

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
MONDAY, MAY 10, 2010, AT 9:00 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
STEVE HOUSTON	COUNTY ATTORNEY
CAROL OFENSTEIN	COUNTY TREASURER
BERTA RIOS MARTINEZ	COUNTY CLERK
JERRY SOTELLO	J.P., PRECINCT 1

To discuss and take action as appropriate on the following:

1. Invocation & Pledge of Allegiance

Judge Beard lead the invocation and Pledge of Allegiance.

2. Minutes / additions / corrections / approval

The minutes from the April 13, 2010, meeting were presented for approval. Commissioner Ortega made a motion to accept the minutes, which was seconded by Commissioner Stone, and passed unanimously.

3. Treasurer

A. General Bills / Discussion and appropriate action

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

Commissioner Ortega abstained from 65509 and 65779. Commissioner Killingsworth abstained from 65700 and 65701. Judge Beard abstained from any KALP bills.

Three walk-in bills were presented for approval. The first was reimbursement to Commissioner Stone for travel, \$677.31; the second, reimbursement to Steve Houston for a desk, \$650; the third, to a tourism in company in Germany, \$2,000. Judge Beard noted that the desk was original courthouse furniture, and that Mr. Houston also donated two filing cabinets.

B. Infrastructure Projects Bills / Discussion and appropriate action

Infrastructure bills were included in Item A.

C. Request for approval of Automated Clearing House Origination Agreement with West Texas National Bank / Discussion and appropriate action

Treasurer Ofenstein explained that this allows her to make deposits and transfers.

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

D. 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 / Discussion and appropriate action

Commissioner Stone read the March and April reports for the record.

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

Commissioner Ortega made a motion to approve the April 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); permits for boring or trenching for utilities across County Roads

Supt. Causey said several roads in South County have been bladed. He said everything should be in good shape there right now. The gazebo at the Courthouse was rebuilt. Crews replaced the construction fence at the Library site, and hauled off all the junk and trash. They finally finished laying the caliche base at the Fire Station site. It will hopefully be ready to pave Wednesday or Thursday. Crews mowed all the right-of-ways in all precincts in Alpine. They helped move a desk from the County Attorney's office, and helped Nolan Fowler move his travel trailer from South County to Alpine.

B. Workload Issues & ongoing County Seal Coating & Paving Projects

1. Budgeting Review for these projects

Judge Beard said the budget is going little by little on the paving and seal-coating. She said she will work with the Treasurer's Office this week and report back to Commissioners. She asked them to proceed cautiously and not make any commitments with any other governmental entity until these projects are complete. Supt. Causey said as soon as the Fire Station parking lot is paving, they can take care of Double Diamond. Following that, they should be able to move to Terlingua Ranch. Judge Beard noted that they also need to pave the South County ERC. Supt. Causey said the crews can move back and forth on each project as needed. He said he would like to get down to Terlingua by the first of June, but it may be the middle of June.

Judge Beard said they will proceed accordingly, one step at a time, as long as everyone understands that the scheduled projects need to be taken care of first.

2. Request to defer work for other governmental entities until 2010 County improvements program is substantially completed (Mid Summer) / Discussion and appropriate action

C. County Unit Road System pursuant to § 252.202, Texas Transportation Code et. seq., / Review of procedures for committing County Road & Bridge resources or equipment to other governmental entities

Judge Beard said that, as crews are being pulled and stretched in different directions, everyone needs to work together to make sure the Road & Bridge crew is not pulled in conflicting directions.

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

Commissioner Killingsworth said she had nothing new to report.

E. Allen Lane & Cinnabar Drive, Request from Commissioner, Pct. 2 for preliminary action to take these roads which serve the South County Emergency Response Center into County Road System / Discussion and appropriate action

Commissioner Killingsworth said this is preliminary action. Cinnabar Drive is due east of the ERC. She said it would be good to have these roads paved for emergency vehicles. They would enter on Cinnabar Drive and exit west on Allen Lane. Commissioner Killingsworth said there are some drainage issues on Cinnabar Drive, so some dirt work may be necessary.

Commissioner Ortega made a motion to preliminarily approve bringing those two roads into the system. Commissioner Stone seconded the motion, which passed unanimously.

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

6. Big Bend Community Action / Presentation by Executive Director, Emma Vasquez & Commissioner Pct. 3, Ruben Ortega (County Representative on Big Bend Community Action Board) / Discussion and appropriate action

Commissioner Ortega commended Ms. Vasquez and her staff. He said they juggle a lot of different programs and do a fine job. He said he wants to make the rest of the County aware of what they do.

