

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
MONDAY, DECEMBER 14, 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
JERRY SOTELLO	J.P., PCT. 1
STEVE HOUSTON	COUNTY ATTORNEY
BERTA RIOS MARTINEZ	COUNTY CLERK
CAROL OFENSTEIN	COUNTY TREASURER
BETTY JO ROONEY	TAX ASSESSOR

1. Invocation and Pledge of Allegiance

Judge Beard lead the invocation and Pledge of Allegiance.

2. Minutes / additions / corrections / approval

The minutes from the Nov. 16, 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. General Bills

Treasurer Ofenstein noted that since it has been such a long time since the last meeting, there are a lot of bills.

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

B. Infrastructure Projects Bills / Discussion and appropriate action

The infrastructure bills total \$279,617.

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

**C. Review and consider renewing Pitney Bowes Postage machine contract/
Discussion and appropriate action**

Mrs. Ofenstein recommended extending the contract for 48 months, at \$928/month.

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

D. Treasurer's Big Bend Tourism Council/ Update and review of budget amendments and adjustments concerning Hotel/Motel tax/ Discussion and appropriate action for County Treasurer to proceed with those amendments

Mrs. Ofenstein said the revenue needs to be amended by \$155,000 and the expenditures by \$127,000.

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

E. End of Year Closeout Matters / Line item transfers, budget amendments for all Departments:

<i>County Judge</i>	<i>County Attorney</i>
<i>County Clerk</i>	<i>County Treasurer</i>
<i>County Veteran's Office</i>	<i>Tax Assessor-Collector</i>
<i>Non-Departmental</i>	<i>Courthouse</i>
<i>Contracting Agencies</i>	<i>County Jail</i>
<i>Community Facilities</i>	<i>Constable Pct. #1, #2, & #3</i>
<i>Emergency Management</i>	<i>Sheriff</i>
<i>County Court</i>	<i>Extension Office</i>
<i>District Clerk</i>	<i>Exten. Serv. (Home Agent)</i>
<i>District Court</i>	<i>Road & Bridge Department</i>
<i>Justice of the Peace #1, #2, & #3</i>	<i>Records Management</i>

Treasurer Ofenstein reviewed, line by line, end-of-year budget amendments for 2009. The amendments and line item transfers are attached and recorded with these minutes.

Commissioner Ortega made a motion to accept an amendment of \$111,000 for road materials for the Road & Bridge Department. The motion was seconded by Commissioner Pallanez, and passed unanimously.

Commissioner Killingsworth made a motion to transfer \$32,654.41 out of Elections to the Appraisal District, Tri-County Juvenile Department, County Court, District Court, County Attorney, County Treasurer and Emergency Management. Commissioner Ortega seconded the motion, which passed unanimously.

Commissioner Ortega made a motion to transfer a total of \$70,850 out of non-departmental, Elections, Courthouse and Community Facilities and into Road

& Bridge. Commissioner Killingsworth seconded the motion, which passed unanimously.

F. Other matters related to closeout of 2009 year / Discussion and appropriate action

G. 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 Pallanez, and passed unanimously.

5. Big Bend National Park / Presentation by & Discussion with Park Superintendent, Bill Wellman

A. Update on the status of BBNP

Judge Beard noted that the Park has become much more involved with the County Government in the last few years, which she said is a positive trend. She introduced Supt.. Wellman.

Supt. Wellman reviewed several statistics about the Park, including management, border management, staff, funding, river quality and quantity, and federal stimulus money being spent in the Park.

He discussed the opportunity for a binational park for Texas/U.S. and Mexico. Talks are ongoing with the NPS, DHS and Mexican authorities. There are issues on both sides, but the biggest issue is that the majority of the land on the Mexican side is privately owned, and a way to deal with that needs to be devised. He pointed out that National Parks in some countries are privately owned.

Ranger Lisa Turecek, Park Maintenance head, displayed several pictures of the 2008 flood clean-up and other Park projects. She also outlined 2010 projects, including road paving.

B. Possible Cooperative Project between BBNP and the County to improve portions of eastern Terlingua Ranch Road which cross through BBNP & connect with H. 385 / Discussion and appropriate action

Supt. Wellman said the park airplane hangar and airstrip are located off the road, and one of the new Rangers will be living in the area. Because of access, it is hard for visitors to visit that area of the Park.

