

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
TUESDAY, JUNE 23, 2009, AT 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
CAROL OFENSTEIN	TREASURER
BETTY JO ROONEY	TAX ASSESSOR COLLECTOR
JERRY SOTELLO	J.P., PRECINCT 1
BERTA RIOS MARTINEZ	COUNTY CLERK
RONNY DODSON	SHERIFF

1. Minutes / additions / corrections / approval

The minutes from the June 8, 2009, meeting were presented for approval. Commissioner Ortega made a motion to approve the minutes, which was seconded by Commissioner Stone, and passed unanimously.

2. Treasurer

A. General Bills / Discussion and appropriate action

Treasurer Ofenstein noted expenditures of \$4,350 from hotel/motel taxes for the Marathon Visitors Center and \$10,000 for ladder truck equipment.

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

Commissioner Killingsworth abstained from the bill for Arrowhead Construction.

Treasurer Ofenstein presented four walk-in bills: Troy Sheldon, Tax Office doors, \$2,357.32; ThyssenKrupp Elevator, elevator service, \$1,445.94; Jerry Carvajal, solid waste grant, \$350; Ellyson Abstract, title search for Terlingua Springs, \$489.

Commissioner Ortega made a motion to approve the walk-in bills, which was seconded by Commissioner Stone, and passed unanimously.

B. Infrastructure Projects Bills / Discussion and appropriate action

Mrs. Ofenstein said there was one bill from Kleinfelder for the Terlingua site for \$1,114; Commissioners discussed that this is a bill which likely should be offset on the plumbing subcontract for that facility. This will need to be followed. The infrastructure bills are approved with the vote for the general bills.

C. Depository Contract for Terlingua Common School District / Request to Extend Contract for 2 years / Discussion and appropriate action

Mrs. Ofenstein requested that the contract be extended to July 13, 2011. Commissioner Ortega made a motion to approve the request, which was seconded by Commissioner Stone, and passed unanimously.

D. Judge's request to disburse any remaining 2009 budgeted funds to contracting agencies / Discussion and appropriate action

Judge Beard requested that the following disbursements be made: Alpine Public Library Capital Campaign, \$5,000; Brewster County Child Welfare, \$2,500; Family Crisis Center, \$3,000; Historical Commission, \$2,200; Alpine and Marathon cemeteries, \$750 each.

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

E. County Judge & Treasurer / Request to Allocate part of 2009 PILT payment to infrastructure debt service retirement and dedicated funds (Health Insurance Reserves for Employees and Retirees) Infrastructure Projects Contingency Fund & Library Capital Campaign

Judge Beard explained that in 2008, after eight years of lobbying by the National Association of Counties, the federal government commenced making PILT payments at the full levels. With the first fully funded payment in 2008, the County paid off all short-term debt and set up some dedicated funds.

The 2009 payment has now been received, and the County's portion is approximately \$375,000 above the first 2008 payment.

This puts the County in a place to make a large payment against the new infrastructure debt, as well as place more money in dedicated funds.

Making the infrastructure debt payment this year from these funds will help avoid a tax increase. The additional \$47,000 will be split between health insurance reserves for employees and retirees, the infrastructure projects contingency fund and the Library capital campaign.

Treasurer Ofenstein said she believes the plan is very sound.

Commissioner Killingsworth asked how the percentages of the PILT payments are split between the County and the school districts which are funded.

Judge Beard said it is historical and within Commissioners Court; the proportions were established long ago, likely in the 1970's. Many Counties don't split the payments at all. She asked Conrad Arriola to research the issue.

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

F. Texas County and District Retirement System (TCDRS)/ Review County provisions and consider possible changes to the Plan/ Discussion and appropriate action

Treasurer Ofenstein said the plan doesn't need to be finalized until October, but it is needed for the budget. Currently the County pays 9.43 percent. She said the Commissioners need to decide if they want to do a COLA for retirees.

She said she doesn't need action today, but she wanted Commissioners to have a chance to think about it.

G. Casualty Insurance/ Texas Association of Counties Property Appraisal Program/ Update

Judge Beard said she wants to bring to the attention of Commissioners that the program won't cost the County anything. However, it will make sure that the buildings are correctly appraised and gives the County the option to insure them at replacement value.

H. Clarification of use of comp time / Discussion and appropriate action

Treasurer Ofenstein explained that the policy states that when a regular, full-time employee has to work excess hours, they can take comp time during that week. If they do not, it has to be paid at 1.5 times.

She said the issue is that some people are using comp time to work overtime and be paid through grants. Also, the policy states that overtime cannot be worked without approval from the department head.

Sheriff Dodson said the policy is somewhat unfair because it looks as though some Deputies are being paid twice. He said he and Mrs. Ofenstein are working together to review the policy and make it fair to employees and the County. Basically, they agree that the policy should state that an employee cannot be paid for working during comp time.

