

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY, OCTOBER 12, 2009, AT 9:00 A.M.**

*Judge Beard called this meeting to order. Commissioner Pallanez was absent from this meeting. 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>JERRY SOTELLO</b>	<b>J.P., PCT. 1</b>
<b>STEVE HOUSTON</b>	<b>COUNTY ATTORNEY</b>
<b>BERTA RIOS MARTINEZ</b>	<b>COUNTY CLERK</b>
<b>CAROL OFENSTEIN</b>	<b>COUNTY TREASURER</b>
<b>RONNY DODSON</b>	<b>SHERIFF</b>
<b>JOANN SALGADO</b>	<b>DISTRICT CLERK</b>

**1. Invocation and Pledge of Allegiance**

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

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

*The minutes from the Sept. 30, 2009, minutes were presented for approval. Commissioner Ortega made a motion to approve the minutes, which was seconded by Commissioner Stone, and passed unanimously.*

**3. Treasurer**

**A. General Bills**

*Treasurer Ofenstein said the medical insurance bill is included, as are dues for the RGCOG and \$11,000 for Homeland Security.*

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

*Commissioner Killingsworth abstained from 62241.*

**B. Infrastructure Projects Bills / Discussion and appropriate action**

*Treasurer Ofenstein said there was one bill for Dinosaur Valley for \$132,000.*

*Commissioner Ortega made a motion to accept the bill as presented, which was seconded by Commissioner Stone, and passed unanimously.*

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

*Treasurer Ofenstein said her office is reviewing property/liability/casualty insurance forms to return to TAC. She is satisfied with TAC's service and coverage.*

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

*Commissioner Stone read the monthly 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); boring or trenching for utilities across County Roads***

*Supt. Frenchie Causey said crews have been doing maintenance at Post Park, mowing and doing maintenance in South County, which got pretty torn up in a storm last week. They have also been doing some paving, and they picked up excess material from Double Diamond and hauled it to some other roads, such as Loma del Norte and Cathedral Mountain.*

*They also hauled lumber and building materials to the fire station site.*

***B. Recent Paving and Seal Coating Review / Discussion and appropriate action to conclude this 2009 work***

*They finished all the seal-coating at Lackey Lane, Stafford Lane and Peach Tree.*

***C. TxDot Border Colonia Access Paving Grant / General Update / Discussion and appropriate action to go forward with grant project***

**1. Update on relocating of water lines in Terlingua Springs and adjacent areas / Discussion and appropriate action**

*Commissioner Killingsworth said they are still working on easements. Grant Administrator Jerry Carvajal said he thinks the engineer, Travis Roberts, should have an update next week.*

*Mr. Carvajal said some grants coming in could be used to help with the water line costs.*

**2. Survey and Easements for Projects / Update / Discussion and appropriate action**

**3. Administrative Matters related to Project / Discussion and appropriate action to go forward with project**

**D. Road & Bridge Cooperative Projects with other local governmental entities for 2010**

**1. Discussion concerning designating, scheduling & setting terms of proposed projects (Paving for AISD, Alpine Animal Shelter site preparation proposed to date)**

*Judge Beard said she would like to go ahead and discuss scheduling, etc. She said there is a request from the AISD superintendent for some paving at the bus barn. The project is not a large one.*

*Now that the animal shelter location has been tied down, she thinks once some plans are received, the County can review them and make a commitment on that.*

*Councilman Fitzgerald was present, and said he thought the plans may be done, but he will report back to Commissioners Court with more information.*

*Judge Beard said she is asking for preliminary commitment from Commissioners for these two projects.*

*Commissioner Ortega made a motion to give preliminary commitment, which was seconded by Commissioner Killingsworth, and passed unanimously.*

**2. Discussion and appropriate action concerning scheduling and approving cooperative projects**

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

**6. Pending Infrastructure Grant Matters**

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

**1. Update on Project**

*Mr. Carvajal said the County will receive \$454,000 to install 50 septic systems in the Terlingua/Study Butte area.*