Judge Beard said the County is definitely interested in pursuing options, not just from the standpoint of access for residents and visitors, but also from the standpoint of public safety.

C. Other matters related to BBNP, ESD #1 & the County / Update

Judge Beard noted that since the creation of the ESD, the Park and ESD have worked well together.

6. Road & Bridge Department / Community Facilities

A. Road & Bridge Superintendent's Report

General updates on maintenance and repairs for all county roads; road materials including, fuel, 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); permits for boring or trenching for utilities across County Roads

Commissioner Stone said the crews are hanging sheet rock at the various infrastructure projects.

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

Commissioner Killingsworth said the engineer is working on the final easements.

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

7. County Holiday Schedule for 2010 / Discussion and appropriate action to adopt Holiday schedule

Commissioner Ortega made a motion to accept the holiday schedule as presented, which was seconded by Commissioner Stone, and passed unanimously. The schedule is attached and incorporated by reference.

8. Pending Infrastructure Grant Matters

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

1. Update on Project / Review of previous project

Grant Administrator Jerry Carvajal said the County was awarded \$460,000 to install 50 septic systems. The previous grant completed 46 systems. He said they visited the project site last week and everything is in order. The contract will be prepared and sent to the County.

***2. Check Presentation Event at Pattillo Community Center
on December 17th, 2009 / Announce***

Judge Beard announced the event is scheduled for 10 a.m. this Thursday. The check will be presented by Rep. Gallego. The meeting has been posted and everyone is invited to attend.

***3. Report on Project Commencement visit by Texas Department of
Rural Affairs Presentation***

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

***B. 2007 ORCA Infrastructure Grant /Study Butte Water Corp.
Improvements / Discussion and appropriate action (Note: ORCA's
name has been changed to Texas Department of Rural Affairs)***

1. Update & General Administrative Matters regarding grant

Mr. Carvajal said the contracts have been submitted to Judge Beard. The contractor and engineer have set a conference for Dec. 18. The total amount on this grant is \$384,000.

2. Study Butte Water Corporation Tank Project

a. General update on progress

***b. Purchase and installation of tank / Update including review
of TCEQ approval of tank***

c. Discussion and appropriate action for project to go forward

***C. 2009/2010 ORCA, (Texas Department of Rural Affairs) Rural
Community Affairs Grant Program***

1. Update

Mr. Carvajal said the County was approved for \$210,00 with an additional \$90,000 expected in May. It will be used for two additional tanks for the Study Butte Water Corp, and he said the environmental assessment is in progress.

2. Discussion and appropriate action to go forward with Grant

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

B. County Attorney / Review of Bid requirements as related to vehicles, fire fighting apparatus and other equipment

Steve Houston said the purchase requirements are codified by the Legislature. It states that the County must comply with competitive bidding procedures anytime it wants to purchase one or more items exceeding \$50,000. He said there are some discretionary exemptions, but they basically deal with public emergencies and the purchase of food. Professional services can be determined at the discretion of Commissioners Court.

Commissioner Killingsworth asked about determining the aggregate value.

Mr. Houston said it is based on the intent of the Court. If the Court should start trying to break things up into lesser purchases in order to circumvent the process, that would be a violation of the statute.

C. Alpine Volunteer Fire Department's request for replacement rescue vehicle

1. Review possible funding sources as studied by Emergency Management Coordinator

Mr. Santry said the current vehicle is 12 years old and responds to all the emergencies. Last year, it made 65 runs. He said they will need to go out for bids; it will be over \$50,000. Judge Beard was informed that the USDA has money for rural firefighting equipment, and at her request, Mr. Santry went to speak with that agency in Ft. Stockton and filled out several forms and learned about requirements.

However, the County must certify in writing its inability to obtain other financing. As the County can readily obtain financing for purchases like firefighting apparatus, Mr. Santry said with that requirement, he doesn't believe the County will be able to get anything from USDA.

Commissioner Killingsworth asked if there is funding available through the Texas Forest Service. Mr. Santry said he will inquire.

2. Discussion and appropriate action concerning replacing rescue vehicle, and if appropriate, seeking bids for replacement rescue vehicle

Judge Beard asked Commissioners how they want to proceed.

