvenile law conference, training, records storage, counseling and for one vehicle. Judge Beard noted that records storage is of particular importance because they are dealing with minors.

The total is \$44,000.

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

**9. Pending Infrastructure Grant Matters**

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

**1. Update**

No update was given.

**2. General administrative matters related to application for grant / Discussion and appropriate action to go forward with grant application and program**

**B. 2007 ORCA Infrastructure Grant / Discussion and appropriate action / Study Butte Water Corp. Improvements**

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

*Commissioner Killingsworth said they are waiting on approval for the tank plans.*

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

**a. General update on progress**

**b. Construction of road to tank site and installation of tank / Update**

**c. Discussion and appropriate action for project to go forward**

## **10. County Judge / Legislative Report, 2009 Session of Texas Legislature**

*Judge Beard gave several highlights:*

*-HB3689. The Sunset Commissioner found an ongoing need for the functions of these agencies, but identified improvements needed to address the persistent lack of coordination between TYC and TJPC, ongoing problems within TYC, and other issues of state-level communication and oversight in the juvenile justice system. This legislation contains provisions to address these needs, including continuing TYC and TJPC as independent agencies with separate governing boards, and creating the Juvenile Justice Policy Coordinating Council to make recommendations to TJPC and TYC regarding ways to improve the provision of services, operations of juvenile programs and agency coordination.*

*The bill has been sent to the Governor.*

*- HB3390, the Commission on Fire Protection. Judge Beard explained that this bill would have made it infinitely more difficult to recruit volunteers, an area in which we already have a hard time. This bill would cause more regulations for volunteer fire departments. Licensing requirements for VFDs have been removed from the bill.*

*The bill has been sent to the Governor.*

*- SB2559/HB4781, Brewster hotel tax cap increase. These bills correct the tax code to make it clear that Brewster County has a hotel tax rate cap of 7 percent, giving the County the option to increase the tax rate from the current 3 percent, bringing it up to par with surrounding counties. They also clarify that the municipal hotel tax imposed by Alpine is not affected by a change in the County hotel tax rate, nor subject to double taxation.*

*The bill has been sent to the Governor.*

*- HB811 died, which was a disappointment. Judge Beard said she is proposing a joint session with the Water District concerning its budget later this summer.*

*- HB4805/SB2544, the Clayton Williams water bill. This bill would have allowed a governmental entity to be formed with all the powers of a local government to acquire and transport water from Fort Stockton to Midland. The entity would have affected recharge water in the Glass Mountains in Brewster County.*

*The bills are dead.*

*- HB78 raised the County threshold for competitive bidding from \$25,000 to \$50,000 for certain expenditures.*

*The bill passed the house; it was supplanted by a more comprehensive HB 987.*

*- HB987 extends the changes in bidding and expenditures in HB78 to school districts. It will likely move forward, and has been sent to the Governor.*

*- HB 2042 updates the notice requirements on stray livestock.*

*It has been signed by the Governor.*

*- HB 2859 dealing the online county surplus sales has been sent to the Governor.*

- HB836, which would have authorized TPWD, and anyone else, to shoot feral hogs from helicopters, died.

- HB1495 exempts diesel fuel from taxation for use by Counties. The bill has been sent to the Governor.

- HB4744, which would have established the Lajitas Municipal Utility District, died on the House Calendar. It included a provision that would have allowed Lajitas to assess and keep their own hotel taxes, to the exclusion of collection of a County Hotel/Motel tax. The County's Legislative consultant worked with Sen. Uresti's office to get this provision removed.

Judge Beard said Lajitas is now going to apply to TCEQ for the district.

Commissioner Killingsworth asked, if TCEQ approves, Lajitas can make modifications to the establishment of the District during the next Legislative Session. Judge Beard said they may try, but she is unfamiliar with the process. This matter will need to be followed.

### **11. Public Comment**

No public comment was made.

### **12. Pending Community/ Public Safety Infrastructure Projects / Discussion and appropriate action to go forward with all 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, covered outdoor area for Marathon Town Square Repairs & Modifications to Old County Library Building, 203 N. 7<sup>th</sup> Street, Alpine, Outdoor Meeting Space for Marathon Town Square, adjacent to Community Center**

#### **A. General matters related to all projects**

##### **1. General update**

Construction Manager Danny Butler said there was a question with TxDOT about water run-off at the Alpine site, and he has an engineer studying the issue to see if it can be resolved easily without added cost.

He said he had spoken with Commissioner Killingsworth about changing the blueprint for the Terlingua site. He showed her the prints of the east side of the building which includes pressure relief walls for the storage rooms for breathing apparatus and other equipment which includes tanks. Mr. Butler suggested dropping the pressure relief walls because EMC Tom Santry said there is no danger of that equipment exploding. Commissioner Killingsworth also suggested removing the A/C from that area. Mr. Santry said it is unnecessary. Commissioners agreed.

Mr. Butler asked if there is a dump in South County. Judge Beard said there is not, they will have to get a roll-off container for construction waste.

Mr. Butler said one of the bathrooms had to be reconfigured at the Terlingua site. He said it is the same size, but fixtures had to be moved from one wall to the other.

Mr. Butler said things are going well at the library site. The foundation pour will probably begin tomorrow. It will be broken up into several pours.