*Commissioner Killingsworth said the first septic tank project was highly successful. About 50 were installed, and she has received numerous phone calls about the next round.*

*Judge Beard said this is a great environmental project.*

***2. Review and scoring of TxCDBG 2009 Colonia Construction Fund Grant administration and engineering professional services proposals and selection of service providers / Discussion and appropriate action to award contracts***

*Mr. Carvajal said one proposal for administration was received from GrantWorks; six engineering proposals were received from Jacob & Martin, Doucet & Associates, Inc., Parkhill, Smith & Cooper, West Texas Consultants, Inc., Naismith Engineering and Frank X. Spencer. Commissioners are required to score the proposals. They turned their sheets into Mr. Carvajal, who reviewed them and reported back that Jacob & Martin received the high score.*

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

*Commissioner Ortega made a motion to approve Jacob & Martin, the highest scoring firm, for the engineering, which was seconded by Commissioner Stone, and passed unanimously.*

***3. Consider adoption of TxCDBG 2009 Colonia Construction Fund Grant Start-Up Documents / Discussion and appropriate action***

*Mr. Carvajal said the signators for the grant must be designated by Commissioners Court.*

*Commissioner Ortega made a motion to designate the Judge and Treasurer as signators. Commissioner Killingsworth seconded the motion, which passed unanimously.*

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

*Mr. Carvajal said once the guidelines are approved and submitted to the Texas Department of Rural Affairs, they can start accepting applications, hopefully by the end of November, or early December.*

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

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

*Commissioner Killingsworth said the tank site has been marked out, and the County Road & Bridge crew will complete the tank site and the road access. They are awaiting final approval from TCEQ on the tank. She said a crane will not be required to build the tank, which will be helpful.*

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

- a. General update on progress**
- b. Purchase and installation of tank / Update**
- c. Discussion and appropriate action for project to go forward**

*Commissioners asked Mr. Carvajal to check into the hold-up with TCEQ's approval of the tank.*

## **C. 2009/2010 ORCA, Rural Community Affairs Grant Program**

- 1. Update**
- 2. Discussion and appropriate action to go forward with Grant**

## **7. District Clerk / Issues related to issuing Passports**

### **A. Update on number of passports issued from District Clerk's Office and how this program functions**

*District Clerk JoAnn Salgado said the passport agency sent a letter Oct. 1 that passports are now required to be sent to the agency using traceable mail, such as priority, express, certified, etc. Priority mail is the cheapest, at approximately \$4.95. However, she prefers certified mail, which is about \$5.50. It is easier for staff, and very reliable.*

*The fee of \$25 will not be increased. The fee is prescribed by federal law. She said there have been 565 applications this year.*

*Commissioner Killingsworth noted that, then, the bottom line is that the District Clerk's office will have less revenue.*

*Commissioners expressed support for continuing to provide this service.*

### **B. Request for Traceable Mail Delivery of Passports / Discussion and appropriate action**

*Commissioner Killingsworth made a motion to give the District Clerk authorization to select the best traceable mail delivery for her office, which was seconded by Commissioner Ortega, which passed unanimously.*

## **8. 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***

***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. Project Updates***

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

***a. Update on status of project***

*Judge Beard said steel for the roof is on the way.*

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

***2. Alpine VFD Fire Station***

***a. Update on erecting steel building & framing***

*Judge Beard said things are coming along well. The roof is up, as is the steel siding.*

***b. Time table for exterior stucco & rock work, interior framing, plumbing, electrical and other post “dry in” work***

*Judge Beard thinks it will be a couple of weeks before they can start the stucco and rock.*

***c. Other matters related to construction of building / Discussion and appropriate action to go forward with project***

***3. South County Emergency Response Center***

***a. Update on status of project & delivery of steel for building***

*Steel erection will begin shortly.*

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

***4. Brewster County Jail Renovations***

***a. General update on renovations***

*A lot of the repairs have been made recently. The console has not yet arrived; the console is a specially manufactured item.*