Judge Beard said the Commissioners could take action to approve the request in principle, and take action later on the policy itself after the Sheriff, Treasurer and County Attorney have drafted a new policy.

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

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

3. Officials' Monthly Reports / approval

VOL. 25 - PAGE 399

Commissioner Stone read the reports for the record.

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

4. 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 working at Mosley Loop and Mosley Lane, and he placed a dead end sign on the Loop. They are working to pave Old Marathon Road, and are cleaning up the Post Park to get it ready for the 4th of July.

They unloaded a truck full of insulation for the infrastructure projects and are storing it at their base. They were preparing to begin work at the Alpine Fire Station site.

Commissioner Pallanez congratulated the crew for their work at Mosley Lane.

B. TxDot Border Colonia Access Paving grant / Discussion and appropriate action

1. General Update

Commissioner Killingsworth said the easement for Terlingua Springs Road has been filed.

2. Commissioner Pct. 2 / Terlingua Springs Subdivision / Request for preliminary approval to take Roads in Terlingua Springs subdivision into County System / Discussion and appropriate action

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

3. Easements for Project / Buena Vista & Terlingua Springs Subdivisions / Discussion and appropriate action to conclude securing easements

4. Matters related to surveys / Discussion and appropriate action to conclude needed surveys

Commissioner Killingsworth said they are lacking the east side at Rex Ivey Road to Hwy. 118.

Engineer Travis Roberts said they are working on the right-of-way document.

5. Other matters related to Border Colonia Access Paving Grant / Discussion and appropriate action for project to go forward

C. Community Facilities / Possible Homeland Security Grant for improvements to Marathon Fire Station / Discussion and appropriate action concerning making application for grant

Judge Beard said she has been told that Homeland Security funding may be available for improvements in Marathon. She asked the person who told her to get the information about the applications. She said more than a week has passed, and she has not seen anything. Commissioner Ortega has also been seeking out the information, which needs to go through EMC Tom Santry and Grant Administrator Jerry Carvajal, as well as likely requiring plans. This time frame is short; if the information is not brought forward, it cannot be pursued.

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

5. Sheriff's Department

A. Requested purchase of a 4 wheel drive pickup truck, Sedan & ATV Vehicles from Sheriff's Seized Assets Forfeiture Account / Discussion and appropriate action

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

B. Intergovernmental Agreement concerning Housing of County Prisoners for Jeff Davis & Presidio Counties / Discussion and appropriate action

Sheriff Dodson said the agreement includes medical services. If a Brewster County employee has to take a Presidio or Jeff Davis prisoner to the hospital and stay on guard, that County will be charged a fee. He recommended a \$50/hour rate.

Commissioner Stone made a motion to approve the agreement, including the \$50 rate, which was seconded by Commissioner Pallanez, and passed unanimously.

6. Commissioner Pct. 3 / Procedures & payments for County Indigent Burials / Discussion and appropriate action

Commissioner Ortega said the cost of indigent burials is increasing. He and Commissioner Killingsworth have visited with the manager of the local funeral home. They have found that other Counties have a flat \$1,200 fee. Indigents will be cremated, and the manager said he cannot go lower than \$1,200.

Commissioners Ortega and Killingsworth will meet again with the funeral home to develop a contract, which will then be sent to the County Attorney.

7. Pending Infrastructure Grant Matters

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

1. Update

Jerry Carvajal said the application has been received by ORCA, which is in the process of scoring applications, although they are pretty far behind. Based on initial surveys, Mr. Carvajal said he thinks the County has a pretty good chance at being funded. He hopes to hear something by July.

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

2. Study Butte Water Corporation Tank Project

a. General update on progress

The bids have been advertised and are due July 9. Sometime next week, he will submit the modifications to extend the contract for about four months.

b. Purchase and installation of tank / Update

c. Discussion and appropriate action for project to go forward

C. 2009/2010 ORCA, Rural Community Affairs Grant Program / Update / Discussion and appropriate action to go forward with Grant

Mr. Carvajal said the applications are being scored by ORCA. The County scored second out of 14, and will be recommended for funding in 2009.

He said in order to save time, the County should go ahead with procurement of professional services.

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

Mr. Carvajal said ORCA has received stimulus funding. There were 14 applications from this region. There is an excess of \$1.3 million, after all applicants are funded. He said, ultimately, the ORCA board will have to decide what to do, but Judge Beard has said she will see that other entities are contracted to help make sure that the money stays in the region.

Judge Beard asked Mr. Carvajal to get the information ready that will be needed to get started.

8. TCEQ Solid Waste Grant / Update on June 17, 2009 meeting in Van Horn / Discussion and appropriate action to pursue Solid Waste Grant

The TCEQ solid waste grant expires Aug. 3. The application deadlines have been set for the 2010-11 cycle. They are due Aug. 22.