Commissioner Ortega said he would like to hear what the Forest Service has to offer. Commissioners agreed that the Forest Service is worth a try.

Judge Beard said if Mr. Santry hears anything in the next few days, she'll put it on the agenda for next week.

D. Radio Equipment for Marathon Law Enforcement Facility and South County Emergency Response Center (Homeland Security funding or other grant sources of funds to be used) / Request EMC to begin advertising for bid proposals / Discussion and appropriate action

Mr. Santry said the Marathon and South County facilities need all new equipment. He received a proposal of \$63,000 from one company just for South County. This funding will come from Homeland Security.

Commissioner Killingsworth noted that in a catastrophic event, the EOC will have its own dispatch center.

Mr. Santry said he needs authorization from Commissioners Court to go out for bids.

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

E. Acknowledge and thank Big Bend Regional Hospital for gift to AVFD/ Discussion and appropriate action

Mr. Santry said the District contacted him and said the County was eligible to request funding for emergency equipment through money received from the sale of the old hospital building and from tobacco funds.

They will receive a lifepack, heavy-duty stretcher and a life monitor.

Commissioner Killingsworth made a motion to acknowledge and thank the District for the gift, which was seconded by Commissioner Ortega, and passed unanimously.

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

10. 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 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*

Helipad at S. County Community Center or other location

A. Project Updates

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

***a. Update on status of project including rock work on exterior /
exterior finish, insulation & dry wall***

Road & Bridge crews are working on the drywall; the rock is not yet available.

b. Discussion and appropriate action to go forward with project

2. Alpine VFD Fire Station

a. Shielded exterior lighting / update

Judge Beard said the lighting is coming along.

b. Schedules & updates for exterior stucco & rock work,

interior framing, plumbing, electrical and other post “dry in” work including insulation & dry wall

Road & Bridge crews are working on the drywall.

- c. EOC / Review work of Big Bend Amateur Radio Club, EMC & Construction Superintendent on communications facilities***

These groups have been working on the wiring before the drywall goes up.

- d. 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***

Commissioner Killingsworth said things are looking good.

- b. Providing & laying of native rocks for exterior / Update***
- c. Road work around building / Update***

Commissioner Killingsworth said there is going to be a lot of necessary paving.

- d. Discussion and appropriate action to go forward with project***

4. Brewster County Jail Renovations

- a. General update on completion of renovations & installation of new console***

Judge Beard said, for all practical purposes, the renovations at the jail are complete.

- b. Discussion and appropriate action to conclude jail renovations***

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

- a. Update on Phase II work (dry in)***

Judge Beard said things are moving along. The desk is almost complete.

- b. Discussion and appropriate action to proceed with Phase II***

for Alpine Public Library

11. Open & Read Proposals for the 2009 Audit for Brewster County (Professional Services) / Discussion and appropriate action concerning selecting auditor

Judge Beard said only one proposal was received from Shaw Skinner.

Treasurer Ofenstein said she has worked very well Mr. Skinner and his staff. He always provides everything in advance. He has been very good and very thorough.

Commissioner Killingsworth made a motion to engage Shaw Skinner as the County's external auditor, which was seconded by Commissioner Pallanez, and passed unanimously.

12. Public Comment

No public comment was made.

13. Recognition of County, County Affiliated, and County Funded Volunteer Boards / Discussion and appropriate action to recognize volunteers

Judge Beard said the County could not get by without the help of dedicated volunteers, and every few years, the County takes a little time to recognize them. Commissioners read the names of volunteers for: Alpine Public Library, Brewster County Tourism Council, Brewster County Historical Commission, Sunshine House, Brewster County Groundwater Conservation District, Brewster County ESD #1, Holy Angels Cemetery Association, Marathon Cemetery Association, Alpine Cemetery Association, Big Bend Amateur Softball Association, Big Bend Little League.

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

14. Tax Assessor Collector / Presentation of Tax Collection Contracts for other Taxing entities in County / Discussion and appropriate action

Betty Jo Rooney said Commissioners should have a copy of each of the contracts. She said the contract fees are the same this year as last. She said they are identical, except for Alpine ISD, because they use a different law firm for delinquent tax collections.