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

***5. Alpine Public Library / Construction for Alpine Public Library, a non profit organization***

***a. Update on Phase II “dry in phase” of building, completion of framing, upcoming installation of roof trusses, roof & windows, exterior finish***

*The library architect did not contact an engineer in a timely manner, which slowed down production of the roof trusses. They will hopefully be in production this week.*

***b. Other matters related to completing Phase II of building / Discussion and appropriate action to go forward with construction assistance to APL***

***9. 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;  
emergency management issues related to public and private insurance  
coverage and personnel issues related to emergency response  
/ Discussion and appropriate action***

*Tom Santry has been ill and was unable to attend the meeting. Judge Beard addressed some of the items.*

***B. H1N1 Virus & Seasonal Flu Update / Discussion and appropriate action  
concerning any measures needed to protect County employees***

*This item was passed until Tom Santry could be present.*

***C. Requested Funding from State Homeland Security Program for  
Training /Exercise Programs / Discussion and appropriate action***

*Last year, the state requested to hold back \$21,000 for exercises. The rural part of the region was not really included in those exercises. This year, Judge Beard said \$19,000 has been requested, but she would like to send a loud and clear message that the rural regions be included in the exercises. She believes Mr. Santry has already sent a letter.*

*Commissioner Killingsworth made a motion to notify Homeland Security that the County would like to be involved in the exercise, and to approve the \$19,000 expenditure. Commissioner Ortega seconded the motion, which passed unanimously.*

***D. Alpine Volunteer Fire Department's request for replacement rescue vehicle /  
Discussion and appropriate action concerning replacing rescue vehicle***

*This item was passed until Tom Santry could be present.*

***E. Report on Meeting of October 7, 2009, regarding possibility of regional  
dispatch / Report on appointment of Committee of Law Enforcement  
officials and Emergency Management Coordinator to study issues related to  
this concept***

*Judge Beard said the COG conducted the meeting, and attendance was very good. Sheriff Dodson said he thinks everybody who attended agreed, although they had viable questions about what could be accomplished. They are talking about hiring quality dispatchers at quality pay. Two people from every entity were appointed to be on a committee to start looking into it. These are people directly involved with law enforcement or emergency management The COG is going to provide some samples of Counties who already doing a regional dispatch so that this area can decide which format will be best.*

*Commissioner Killingsworth asked if a dispatch training program was discussed. Sheriff Dodson said no, but it will be.*

*Judge Beard said there are so many issues that the prospect is a hard one to get a handle on. At this point, they are just trying to cross the threshold and will frequently report on additional information to Commissioners.*

*Councilman Fitzgerald, who attended this meeting, said there is great interest. He thinks it will work, and the arrangement, as proposed at this time, is fair and equitable.*

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

***10. Recognize Domestic Violence Awareness Month / Discussion and appropriate action***

*Commissioner Ortega made a motion to recognize October as Domestic Violence Awareness Month, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***11. Commissioner Pct. 3 / How to establish a “Quiet Zone”***

***A. Review and discussion concerning how a “quiet zone” was implemented in Marathon***

*Commissioner Ortega described the lengthy process of getting this done. He provided a large number of documents related to the process.*

*Commissioner Ortega said they started with Mr. Martin at the Federal Railroad Administration, who came and did a presentation. One of the things he explained is how to make certain people are alert in a quiet zone.*

*Two weeks later, another meeting was held. There was an informal vote amongst Marathon citizens. After it passed, a letter of intent was sent to the FRA.*

*A representative from Union Pacific came to assist. In Alpine, TxDOT would need to be involved as well.*

*Barriers were placed at crossings in Marathon, which cost about \$20,000 using local County crews to install the barriers. Approximately 18 yards of concrete were used, and asphalt was used to make a smooth base.*