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

9. 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. 7th Street, Alpine, Outdoor Meeting Space for Marathon Town Square, adjacent to Community Center

1. General update

Judge Beard said a lot is happening with all of the projects.

2. Pending Bids

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

Judge Beard said they are still studying the bids on the jail project. Other bid matters are not pending.

b. Other matters related to pending bids / all projects (see also item B-4)

3. Budget / Status Report / All Projects

Judge Beard said Construction Manager Danny Butler wants to be very conservative because unanticipated expenditures come up.

Treasurer Ofenstein noted that things look good and that everybody is on the same page.

B. Project Updates

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

a. Update

b. Discussion and appropriate action to go forward with project

2. Alpine VFD Fire Station

a. Update on site preparation and beginning work

Site preparation is just about ready to begin.

b. Request for change order to expand E.O.C. by approximately 150 sq. feet / Discussion and appropriate action

Judge Beard said the footage would be added to the west side of the building at a cost of \$15,000-\$16,000. In the event that there could be a regional dispatch center, that space could be used. If it were never used for that purpose, the space can still be well used for a larger EOC.

She does not know what will happen with a regional dispatch at this time. She said a conference call was held yesterday, but the situation in Presidio County is still unsettled. However, Brewster County needs to be prepared.

Commissioner Ortega made a motion to approve the change order, which was seconded by Commissioner Pallanez, and passed unanimously.

c. Discussion and appropriate action to go forward with project

3. South County Emergency Response Center

a. Update

Commissioner Killingsworth said they are moving along and getting ready for the foundation, which will likely take three days to pour, and will probably be done during the night so that the mix is kept as cool as possible.

b. Discussion and appropriate action to go forward with project

4. Brewster County Jail Renovations

a. Bids for Jail renovations received on June 8, 2009

1. Recommendations of Construction Manager concerning Bids

Mr. Butler wants to hold off on awarding the bids until other things are tied down.

2. Discussion and appropriate action concerning bids / acceptance, rejection, further study or other action

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

c. Emergency Repairs for current Jail HVAC / Discussion and appropriate action to complete repairs in coordination with permanent HVAC improvements

The unit was not repaired and replaced because it is scheduled for the project and would have been cost prohibitive. Instead a "Band-aid" is being used to get it through the hot weather.

c. Discussion and appropriate action to go forward with jail renovations

5. Alpine Public Library

VOL. 25 - PAGE 405

a. Pouring of slab and general update on project

Judge Beard said the foundation has been poured. The library board is working hard to raise the funds to get into the next phase, getting the building "in the dry."

b. Discussion and appropriate action to go forward with project

10. Courthouse Maintenance / ThyssenKrupp Lift Maintenance Agreement / Discussion and appropriate action to approve contact

For \$175/month, ThyssenKrupp of Midland will come and do general maintenance and check on things as part of its "state bid" contracts. Commissioner Stone commented that this was well worth the price.

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

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 / Discussion and appropriate action

EMC Tom Santry said there have been a couple of grassfires in the last couple of weeks, and two power outages in the Terlingua area.

The fire department was called to the airport yesterday because a Border Patrol airplane was caught in the wind and flipped over on the tarmac. Nobody was hurt.

B. Firefighter Recognition on June 12, 2009

1. General Report

Mr. Santry said everybody has told him that the event went well and they appreciated the event and the department.

2. Acknowledge Donations & Support for Event

Mr. Santry said \$7,222 was raised. Thank you to the sponsors and donors. Judge Beard thanked the Avalanche for its special edition.

C. Items purchased by County Administered Homeland Security Grants for placement with other agencies / Request to transfer ownership to receiving agencies after 3 years, pursuant to DHS regulations / Discussion and appropriate action

Treasurer Ofenstein said the County is responsible for the equipment and retains ownership of the equipment, which is on loan to the agencies. After three years, the

equipment needs to be transferred to the agency. She said all the equipment needs to be tagged between now and the state audit at the end of July.

From now on, equipment should be shipped directly to the courthouse so that it can be tagged immediately before being placed with another agency. Recipient agencies need to be aware of their responsibilities for equipment which is actually owned by the County.

Commissioner Killingsworth made a motion to transfer ownership of equipment purchased with Homeland Security funds three years ago or longer to the agencies. Commissioner Stone seconded the motion, which passed unanimously.

D. Hazmat Disposal / Bill for Disposal of Cyanide (S. Brewster County Hazmat Incident) / Discussion and appropriate action

The bill received is for \$1,955. It is the third time that cyanide has had to be disposed of, and Mr. Santry said he has spoken with Judge Beard about a line item in his budget for disposal. A discussion concerning liability for disposal of hazardous substance followed.