Ms. Vasquez passed out a brochure that includes a phone number for folks to use if they need transportation. They would like to have 48 hours notice. She said they have contracted with Medicaid and LULAC. LULAC reimburses BBAC for Medicaid clients. She said they recently picked up Hudspeth County. Currently, they don't have any drivers in Alpine. There are seven in Presidio, three in Marfa and two in Van Horn.

In Presidio County, with the job program, 14 people are transported for work at Cibolo Creek, and into Alpine. Students are brought from Van Horn to Sul Ross on Mondays and Tuesdays.

There is a \$.50 charge for elderly people for public transportation, and \$1.00 for all others.

The BBAC also offers assistance with energy costs for the elderly. They recently received \$2 million to help weatherize homes, up to \$6,500 per household.

Income eligibility guidelines were recently raised from 125 percent to 200 percent.

Commissioner Killingsworth said there is a lot of need in South County but many people don't understand what benefits are available. She said it would be good if BBAC could hold a town meeting to explain.

7. 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 was a Homeland Security audit a couple of weeks ago. The County did very well. The auditors thought they would be here until 6 or 7 p.m., but they left at 3:15 p.m. He commended Megan Antrim for her assistance. The hospital conducted two fire drills, and Mr. Santry reviewed the drill. He said there was a large

fire on the Presidio County line.

B. Newly Purchased Rescue Truck for Alpine Volunteer Fire Department

1. Recess to Courthouse Parking Lot to inspect Truck / Q & A with AVFD representatives & Emergency Management Coordinator

Mike Scudder thanked Commissioners Court for their help in getting the truck. He said it runs well, and has been equipped with equipment received through the Homeland Security grant. He said it is a great asset.

Mr. Scudder then showed Commissioners the truck in detail.

2. Return to Commissioners Courtroom / Discussion and appropriate action

Commissioners concurred that the purchase of the truck was money well-spent.

C. County Safety Committee / Review Completion of New Fire Evacuation Plan for Courthouse & upcoming drills

Mr. Santry said all of the employees have received a copy of the plan, and it has been posted three places in the Courthouse. He said the fire department is planning to come and train employees in the use of fire extinguishers. The Committee will next begin work on a plan for the Tax Office.

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

8. Recognitions

A. Thanks for his years of faithful service to Brewster County Deputy, Martin Willey upon his retirement from the Brewster County Sheriff's Office / Discussion and appropriate action

Judge Beard said that Deputy Willey has been a steady presence in South County for 15 years. He was the first permanent law enforcement officer in South County, and is largely responsible for much of the good community relations which County law enforcement has in South Brewster County. There will be a barbecue in his honor Friday at 5 p.m. in the parking lot at the jail.

B. Congratulations to Dr. Ricardo Maestas, upon his inauguration as 11th President of Sul Ross State University / Discussion and appropriate action

Commissioner Stone made a motion to send a letter congratulating Dr. Maestas, which was seconded by Commissioner Killingsworth, and passed unanimously.

9. State Highway 385 between Marathon & Ft. Stockton (Commissioner Pct. 3) / Safety Issues related to ongoing construction and other issues related to increased traffic on this State Highway / Discussion and appropriate action

Commissioner Ortega said the north end of Hwy. 385 has been under construction for over a year now, and doesn't seem to be getting anywhere. He is concerned with safety, especially at night, because there are a lot of potholes, etc., and it is a mess. He said that road is primarily used for travel between Marathon and points north such as Fort Stockton, Odessa and Midland. He said he would like to express concern to the TxDOT Region in Odessa. He said they may not even be aware. He said there have been some accidents. He said the Pecos County Judge is also drafting a letter.

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

Avalanche Reporter Cindy Perry pointed out that TxDOT has recently replaced the Fort Stockton area engineer.

10. 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 now have the HUD income guidelines. Applications will begin being accepted on May 27 at the South County Community Center.

2. General administrative matters related to going forward with program / Discussion and appropriate action to go forward with grant program

B. 2007 Texas Department of Rural Affairs Infrastructure Grant /Study Butte Water Corp. Improvements / Discussion and appropriate action (Note: TDRA was previously known as ORCA)

1. Update & General Administrative Matters regarding grant

Commissioner Killingsworth said a final inspection has been performed on the tank. It is not connected yet, but construction is complete and final paperwork is being prepared.