*If they feel it is necessary, the train engineer can still blow the whistle.*

*Commissioner Ortega cautioned that a “quiet zone” does not mean that the trains will entirely cease blowing their whistles. All in all, the “quiet zone” has been favorably received in Marathon.*

***B. Presentation and discussion by J.R. Smith concerning implementing such a program in Alpine & vicinity & how various entities could cooperate to secure a “quiet zone”***

*Mr. Smith said the City has acted on this several times. There have been resolutions passed and there is an ordinance in place. He said realistic projects about cost are needed and funding decisions need to be made. He is working to present those options to the City Council at some point. He has visited with TxDOT about using four-*

foot barriers which are stockpiled all over the state, which are not being used. His conversation was that, as far as they knew, those barriers would be acceptable, although they don't know of anyone who is using them for that purpose. He is also exploring grant possibilities.

Based on his experience, Commissioner Ortega said a couple of crossings may need to be left open for wide loads coming to and from South County.

## **12. Energy Efficiency & Conservation Block Grant, State Energy Conservation office of State Comptroller**

### **A. Update on program by Conrad Arriola**

Mr. Arriola said a letter from the Comptroller received Sept. 22 said the County is now eligible for \$35,000 for energy conservation. Right now, they need to provide notification of intent, and there is a resolution with that saying the County agrees to accept the funds. Both documents are due in November. After those documents are received, there will be a final application process which requires the County to outline its plans for the money. Upgraded retrofits, roofing, etc. are some of the possibilities.

### **B. Request to give notification of interest to participate to Comptrollers office / Discussion and appropriate action**

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

### **C. Judge's request to designate Conrad Arriola to administer program / Discussion and appropriate action**

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

Judge Beard noted that there is no administrative money included in the grant, but Mr. Arriola is willing to take on the project.

## **13. Courthouse Maintenance**

### **A. Update by Judge on recent maintenance work in Courthouse / Grounds**

Judge Beard said recent work includes major electrical work in the Treasurer's Office, along with some painting and weatherization of the windows. Lighting was also improved, and worn-out carpet was replaced.

In the process, the electrician found a "ghost" wire which was unable to be turned off, and has now been connected to the box.

The doors in the corridor between the old courthouse and annex were replaced, and some painting was done. New hardware for the doors has been ordered.

### **B. Scheduling of additional needed maintenance & repairs**

**1. Sheriff's office flooring and carpet replacement (Early 2010 proposed for this work) / Discussion and appropriate action**

*The carpet and flooring have never been replaced in the Sheriff's Office. It looks bad and is very worn. The wood flooring in the corridor there also needs to be replaced. For some years, rain would catch under the mat in the corridor. This has damaged the floor.*

*Judge Beard is requesting that this project be undertaken early next year rather than this year due to already high expenses because of other projects, namely the Road & Bridge paving and seal-coating projects.*

**2. Courthouse exterior repainting (Late Spring or Summer 2010 proposed for this work) / Discussion and appropriate action**

*This project needs to be done late next spring by the Road & Bridge Department.*

**14. Courthouse Tech Improvements / Judge's proposal to have Commissioners Courtroom and County & District Courtrooms equipped for telephonic and internet access**

*Judge Beard said it seems now that every out-of-town presenter comes expecting to have a fully wired room in which to conduct a meeting. Far West Texas Judges do use telephonic hearings some as a cost savings for litigants.*

*She would like the Commissioners' blessing to explore the cost of getting this done.*

*Commissioner Killingsworth asked if screens and projectors should be considered as well. Treasurer Ofenstein said the County has a projector.*

*County Attorney Steve Houston noted that, in the District Courtroom and occasionally in the J.P. Court, a flat screen T.V. is necessary to play videos from in-car stops.*

**15. 2010 Redistricting Process**

**A. Review of previous conducted 2000 redistricting process conducted by Greg Hudson**

*Judge Beard said Mr. Hudson did the redistricting process in 2000 and did a wonderful job. It is something to begin thinking about. A proposal from Mr. Hudson will be necessary.*