Commissioner Killingsworth said she believed a statement about when quarterly payments are due is unnecessary in the Alpine ISD contract.

Commissioner Killingsworth made a motion to approve the contracts, with the adjustment to the Alpine ISD contract. Commissioner Ortega seconded the motion, which passed unanimously.

15. Rio Grande COG Transportation Committee meeting in Marfa on December 7, 2009 / Review of meeting by County Judge

Judge Beard said the District Engineer from El Paso came to the meeting. He was pleased to receive the invitation and was very forthcoming to the extent that he could be about La Entrada. There is not a lot of information available because the project is on hold. She said that, due to funding, it is likely that the project will be dropped, but we must be vigilant.

The engineer, Chuck Berry, said funds are low and the state of public highways in the area is poor.

Judge Beard said part of the meeting related to rural public transportation. Commissioner Ortega said they are really trying hard to make it work. They are trying to get as many people loaded up for one trip as possible, and they are trying to make it as economical as possible.

Judge Beard said the one negative discussed at the meeting was that not very many people know about the program.

Judge Beard said the meeting turn-out was good.

16. Sheriffs Department and Jail

A. Request to accept modification for FY 2009 West Texas High Intensity Drug Trafficking Area grant for the Alpine Multi-Agency Initiative / Discussion and appropriate action

Treasurer Ofenstein said when a new truck was purchased and an old truck was turned in, the firm wanted \$1,400 for hail damage. Her office called the insurance company, and were told leased trucks aren't supposed to be insured.

She said what might have to happen is that the County will have to buy the trucks and be reimbursed by HIDTA, or insure the trucks through the leasing company.

Sheriff Dodson said after the Treasurer gets more information, what he wants to do is to do away with the leasing company and have the County purchase the trucks. The purchase of the equipment will take care of the insurance problem.

Treasurer Ofenstein said she doesn't want any action taken today because she doesn't have enough information.

B. 2009 Linebacker Grant Resolution / Discussion and appropriate action concerning accepting grant

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

The grant is for \$219,285.

C. Request to purchase outdoor cover for the mobile command post with Impound Funds

1. Report from Chief Deputy regarding cost of cover

Sheriff Dodson said there is enough money in the impound fund to buy the cover.

2. Discussion and appropriate action concerning purchase

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

D. Request funding for the January 2010 Texas Border Sheriff's Coalition meeting meal in Lajitas, Texas / Discussion and appropriate action

Sheriff Dodson said he needs \$300 to buy barbecue for one night for the Border Sheriff's Coalition.

Commissioner Ortega made a motion to direct the Sheriff to work with the Treasurer to find the money in his budget. Commissioner Stone seconded the motion, which passed unanimously.

E. Jail / Personnel issues related to Jail staffing/ Update from Sheriff

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 12:20 p.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.074 to discuss staffing matters at the jail. The courtroom was cleared of all except the Commissioners Court and Sheriff Dodson.

Reconvene in Open Session

2. Discussion and appropriate action resulting from Executive Session

At 12:32 p.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.

17. Proposed letter to elected Federal Representatives setting out how PILT funds are being utilized in infrastructure projects / Discussion and appropriate action to approve letter

Judge Beard said she thinks it is a good idea to let the federal representatives know how the money is being spent.

Commissioner Killingsworth said she thinks it is important to stress that the money was used to enhance emergency response.

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

18. Report on filing application to Texas Historical Commission for Courthouse Restoration; recognize Travis Roberts, Historical Commission Chair for volunteer work on THC application / Discussion and appropriate action

Judge Beard said she first wants to recognize Mr. Roberts for his work in completing and filing the application. His work saved the County thousands of dollars.

Mr. Roberts said he filled out the budget justification form and the application itself.

He said because of the hallway between the original courthouse and the annex, points have always been taken away from Brewster County. THC does not like the view of the west side of the courthouse being blocked.

He said he came up with an idea to take the walls away from the hallway, and propose basically a transparent, glass corridor with a weather-proof roof which meet ADA requirements.

He said he came up with a range of \$4.6 million. The grant requires 15 percent local match.

Judge Beard again noted that they are not hopeful. State funding has been drastically reduced. She said they may get funding for the plans, which Mr. Roberts said will probably cost about \$500,000 to \$600,000.

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