## **2. Pending Bids**

### **a. Pending matters related to any bids opened on or before May 11, 2009 / Discussion and appropriate action**

#### **b. Bids for Jail Renovations due June 8, 2009**

##### **1. Open & read / distribute bids for review**

Mr. Butler read the following bids aloud:

Freeman,, electrical, \$10,600

Tuttle, roofing, \$54,670

Freeman,, HVAC, \$89,450

Systech, control console, \$35,725

Systech, fire alarm console, \$18,375 or \$32,635

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

Mr. Butler recommended approving the bid for the control console immediately as parts of it are currently non-functional.

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

##### **3. Services performed by Road & Bridge Department for subcontractors / Means of authorization & means of payment to County / Discussion and appropriate action**

Judge Beard said there needs to be a systematic formula for providing these services, including a fair rate. Commissioner Stone suggested a hauling fee of \$6/mile.

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

##### **4. Procedures related to change orders / Discussion and appropriate action**

*Commissioner Stone made a motion to approve lowering the storage area walls at the Terlingua site to 10 feet, which was seconded by Commissioner Pallanez, and passed unanimously.*

*Commissioner Killingsworth made a motion to approve the removal of A/C from the storage area at the Terlingua site, which was seconded by Commissioner Ortega, and passed unanimously.*

**B. Project Updates**

**1. Marathon Justice Center / Discussion and appropriate action to go forward with project**

**a. Update on completion of foundation**

*The foundation is poured and waiting on framing. The plumbing is completed.*

**b. Discussion and appropriate action to go forward with project**

**2. Alpine VFD Fire Station**

**a. Update**

*Mr. Butler said the gas lines are supposed to be finished by June 9.*

**b. Discussion and appropriate action to go forward with project**

**3. South County Emergency Response Center**

**a. Update**

*The plumbing is completed and Mr. Butler plans to inspect it this afternoon. The concrete will be poured in several phases.*

**b. Judge's request for addition of stone work & appropriate finish to all parts of building which are visible from highway / Discussion and appropriate action**

*Mr. Butler said the back side of the building, as planned, is stucco. He contacted the engineer to find out what it would cost to add stone, which would total \$9,640. Following the motions in Item A4, there will be a total savings of \$9,400, so Mr. Butler said it is basically a wash.*

*Commissioner Stone made a motion to add the stone, which was seconded by Commissioner Killingsworth, and passed unanimously.*

**c. Discussion and appropriate action to go forward with project**

**4. Brewster County Jail Renovations**

**a. Update on project / time frame and scope of necessary repairs & updates / Discussion and appropriate action**

*b. Discussion and appropriate action to go forward with jail renovations*

**5. Alpine Public Library**

*a. Update*

*b. Discussion and appropriate action to go forward with project*

**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 and appropriate action*

*EMC Tom Santry said there have been very few fires in the last several days.*

**B. Groundbreaking for Alpine Fire Station & EOC & Firefighters Recognition set for June 12, 2009**

**1. Update on plans for event**

*The Alpine Avalanche will publish a special section this Thursday. The barbecue will be held at the American Legion Hall, courtesy of Commissioner Stone.*

**2. Discussion and appropriate action to complete planning for event**

**14. Recognize June 10, 2009 as Goat Awareness Day in Brewster County / Discussion and appropriate action**

*Commissioner Ortega made a motion to recognize the 21<sup>st</sup> Goat Awareness Day, which was seconded by Commissioner Stone, and passed unanimously.*

**15. Update on status of Presidio County Jail as it impacts Brewster County**

*Judge Beard said the Presidio County Jail situation is looking very "dicey." The prospects of keeping it open do not look good at this time.*

*The Brewster County Jail cannot accommodate, except for a tiny handful, the prisoners that would ordinarily be going into the Presidio jail. Our jail is too small.*

*She said if it does close, Brewster County will do everything possible to help its neighbors. However, post-arrest, the area is going to be looking at some different procedures.*

*She wished Presidio County the best.*

**16. Possible Tri County Regional Dispatch**

**A. Discussion concerning concept of regional Dispatch for Jeff Davis, Brewster & Presidio Counties**

Judge Beard emphasized that this is in the process of investigation only right now. The purpose today is not to talk about the how's, the where's or the costs. That is premature at this time. However, she asked the Commissioners if they are interested in studying the possibility.

Dispatch for Jeff Davis County is done out of the Presidio County Jail. Judge Agan in Presidio County does not believe they can afford the dispatch any longer. This is what has brought the Tri-County judges together to discuss a regional dispatch.

The three judges agree that a regional system would not replace any municipality system, unless they so choose to participate. A regional board would be put in place for shared governance. All who participate would share the cost.

The folks who know the 911 system say this is completely possible. The COG would provide funding for the necessary equipment, and expanding facilities in Alpine.

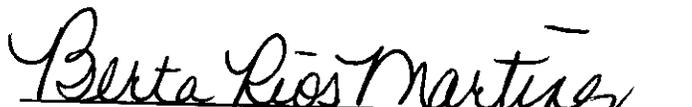
**B. Discussion and appropriate action concerning pursuing this concept**

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

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

  
**VAL CLARK BEARD, COUNTY JUDGE**

**ATTEST:**

  
**BERTA RIOS MARTINEZ, COUNTY CLERK**