2. Study Butte Water Corporation Tank Project

a. General update on completing project

b. Discussion and appropriate action for project to be completed

C. 2009/2010 Texas Department of Rural Affairs Rural Community Affairs Grant Program

1. Update

Commissioner Killingsworth said they are waiting on information from the engineer. Plans have to first be approved by TCEQ.

2. Discussion and appropriate action to go forward with Grant

11. 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

Judge Beard said the Center is just about done, and interior signage for ADA compliance has been ordered. Exterior signage is being price quoted.

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

Paving and sidewalks remain at the Fire Station site.

- 3. South County Emergency Response Center*
 - a. Update on status of project including exterior & interior finish work, cabinetry, paving and related items*
 - b. Utility issues related to permanent meters and water tap (Study Butte Water Corp.) & Rio Grande Electric Corp. / Discussion and appropriate action to conclude issues related to utilities*
 - c. Discussion and appropriate action to complete project*
- 4. Alpine Public Library / Construction for Alpine Public Library, a non profit organization (Tom Hatch, Architect) / Update*

The site has been cleaned substantially. Judge Beard said there is an event on May 13. She asked Commissioners to please RSVP for this walk-through event.

- 5. Plans for Porches (covered outdoor areas) at Marathon Community Center / Discussion and appropriate action*

Commissioner Ortega said he has received plans. Judge Beard said if he likes them, she will look into price. Judge Beard said that if it needs to be bid out, she will get to work.

B. Furnishings for all Projects

1. Updates

Commissioner Killingsworth said they have already received the lockers, and they are being store inside the facility right now. Personnel will assemble the lockers themselves.

- 2. Discussion and appropriate action to complete acquisition of furnishings*

C. Local Management of South County ERC & Marathon Justice Center / Update

D. General Discussion concerning public dedication events for projects

Judge Beard asked Commissioner to start thinking about dedications and dates, etc.

12. Cause NO. 2010-04-B8988-CV, Pascual Q. Olibas, Individually and d/b/a Freedom Bail Bonds, Plaintiff vs. Ronny Dodson, as Sheriff of Brewster County, Texas, Defendant, In The District Court Of Brewster County, Texas 394th Judicial District

A. Update on retention of trial counsel to represent Sheriff / Discussion and appropriate action

County Attorney Steve Houston said the County has retained Steve Brannan to represent the County and the Sheriff. Mr. Houston said he has a lot of experience, and they negotiated for a reduced hourly rate. Mr. Brannan agreed that Mr. Houston will be local counsel, and if there are things that Mr. Houston can do to reduce expenses to the County, he will do so.

Mr. Houston said Mr. Brannan has already filed an answer on behalf of the Sheriff, and has sent out for discovery.

Judge Beard thanked Mr. Houston for his effort in locating a qualified trial attorney to represent the Sheriff.

B. Review of Insurance Claim with Texas Association of Counties (TAC)

Judge Beard said the claim has been denied, as expected. However, she said TAC was prompt and definitive, which she appreciates.

13. 2010 Budget Process / Discussion concerning process and schedule (No action)

Judge Beard said she and the Treasurer have already started talks. She asked the Commissioners to begin thinking about what they would like to see in the budget. She asked them to go ahead and make her office aware of any scheduling conflicts they may have through the end of July.

14. County Clerk / Records Management Fund

A. Proposal to undertake transfer of old microfilmed public records to CD's by Compuscan in Cooperation with Landata / Discussion and appropriate action

Berta Rios Martinez said her office has records on microfilm from the 1890s through 1978.

Compuscan has quoted a price for \$25,840 to scan the records and put them on CD and for the web. They will later scan 1979-97. At that point, all land records will be available online.

The money is available in the Records Management budget.

Commissioner Ortega made a motion to approve the request, which was seconded

by Commissioner Stone, and passed unanimously.

B. Future plans for additional records preservation by County Clerk / Discussion and appropriate action

Judge Beard asked Mrs. Martinez to look into what needs to be done and how much it will cost to scan the other records held by her office.

She said she has already started looking into the companies that do this.

Judge Beard suggested walking the Commissioners through the Landata deed filing process at the next meeting.

15. Brewster County Groundwater Conservation District / Presentation by Conrad Arriola, General Manager

A. Update on April 20, 2010, Middle Pecos Groundwater Conservation District meeting in Fort Stockton concerning export permit by Fort Stockton Holdings, L.P. (Clayton Williams' application)

Judge Beard reviewed the past history of Clayton Williams' proposed export of groundwater out of Pecos County. She noted that Commissioners Court has been aware of and working against this proposal since the last Legislature. They adopted a resolution against the bill, and have continued to follow the proposal closely.

