

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
TUESDAY, MARCH 23, 2010, AT 10:00 A.M.**

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

VAL CLARK BEARD	COUNTY JUDGE
ASA "COOKIE" STONE	COMMISSIONER PCT. 1
KATHY KILLINGSWORTH	COMMISSIONER PCT. 2
RUBEN ORTEGA	COMMISSIONER PCT. 3
MATILDE "WACKY" PALLANEZ	COMMISSIONER PCT. 4
CAROL OFENSTEIN	COUNTY TREASURER
BERTA RIOS MARTINEZ	COUNTY CLERK
STEVE HOUSTON	COUNTY ATTORNEY
BETTY JO ROONEY	TAX ASSESSOR
RONNY DODSON	SHERIFF

To discuss and take action as appropriate on the following:

1. Minutes / additions / corrections / approval

*The minutes from the March 8, 2010, 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 said about \$15,000 was spent on elections.
Commissioner Ortega made a motion to approve the general bills, which was
seconded by Commissioner Killingsworth, and passed unanimously.
Commissioner Ortega abstained from 64931, and Judge Beard abstained from
any KALP bills.*

B. Infrastructure Projects Bills / Discussion and appropriate action

*Treasurer Ofenstein said there is a total of about \$5,600 in infrastructure bills.
Commissioner Killingsworth made a motion to approve the bills, which was
seconded by Commissioner Ortega, and passed unanimously.*

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

*Treasurer Ofenstein said there is a request from the Clerk's Office to take old
microfilmed documents and put them on DVD for use by the public and for records*

preservation.

Treasurer Ofenstein said the cost is \$29,603.70, and it is available in the Records Management Fund. Action will be taken at the next meeting.

3. 2010 Census / Update from Commissioner Pct. 2, Kathy Killingsworth concerning Census Activity in County

Commissioner Killingsworth said they are going to be receiving a lot of T-shirts and caps for a media blitz on April 10.

There have been problems getting a lot of workers in South County; however, a lot of people have tested for the positions.

She said she met with the Census Bureau and let them know it is going to take longer than planned.

She said they are starting to give packets door-to-door in South County, and they are supposed to be leaving them at locked gates. Judge Beard said she hasn't received hers yet. Some in the audience said they had received their questionnaires in the mail.

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

Commissioner Stone said four guys have been at work at the Terlingua site. They also hauled three tons of rock to Double Diamond and Mile High Road in preparation for paving a second course on those roads. Crews fixed part of the road that crosses Terlingua Creek, along with maintenance on several other roads. They have been doing general maintenance on equipment as well.

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

Commissioner Killingsworth said they are waiting on the final easement on the east side of the road.

C. Claim for Damages to Motorist's Windshield allegedly caused by Road & Bridge Department / Confer with County Attorney concerning disposition of claim

- 1. Executive Session Pursuant to § 551.071, Government Code, VTCA, to confer on a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflict with this Chapter (Privileged matters)**

At 10:13 a.m, Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.071 to confer with the County Attorney about a claim for Damages to Motorist's Windshield allegedly caused by the Road & Bridge Department. The courtroom was cleared of all but Commissioners and the County Attorney.

Reconvene in Open Session

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

At 10:20 a.m., the Commissioners Court reconvened in open session. Judge Beard announced that the Court had been in Executive Session pursuant to §51.071, Government Code. Judge Beard asked if any action was to be taken as a result of the Executive Session.

Commissioner Killingsworth made a motion to approve a claim of \$220 to Permian Glass on behalf of Robert Beechum, and to require the Road & Bridge Crew to inspect the trucks more thoroughly before they're driven, and to use brooms to clean them off before they are driven. Commissioner Ortega seconded the motion, which passed unanimously.

D. County Unit Road System pursuant to § 252.202, Texas Transportation Code et. seq., Request to reaffirm that Brewster County Road & Bridge Department operates under this system, pursuant to action taken by Commissioners court on September 23, 1985 / Discussion and appropriate action

Judge Beard said the 1985 minutes that outline the system are not very detailed, but she thinks it is a good idea to reaffirm that the County still operates under a Unit Road System.

Commissioner Stone made a motion to reaffirm use of that system, pursuant to §252.202 of the Texas Transportation Code , which was seconded by Commissioner Pallanez, and passed unanimously.

E. Community Facilities Management

- 1. Review of current system under which community facilities are under management of precinct committees & Commissioners in whose precinct the facility is located**

Judge Beard said a letter received a couple of months ago asked that Commissioners Court waive the fee for use of the Community Center in South County for one group. She said her response was that Commissioners Court is not involved in that;

rather, each facility has a committee which makes decisions about operations, or are under the management of the Commissioner in whose precinct the facility is located.

