

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
TUESDAY, JANUARY 26, 2010, AT 10:00 A.M.**

Judge Beard called this meeting to order. Officers present are listed as follows:

**VAL CLARK BEARD
ASA STONE
KATHY KILLINGSWORTH
RUBEN ORTEGA
MATILDE PALLANEZ
JERRY SOTELLO
STEVE HOUSTON
BERTA RIOS MARTINEZ
CAROL OFENSTEIN
BETTY JO ROONEY**

**COUNTY JUDGE
COMMISSIONER PCT. 1
COMMISSIONER PCT. 2
COMMISSIONER PCT. 3
COMMISSIONER PCT. 4
J.P., PCT. 1
COUNTY ATTORNEY
COUNTY CLERK
COUNTY TREASURER
TAX ASSESSOR**

1. Minutes / additions / corrections / approval

*The minutes from the Jan. 11, 2010, 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

*Treasurer Ofenstein said there was nothing outstanding about the general bills.
Commissioner Killingsworth asked about a check to the Presidio County
Treasurer for medical expenses.*

*Treasurer Ofenstein said the district court reporter's medical insurance is paid
upfront by Presidio County, and is then reimbursed by the other counties in the District.*

*Commissioner Ortega made a motion to approve the general bills, but said he
would abstain from 63889. Commissioner Killingsworth seconded the motion.*

Judge Beard said she was abstained from the KALP bill.

The motion passed unanimously.

B. Infrastructure Projects Bills / Discussion and appropriate action

Treasurer Ofenstein said there was one bill from Dinosaur Valley.

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

**C. State Comptroller's unclaimed property / Request for authorization to
Collect amounts due to County**

Treasurer Ofenstein said the Comptroller's office has been requesting that the County claim some property last year. Mrs. Ofenstein said she wanted to first check to make certain that the County is, in fact, entitled. She said it totals about \$900.

Commissioner Ortega made a motion authorizing the Treasurer to collect the amount. Commissioner Stone seconded the motion, which passed unanimously.

D. 83rd DA request to pay budgeted funds for investigator's salary / Discussion and appropriate action to approve payment

Treasurer Ofenstein said there is \$64,000 available in the budget. No amendment to the budget is necessary.

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

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

Judge Beard said she had heard from Liz Sibley of Alpine that if someone purchases a new vehicle out-of-county, they can request that the sales tax be sent to their county of residence. She asked Treasurer Ofenstein if she would work with Betty Jo Rooney to research that procedure.

3. Officials' Monthly Reports / Approval

Commissioner Stone read the reports for the record.

Commissioner Killingsworth made a motion to approve the reports, which was seconded by Commissioner Ortega, 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); permits for boring or trenching for utilities across County Roads

Supt. Frenchie Causey said crews hauled rock for the fire station exterior, which is almost done. They also hauled a truckload of rock to the Terlingua CSD. They finished the pad for the Study Butte water tank. All of the R&B vehicles were inspected. Crews finished hanging the sheetrock. He installed cylinder locks at Terlingua and Marathon. Mr. Causey said he sends someone every week to Pena Park to make sure things are okay. Crews have hauled scrap lumber from the building sites to the R&B Yard. Mr.

Causey said he has a meeting coming up with TxDOT to discuss emergency lighting for the entrance and exit at the Alpine Fire Station.

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

Commissioner Killingsworth said she didn't have anything to report.

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

5. 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

EMC Tom Santry said the County has received close to \$200,000 a year for the last five years, including funding from FEMA, for use in emergency preparation. As far as shelters, he said there are contracts with several churches, schools, Sul Ross, etc. to make space available in an emergency.

Mr. Santry said he has received two applications for prescribed burns, including one that states the burn would take place sometime During Dec. 17-31. He said it is imperative that the exact day be given so that emergency personnel are aware of a prescribed burn in case someone calls 911.

He said he has been contacted by a couple of firms seeking specs for the communications equipment for the Marathon and South County buildings.

Mr. Santry said he traveled all day yesterday for a 40-minute meeting in El Paso.

He learned that the State is changing its format for receiving Homeland Security money. For 2010, a plan must be submitted, including how success of the plan will be judged by the counties themselves.

B. Judge and Treasurer's recommendation to defer purchase of Pumper Tanker (Forest Service Partial Grant Program) & proceed with rescue Vehicle purchase, if suitable bids are received

Judge Beard said that she and the Treasurer have discussed the two items – a pumper tanker which was not requested but is available, and a rescue vehicle. The pumper would be purchased with Texas Forest Service grant funds that require a \$45,000 match from the County. Mr. Santry has researched in detail the rescue vehicle, and there aren't grant funds available at this time, but it is greatly needed by the VFD.