Judge Beard said Mr. Arriola, Mike Davidson, she and Tom Beard and a number of other interested people attended a hearing in Fort Stockton on April 20. At the hearing, the issue was, first, to allow public comment, and then to hear from those requesting party status.

Judge Beard said her family has received party status as Pecos County landowners. She has been advised by Greg Hudson that she does not have a legal conflict, but she will nevertheless recuse herself from today's discussion.

Mr. Arriola took the floor and said Fort Stockton Holdings LLP has applied to export 41,000 acre feet of water per year out of Pecos County.

At the hearing, he spoke on behalf of the groundwater district and asked for party status. The district was denied party status, as were a number of other groundwater districts and individuals.

In the rules of the Middle Pecos GWD, an entity has 20 days to send a letter requesting reconsideration. The next hearing will be May 20.

Mr. Arriola said the GWD made the effort to achieve party status because, firstly, the GWD Board agreed earlier this year to be a part of a geological study funded by the Middle Pecos GWD, and also to allow well-monitoring, as approved by landowners, in Brewster County.

Mr. Arriola provided maps, which were funded by Fort Stockton Holdings LLP, which show that the recharge area in Brewster County which would be affected by the transport of groundwater.

Mr. Arriola said the GWD is asking Commissioners Court to support the effort to oppose the application and achieve party status.

B. Request for Commissioners Court to support Brewster County Groundwater Conservation District in its renewal of request for party status in the above proceeding / Discussion and appropriate action

Commissioner Stone made a motion to support the GWD, which was seconded by Commissioner Ortega, and passed unanimously. Judge Beard abstained from the vote. A letter was signed by Commissioners in support of the Water District's effort to gain party status.

16. Courthouse Maintenance Update

A. County Judge's report on repairs & refurbishment of Courthouse Gazebo

Judge Beard reported that a couple of weeks ago, she looked out of her office window and noticed a substantial hole in the gazebo floor. The gazebo is used for all kinds of events.

Fortunately, a couple of skilled members of the Road & Bridge crew were able to reconstruct the floor from scratch. New steel plates were placed between the floor and the posts.

She said it is in good shape now, better than ever.

B. Courthouse Repainting / Scheduled for 3rd quarter of 2010 / Update

Judge Beard said the repaint was deferred from last year. She is suggesting they shoot for the 3rd quarter.

17. 2010 Census

A. Update from County Complete Count Chair (Commissioner, Pct. 2, Kathy Killingsworth)

Commissioner Killingsworth said the during Phase 1 of address canvassing, many residents did not receive Census forms. She said Judge Beard and she met with Gabe Sanchez, the Regional Director for the Census Bureau, and his assistant on May 3 to discuss their concerns and Census status. Many people didn't receive anything; some areas received duplicates; and while they were told there wouldn't be mailbox deliveries, many people did receive Census forms in mailboxes.

Commissioner Killingsworth said they met to get a plan and a promise that everyone will be counted. They are now in the door-to-door phase, and the Census Bureau will no longer accept mailed forms. The funding is available for workers to go door-to-door as many as seven times in person. The Census taker will have to interview residents in order to fill out the forms.

The drop-dead date for everything to be done in Brewster County is July 20. There will be a report sent to Commissioners Court at the end of May.

The participation rate in Brewster County right now is 53 percent.

Commissioner Killingsworth said she still doesn't think the Census Bureau

understands what a job it is going to be to get everyone counted, even though the County has been working to do so for 18 months.

Judge Beard said she thinks the Midland Office was finally beginning to understand things, and then Brewster County was handed off to the El Paso Office, which has little knowledge of our County.

Commissioner Killingsworth said there will be no extension of deadline.

Judge Beard noted that Census workers have said they would be in contact with the newspapers and radio station.

Cindy Perry from the Avalanche said someone came by, but both she and the editor were gone. John Waters from the Big Bend Gazette said nobody has contacted him.

Judge Beard said there is a call-in number, but a Census taker still has to physically come to the house of someone who has called in. She said that will be confusing to many people.

Judge Beard said there is no doubt that we've had a lot of steady growth since the last Census, which was also a trainwreck.

She said she bases that information on the fact that any utility hook-up outside of the city goes through her office. Some may be for a business or stock tank, but most are for homes.

Much frustration was expressed about the difficulty in getting a good count.

B. Discussion and appropriate action to assist with getting an accurate count of Brewster County residents

18. Public Comment

Mr. Waters said, in terms of the Census in South County, many people are part-time residents and have already left the area for the summer.

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