E. Other matters related to Emergency Management Department / Discussion and appropriate action to go forward with work of Department

12. Brewster County Tourism Council

A. Updates

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

Ron Sanders said they have received a bid for \$8,700 for the structure. The goal is to have it in place and operating by Oct. 1, 2009.

They are pushing a loop where visitors go from Marathon to Alpine to South County and back, or visa versa. They would like to name the loop, possible "Brewster County Historical and Scenic Loop." He asked Commissioners to think about it.

2. Interpretive Roadside Sign Project / Discussion and appropriate action

Mr. Sanders said he needs a request to TxDOT from the Commissioners Court for the information signs. The TxDOT regional manager cannot make the request.

Chris Weber, the regional manager, is working on documenting each site for TxDOT.

3. General Trends in Visitation & Update on ongoing Tourism Council work and projects

Tom Williams said the State says visitation is down about 17 percent. However, the Council feels like Brewster County is running about even, which Mr. Williams said, in this economy, could be interpreted as "up."

He was in BBNP for the last two days, and they are having a lot of visitors, following a good Spring.

Director Mike Davidson said they got some good coverage from some travel writers from England. An article in the Dallas Morning News also came out of a press trip in October. A four-page spread was published in an RV magazine, which also came out of an October press trip.

He has heard from many of the businesses that they had a better May than in 2008, and website visitation is up by 25 percent.

B. County Hotel/Motel Tax

1. Updates on passage of S.B.2559/H.B.4781

Mr. Sanders said Gov. Perry signed the bill June 19. Despite being introduced very late, the bill made it through the Legislature, and Mr. Sanders said he is very proud. He hopes the bill will increase jobs in the County.

2. Request to bring County Hotel/Motel Tax up to same level as other Texas Counties and Implement 7% Hotel/Motel Tax, (95% to be allocated to promotion of Tourism and 5% to Historic Preservation of Courthouse and other Historic County Buildings)

Mr. Sanders said the increase can go into effect immediately, but it will take some time for software updates, etc. The Council is asking that it go into effect Oct. 1.

Mr. Sanders also noted that the Treasurer's Office is a great help to the Council in collecting past due accounts.

Commissioner Killingsworth made a motion to adopt the resolution approving the increase and the allocations of 95 percent to tourism and five percent to historic preservation. Commissioner Stone seconded the motion, which passed unanimously.

A copy of the resolution is attached and made a part of these minutes.

RECESS

13. 2010 Budget Workshop/ General Discussion concerning all aspects of County revenues/expenditures and upcoming financial needs for all County Departments and other entities funded by the County

Judge Beard noted that this is the first of many budget workshops.

The Commissioners have been presented with their budget books. They have departmental requests, but do not yet have contracting agency requests.

They have been given preliminary information regarding the tax base; however, they are a large number of tax protests.

She said she will predict only a very modest increase in value this year. She said she believes that is how they should approach the budget: this will be a very flat year.

Judge Beard asked Commissioners to provide their conflict dates to her office. A second workshop may be scheduled before the next regular meeting. If that is not possible, it will be held during the next regular meeting.

She asked the Treasurer to discuss when she may hear about health insurance rates for the next year. Mrs. Ofenstein said she should know next week, along with any credit the County may have. The renewal deadline is July 15.

Judge Beard said she think the County is faced with an environment where the City and School Districts will be looking at large tax increases, which effects employee compensation.

Mrs. Ofenstein said she thinks the County can handle a 3 percent increase in employee compensation, but she needs to study the issue.

Commissioner Ortega said it needs to be at least 3 percent.

Mrs. Ofenstein said the County did 4 percent last year, and she will do the same spreadsheet and e-mail it to Commissioners.

Commissioners need to think about whether we can afford job classification increases this year.

At the next workshop, special attention needs to be given to the County Clerk and Tax Department because of the splitting of elections between the two.

CPA Shaw Skinner told Judge Beard the audit report will be ready in August.

Judge Beard said an exhaustive workshop concerning the Road & Bridge Department needs to be held.

She said she needs to hear from the Commissioners about any special things they want to discuss with department heads as soon as possible.

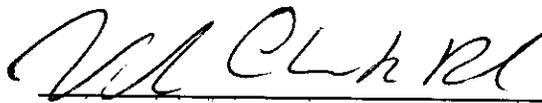
Commissioner Killingsworth noted that with the new facilities will come utility bills, etc.

This year, each contracting agency will need to come in and do a presentation about their contributions to the community. It has been a while since they were reviewed.

Judge Beard said interest rates are a "zero factor" at this point. Rates are so low that they will contribute very little to the overall budget.

Commissioner Stone said that all commissioners should be prepared to discuss what road work and paving they want to do in their precincts.

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


VAL CLARK BEARD, COUNTY JUDGE

VOL. 25 - PAGE 409

ATTEST:


BERTA RIOS MARTINEZ, COUNTY CLERK