A second round of grant-funding will be available for the pumper tanker later this year, and Mr. Santry has recommended waiting until that time.

Treasurer Ofenstein recommended waiting until later as well, giving her time to research funding and make room in the budget, if necessary.

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

6. Pending Infrastructure Grant Matters

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

1. Update on Project & Application Process

Grant Administrator Jerry Carvajal said they would posts fliers and get the word out when they are ready to start accepting applications.

2. 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

2. Study Butte Water Corporation Tank Project

a. General update on progress

Mr. Carvajal said he is working on the environmental assessment.

b. Update on completion of Pad

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 Home Program is for lower income elderly people. It provides funds to rehabilitate or construct new homes. The County has participated in the program several times.

He said the guidelines have changed drastically in the last two years. The program is based on income levels of families at 30, 60 and 80 percent of the median income.

He said, historically, the county has targeted families between 30 and 60 percent. The program has been strictly a grant program in the past, with no strings attached as far as liens, etc.

With the new guidelines, there are no more grants available. It is all income-based and zero interest, loans are now available to families. Terms last between five and 20 years. If the homeowner defaults, the state has the option to file a lien. If the homeowner dies during the term, they have the option to file a lien or forgive the loan. There are also penalties for non-payment of insurance premiums or property taxes.

There is now a required cash match by the County. Also, the homes still have to be cleared by the Texas Historical Commission, which caused major delays the last time the County participated in the program.

2. Discussion and appropriate action to go forward with Grant

A woman in the audience asked about money available from FEMA for food and shelter in emergencies. Judge Beard told her that she would likely find that Brewster County gets quite a bit of emergency funding if she would stay through the Emergency Management Department update by EMC Tom Santry.

7. 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. 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, texturing and painting**

Commissioner Ortega said he is going tomorrow to pick up the rock for the exterior, so work should start shortly.

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

2. Alpine VFD Fire Station

- a. Updates on exterior stucco & rock work, interior framing, plumbing, electrical post "dry in" work including insulation & dry wall, texturing and painting & cabinetry & other finish**

Judge Beard said the exterior is done and looks nice. Crews are about ready to begin texturing and painting.

- b. Paving schedule / Need to wait till March or later for paving**

Due to the cold weather, crews will have to wait until March to do the paving, which means move-in will have to wait until then as well. Judge Beard said they can go ahead and do the grading.

- c. Other general matters related to construction of building / Discussion and appropriate action to go forward with project**
- d. Construction Manager's request for permission to host Alpine Fire Station public open house on February 15th, prior to "move in" by AVFD**

The Construction Manager has asked for permission to host an open house wholly at his expense on Feb. 15, if that meets with the approval of Commissioners.

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

3. South County Emergency Response Center

- a. Update on status of project. Including exterior & interior finish work, cabinetry**

Commissioner Killingsworth said the stucco looks great, as does the cabinetry. She said things are coming along great.

- b. EMC's update on communications equipment for building**
- c. Utility issues related to permanent meters and water tap (Study Butte Water Corp.) & Rio Grande Electric Corp. / Discussion and appropriate action to complete utility hookup**

Commissioner Killingsworth said she met with RGEC to determine where the electric poles will be and the main service going into the east side of the building. She has also discussed the water tap with the SBWSC, and a two-inch meter will be installed.

d. Discussion and appropriate action to go forward with project

4. Alpine Public Library / Construction for Alpine Public Library, a non profit organization (Tom Hatch, Architect)

a. Update on Phase II work (dry in) / Start of Stucco & Rock work

Judge Beard said the stucco and rock work will begin shortly.

b. Discussion and appropriate action to wrap up Phase II for Alpine Public Library

Judge Beard said the architect, Tom Hatch, has recently contributed \$18,000 to do the exterior rock work according to his original design, meaning it will go all the way up the exterior walls.

B. Overview of major projects at this point / Discussion concerning possible completion dates, scheduling of smaller projects and related matters

8. County Judge/Indigent Defense / Announce award to Brewster County from Texas Task Force on Indigent Defense

Judge Beard said that in both her office, and the District Judge's, the first thing done each morning is to review the jail report to see if there is anyone in need of a court-appointed attorney. The County is mandated to provide indigent defense, and it is costly. Texas has a Task Force on Indigent Defense, and grant funds are available. This year, the County will receive \$9,126. While this doesn't cover the County's costs, it's helpful to get the funding.