She said her question is, do Commissioners want to make a change to that policy. Commissioners Ortega and Killingsworth both agreed that the current policy works well.

Commissioner Killingsworth said the fee is waived for public service functions. She said there is a form folks can fill out and then provide documentation, and the Committee makes a decision regarding a waiver. She noted that the fee for the Community Center is a minimal \$25/day.

Commissioner Killingsworth made a motion to continue with the current policy. Commissioner Stone seconded the motion, which passed unanimously.

2. Discussion and appropriate action concerning reaffirming or changing this management structure

F. 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 there has been one small fire.

B. Request to renew Burn Ban / Discussion and appropriate action

Mr. Santry requested renewal of the burn ban.

Commissioner Ortega made a motion to renew the burn ban, which was seconded by Commissioner Stone, and passed unanimously.

C. Interlocal Agreement for Interoperable Emergency Communications Grant Program / Discussion and appropriate action to execute agreement

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

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

6. Resolutions

a. Memorial Resolution for Pete Gallego / Discussion and appropriate action

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

b. Recognition of 75th Anniversary of Soil Conservation Service / Discussion and appropriate action

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

7. Request for budgeted contract recreational funds from Big Bend Little League / Discussion and appropriate action

BBLL President Marc Miranda said there about 255 kids registered for this year so far. He said the funds they receive from the County are primarily used for equipment and safety gear, and field renovations in Terlingua.

Commissioner Killingsworth said they appreciate what the League does for area youth.

Commissioner Ortega made a motion to provide the League with the budgeted \$5,000. Commissioner Stone seconded the motion, which passed unanimously.

8. 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

Commissioner Killingsworth said they are still waiting on income guidelines, as well as the final criteria.

2. General administrative matters related to going forward with 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 project

Commissioner Killingsworth said the tank is up and the engineer was on site for an inspection with the water department last Friday. She said they have done an excellent job, and it was done in a timely fashion.

After all the construction is done, County crews will do a final clean-up and add a little backfill to the road, which shouldn't take more than a day.

b. Discussion and appropriate action for project to be completed

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

1. Update

Commissioner Killingsworth said Travis Roberts was there last week to look at the location of the tanks on the hill at the Ghost Town. The site preparation won't be nearly as extensive as the site on Bee Mountain.

2. Discussion and appropriate action to go forward with Grant

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***

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 complete project

a. Update on status of project

b. Discussion and appropriate action to complete project

2. Alpine VFD Fire Station / Paving and other matters related to preparing for building occupancy / Discussion and appropriate action to complete project

Judge Beard said she spoke with Mayor Jerry Johnson, and he concurred that while they are paving the fire station lot, they should just go ahead and pave across the city street. She said she sent a letter to the city manager, but hasn't heard back.

She said she will be meeting with Tom Santry about getting started on furnishings.

3. South County Emergency Response Center

a. Update on status of project including exterior & interior finish work, and cabinetry, and related items

Commissioner Killingsworth said they were painting the last time she was there. She met with Judge Burr, and Allan Baker and Greg Henington of Terlingua EMS to discuss a punch list. She said the ESD is going to be willing to help with the purchase of furnishings, which she thinks will cost between \$15,000 and \$20,000. They are working on finalizing a list of what is needed.

Judge Beard said the sooner the order is placed the better; the last furniture order placed by the County took a very long time. She suggested they contact the Texas Department of Criminal Justice about their furniture order.

b. 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 all the power is in, and they should have the water tap pretty quickly.

c. 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) / Update

Judge Beard said the rough-in electrical is done, bringing the library site to a holding phase, awaiting some promised federal funds.

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

C. Furnishings for Projects / Updates

D. Management of South County ERC & Marathon Justice Center / Request to develop written proposals for day to day management of these

buildings / General discussion (No action to adopt management plans)

Judge Beard said she would like Commissioners to think about how each of these shared facilities should be managed. She said, with the South County facility, there needs to be some kind of lease agreement that compensates the County for the ESD's share of the utilities.

Commissioner Killingsworth said they have been talking about managing the facilities, including custodial aspects. She said everyone is going to have to do their share.

Because there is a shared training room, she said she will probably be the one to manage that part of the facility so that it can be scheduled, etc., similar to how the Community Center is managed.

Commissioner Killingsworth noted that many places base lease agreements on square footage, which she thinks is fair. There will be further discussion about these issues.