**B. Consider Proposal for Redistricting Services by Greg Hudson / Discussion and appropriate action**

**16. Courthouse Restoration Grant Application / Update**

*Judge Beard said Travis Roberts is giving this serious consideration at this point, and the application deadline is in December. She said the competition is going to be fierce. She suggested that perhaps applying for the plans only might be more realistic.*

*Mr. Roberts said the total available has dropped to just \$16 million. He said it may be better to be ready for the next round. He said Brewster County may have a better chance of even possibly being considered then. Perhaps it may be better to apply for plans only.*

#### **17. Broadband Technology Opportunity Program Meeting held on October 7, 2009 / Update / Discussion of Treasurer, EMC & Judge concerns**

*Judge Beard said this application is being spearheaded by Region 18. She said they believe the total to be about \$28 million and that is for enhancing broadband for the entire region.*

*She said they need to create a document setting out the County needs and how this would create jobs.*

*No commitment has been made, but she is interested in Commissioner Killingsworth's comments due to her education background.*

*The match is 25 percent, which has got to be tied down. This would include many local governments going all the way up to Pecos County.*

*Commissioner Killingsworth said she wasn't at the meeting last week, so she doesn't know how things have progressed, although she was on the committee which explored the initial idea.*

*She said the proposal includes 33 school district and would require towers all over the region. She said it would be a huge benefit. There are many questions.*

#### **18. Public Comment**

*No public comment was made.*

#### **19. Sheriff's Department**

##### **A. Interlocal Cooperation Contract with DPS General Services Office / Discussion and appropriate action**

*Sheriff Dodson said any reports that are state-generated are purchased through DPS. Before they are allowed to buy any, an interlocal agreement must be approved by Commissioners.*

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

##### **B. Renew JAG Grant Resolution / Discussion and appropriate action**

*Chief Deputy Ryan Skelton said JAG pays for the South County deputy, some part-time deputies and for a part-time secretary to cover administrative matters. He noted that there is no matching amount.*

*He said the budget this year is exactly the same as last year.  
Commissioner Ortega made a motion to approve the resolution to renew, which was seconded by Commissioner Killingsworth, and passed unanimously.*

### **C. Jail Personnel**

#### **1. Executive Session Pursuant to Section § 551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee, particularly as related to record keeping**

*At 10:37 a.m., Judge Beard announced that Commissioners Court was going into Executive Session to discuss personnel issues at the jail, particularly as related to record keeping. The courtroom was cleared of all but Commissioners Court, the County Attorney and jail personnel.*

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

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

*At 10:58 a.m., the Commissioners Court reconvened in open session. Judge Beard announced that the Court had been in Executive Session pursuant to §551.074. Judge Beard asked if any action was to be taken as a result of the Executive Session.*

*No action was taken.*

#### **20. Pending Litigation re Mills Road / Cause No. 2007-03-B8551-CV, Michael J. McCulloch, Kathleen and Alice McCollum, Individually and d/b/a Osoba Ranch Company VS Brewster County, Texas / Confer with County Attorney**

#### **A. Executive Session – Pursuant to Section § 551.071, Government Code, VTCA, Pending Litigation and Consultation 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), and Pursuant to Section § 551.072, Government Code VTCA, Deliberation regarding real property**

*At 11:00 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.071 to discuss matters related to Cause No. 2007-03-B8551-CV, Michael J. McCulloch, Kathleen and Alice McCollum, Individually and d/b/a Osoba Ranch Company vs. Brewster County, Texas. The courtroom was cleared of all but Commissioners Court, the County Attorney and jail personnel.*

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

*At 11:08 a.m., the Commissioners Court reconvened in open session. Judge Beard announced that the Court had been in Executive Session pursuant to §551.071. Judge Beard asked if any action was to be taken as a result of the Executive Session.*

*No action was taken.*

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

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***VAL CLARK BEARD, COUNTY JUDGE***

***ATTEST:***

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***BERTA RIOS MARTINEZ, COUNTY CLERK***