9. County Clerk / Elections

A. Remote Early Voting / Schedule / Discussion and appropriate action

***February 16, 2010 – Big Bend Headquarters
Big Bend National Park, Texas 9:00 A.M. – 4:00 P.M.***

***February 22, 2010 – J.W. "Red" Pattillo Community Center
Study Butte, Texas 9:00 A.M. – 4:00 P.M.***

***February 24, 2010 – Marathon Community Center
Marathon, Texas 9:00 A.M. – 4:00 P.M.***

County Clerk Berta Martinez reviewed the above schedule. She said early voting will also take place at the Tax Office building from 9 to 5 daily, Feb. 16-26.

Commissioners urged a great deal of advertising in South County so that people will be aware of the schedule. There is no radio service there, and fliers are basically the only way to inform voters in that area.

**B. Other matters related to administering upcoming primary elections /
Discussion and appropriate action for election work of County Clerk office
to go forward**

**10. Brewster County Groundwater Conservation District/ Update and report by
Conrad Arriola**

**1. Update on January 19, 2010 Middle Pecos Groundwater Conservation
District/ Report on Fort Stockton Holdings, LP's export permit**

Conrad Arriola said that Fort Stockton Holdings submitted an application to export approximately 47,000 acre feet of groundwater per day.

The permit was not granted because it was "administratively incomplete." Paul Weatherby, the manager for the MPGWD, said the paperwork was administratively incomplete. Mr. Arriola explained that to mean that the general manager has the authority to review the permit and make a recommendation to the board. Mr. Weatherby said the top two reasons for his recommendation included his belief that Fort Stockton Holdings had not shown a need for the water, and that the application did not show the location of use.

The following day, Fort Stockton Holdings filed a lawsuit against the groundwater district.

**2. Report on Interlocal Agreement between Brewster Co. GCD
and Middle Pecos GCD**

Mr. Arriola said Mr. Weatherby presented an interlocal agreement to the BCGWD at its last meeting. The agreement would call for Brewster County to identify certain wells and gain access and permission from the owners for testing. The MPGWD would provide testing of the wells at absolutely no charge.

**3. Request County assistance and support regarding an independent water
study for regional groundwater availability of the Edwards-Trinity
aquifer in parts of Pecos, Brewster, Jeff Davis and Reeves Counties in
West Texas / Discussion and appropriate action**

Mr. Arriola said the MPGWD, along with several other entities in Pecos County, have entered into a contract to study the Edwards-Trinity aquifer. The study will impact Brewster County, and information and data will be collected that would be useful to Brewster County, even if Brewster County does not provide financial assistance. However, they have asked Brewster County to help identify landowners who would allow their wells to be included. Financial assistance would be appreciated, and if available, Mr. Weatherby has said the cost would not be above \$30,000.

Mr. Arriola said the water district is going to start making landowners aware of the study, and he hopes that they will step up and allow the testing.

Judge Beard said she believes that the landowners will get on board and be accommodating.

Commissioner Ortega made a motion to provide general support for the study, which was seconded by Commissioner Pallanez, and passed unanimously.

4. Senate Interim charges including exemption issues / Review and Discussion

Judge Beard said there are going to be exemption issues for water districts state-wide. She said the issue that Brewster County was looking at last spring is going to be looked at by the Committee on Natural Resources.

5. Other matters related to the Brewster County Groundwater Conservation District / General update

Judge Beard and Commissioners thanked the BCGWD board members for their time and effort.

11. Update on Comptroller's Energy Efficiency Block Grant / Conrad Arriola (Project to make Annex HVAC system more energy efficient.)

Mr. Arriola said the application was due Jan. 15 and he sent it by mail. It will probably be March before the project can get started. However, he thinks the County could move forward with advertising for requests for proposals. He said approval for that is needed from Commissioners, so it could be included on the agenda for the next meeting.

He said once a proposal has been accepted, the County will be reimbursed for the associated costs.

12. County Maintenance Specialist / Job Description proposed by Commissioner, Pct. 2 / Discussion and appropriate action

Judge Beard said Commissioners have discussed having someone to do contract maintenance, especially with the new buildings coming online. At the last meeting, Commissioner Killingsworth volunteered to create a job description. She has done so, and presented it to Commissioners.

According to her description, the person would tend to all County-owned structures. That person would develop the monthly routine.

She reviewed other requirements, including a high school diploma, valid driver's license, ability to follow oral and written instructions, a minimum of one year experience, inspection of exteriors and interiors, completion of a monthly report for review by Commissioners Court, among other requirements.

Commissioner Killingsworth said that, as the person will be traveling around, some kind of car allowance or travel reimbursement may be prudent.

The budget includes funding, and the position would be by contract.

Judge Beard said the contract would need to be reviewed by the County Attorney and approved by Commissioners so it's available when the County begins advertising.

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