10. Personnel Matters / County & County Affiliated Appointed Boards / Expired terms, vacancies & pending vacancies / Discussion and appropriate action concerning filling expired terms & vacancies (Brewster County Emergency Service District #1, Tourism Council, Historical Commission, Central Appraisal District, Brewster County Groundwater Conservation District, Child Welfare Board)

A. Executive Session Pursuant to § 551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee

At 10:43 a.m, Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.074 to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee related to County Affiliated Appointed Boards. The courtroom was cleared.

Reconvene in Open Session

B. Discussion and appropriate action resulting from Executive Session

At 11:00 a.m., the Commissioners Court reconvened in open session. Judge Beard announced that the Court had been in Executive Session pursuant to §551.074. Government Code. Judge Beard asked if any action was to be taken as a result of the Executive Session.

No action was taken.

11. County Attorney's review of Laws concerning filling of vacancies in elected County offices (No action; purpose of review is to correct recent public misinformation)

Judge Beard said she asked for this to be on the agenda because there was a large amount of misinformation concerning filling vacancies in county elected offices which was put out during the election.

She said it was put out that she herself would/could appoint her own successor.

County Attorney Steve Houston said that if there is a vacancy in the office of County Judge or Justice of the Peace or other county elected office, besides Commissioners, an appointment will be made by the entire Commissioners Court until the next election.

He said, basically, that Commissioners Court will make an appointment to fill any vacancy by majority vote, except for a Commissioner. In the case of a Commissioner vacancy, the County Judge makes the appointment. This is the only appointment which the County Judge can make individually.

12. Scheduling of Spring Commissioners Court Meetings / Review schedule & conflicts / Discussion and appropriate action concerning canceling April 27, 2010 meeting

Judge Beard said all of the Commissioners will be at the West Texas Judges and Commissioners meeting in San Angelo on April 27. She said she thinks the Commissioners Court meeting can be cancelled, but if something pressing occurs, a called meeting would be necessary. Commissioners concurred.

13. Update on Comptroller's Energy Efficiency Block Grant / Conrad Arriola / Project to make Annex HVAC system more energy efficient / Discussion and appropriate action to go forward with project

Mr. Arriola said he received an email yesterday saying all applications are still pending. Once the County is approved, they will get a contract from the state. Following the approval of the contract, they can begin looking for proposals.

14. Workshop Session with Treasurer & Sheriff's Department concerning State & Federal Law Enforcement grants & programs and other non ad valorem tax funding sources for Local Law Enforcement in County / Discussion only

Treasurer Ofenstein passed out a packet describing the grants and what funding is used for.

She said there is one HIDTA grant, along with Linebacker, Stonegarden and BorderStar.

Deputy Ryan Skelton said the Linebacker grant is administered through the Border Sheriff's Coalition in El Paso. He said it is a Congressionally mandated.

Judge Beard asked why Linebacker is set up with a local management structure.

Deputy Skelton said it was set up through the Border Sheriff's Coalition (BSC) which hired someone whose only job is to administer the grants.

Deputy Skelton said BorderStar is also administered through the BSC. On this grant, the BSC reports to the state.

With Stonegarden, the Sheriffs's Office reports to the Border Patrol because the funding flows through FEMA. FEMA sends the actual money to the state for use by the Counties.

The Lone Star grant is a part of HIDTA. Lone Star is distributed to Counties as overtime pay for narcotics operations. The County is reimbursed for fuel and overtime through the Border Patrol.

Sheriff Dodson said HIDTA is the oldest grant the Sheriff's Office deals with, and he said it will probably be the only one around once the others are gone.

Sheriff Dodson said he has been on the phone with several other Sheriffs who say their Treasurer's Office are being burdened as well. They are letting many of their grants go and working only those that area easy to utilize and provide funding for clerical reimbursement. Sheriff Dodson said he has been concerned that his office, as well as the Treasurer, are starting to get buried in these grants.

He said that there are only so many supplies you can buy; none of the grants provide for real manpower.

Deputy Skelton reviewed a list of equipment and reimbursements. He said he does inventory as needed, when there are new hires, and if things are moved around for one reason or another.

Commissioner Killingsworth asked if there are funds available in the grants for the possibility of a barcode inventory. The inventory system is on the computer at the jail, and Deputy Skelton said he can't access it from his own office.

Commissioner Killingsworth asked why not.

Deputy Skelton said he has just written another grant to get somebody to come in and network that particular system. It is fully capable, it just hasn't been set up. If it were, prosecutors and judges would also be able to access the information. Judge Beard said they need the info so that they can make determinations about county-appointed attorneys, etc.

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