

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
MONDAY, JANUARY 10, 2011, 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 PALLANEZ	COMMISSIONER PCT. 4
JERRY SOTELLO	J.P., PRECINCT 1
CAROL OFENSTEIN	TREASURER
BETTY JO ROONEY	TAX ASSESSOR
STEVE HOUSTON	COUNTY ATTORNEY

To discuss and take action as appropriate on the following:

1. Invocation & Pledge of Allegiance

Judge Beard led the invocation and Pledge of Allegiance. A moment of silence was observed in remembrance of the Tucson tragedy.

2. Minutes / additions / corrections / approval

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

3. Treasurer

A. General Bills / Discussion and appropriate action

Treasurer Ofenstein said the general bills include \$292,000 for sensors in South County, but that amount will be reimbursed by a grant.

Judge Beard said there are also several reimbursable expenses for the library project.

Mrs. Ofenstein said the bills also include health insurance and workman's comp.

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

Two walk-in bills were presented, the first for \$175 for Commissioner Killingsworth's registration fee for a continuing education course, the second for plumbing at the jail for a total of \$299.97

Commissioner Ortega made a motion to approve the walk-in bills, which was seconded by Commissioner Stone, and passed unanimously.

B. Infrastructure Projects Bills / Discussion and appropriate action

C. Employee Mileage Reimbursement for Local County Travel in Personal Vehicles / Period & format of reimbursement and related issues / Discussion and appropriate action

Mrs. Ofenstein said an employee turned in a mileage bill from 2007-10. It was for daily trips to the post office. The total is \$272.

The County has a policy stating that employees must turn in mileage in a timely manner, at least every four months.

Mrs. Ofenstein asked what the employee should be paid; Commissioners agreed that she should follow the written policy.

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

Mrs. Ofenstein said she has had some problems getting bills from the post office in a timely manner, particularly the energy bills.

The energy bills are now begin emailed to the Treasurer, and the energy company representative is working on the issue.

4. Public Officials Bonds/ Approval by Commissioners Court of any public officials bonds which require Commissioners Court approval

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

5. Officials' Monthly Reports / Discussion and appropriate action

Commissioner Stone read the reports for the record.

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

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 have been forming up the multipurpose pad in Study Butte. They are planning to pour the concrete. Jan. 18. They put a speed limit/school zone sign at the Terlingua School Road. They have been hauling materials and base for road in South County.

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

Grant Administrator Jerry Carvajal said it will probably be six weeks before they start in Marathon.

Commissioner Killingsworth said they are still waiting on easements in South County.

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

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, personnel issues related to emergency response, matters related to pending & future Homeland Security Grants / Discussion and appropriate action

EMC Tom Santry said there have been several small fires in the last couple of weeks.

He said he has been working for the last few weeks with the City regarding the ISO, which sets the insurance rates. The last time the area was surveyed was in 1987. At that time, the surrounding developments weren't as numerous, so they were left out of the survey.

When they come in February, those areas will be included.

B. Procedures related to expenditures of Homeland Security Grants

1. Update

For the last six years, the procedure has been as follows:

Once the total amount of money is known for the included organizations, he asks each of them for a prioritized list. Everybody doesn't get everything they want, said Mr. Santry, but they get as many of the items on the lists as possible.

Right now, there is a problem with some of the billing for Terlingua Fire & EMS. Some consoles were returned, but a credit has not yet been shown, so the proper equipment cannot yet be ordered.

A phone conference with Mr. Santry, Treasurer Ofenstein and Greg Henington has been scheduled.

2. Discussion and appropriate action to insure requisite reporting and coordination by entities making expenditures with grant funds

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

8. IT Department Report and Update

A. Commissioner Pct. II, IT Committee Chair / Contract for off site storage of County electronic data / Discussion and appropriate action

Commissioner Killingsworth said that, according to IT Director Leo Ofenstein's report, things are working properly. Mr Ofenstein said that is correct. The County server is being backed up daily.

B. Infrastructure Projects / Installation & Wiring for Computers / Networking and related issues / Update / Discussion and appropriate action

Commissioner Ortega said the Marathon J.P. called and said some of her tech isn't working. Mr. Ofenstein said he believes he knows what is wrong. He has ordered some parts, and once they are here, he will get them installed.

C. Networking / Jail and Law Enforcement Update / Discussion and appropriate action

Mr. Ofenstein said he is missing the password to move forward at the jail, but expects it from the jail administrator today or tomorrow. After that, the project should be complete.

D. County Road Map Update Project / Update on Digitizing County Road Map / Discussion and appropriate action

Judge Beard said the last she saw, the extension of the Terlingua Ranch Road which runs through Big Bend National Park is not showing on the map. It needs to be shown on the map.

Commissioner Killingsworth said it doesn't appear that Terlingua Springs Road and Buena Vista subdivision are shown. Mr. Ofenstein said he will take a look at it. It may have been mis-colored.

Commissioner Killingsworth said the school road is also not shown. Mr. Ofenstein will check into it.

Commissioner Ortega said the landfill road is not County-owned.

Commissioner Killingsworth suggested a workshop once they think they have a complete map.

Mr. Ofenstein said the Sheriff's Department has asked for a map that includes their equipment and shows location of sensors.

Judge Beard and Commissioner Killingsworth agreed that kind of thing needs to come to Commissioners Court.

E. Update on development of schedule for replacement of County owned hardware / Discussion and appropriate action

Judge Beard asked Mr. Ofenstein to work with the departments in the next couple of weeks to determine what can be disposed of. B.J. Gallego will pick up this equipment for recycling.

F. Discussion and appropriate action for general work of I.T. Department to go forward

9. Pending Community/ Public Safety Infrastructure Projects / Discussion and appropriate action to go forward with all projects, including:

Major Projects (Now Complete)

***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), Brewster County Jail Update
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 (Ongoing)

Smaller Projects:

Vehicle & Equipment Storage Building (shed design) for South Brewster County on 23221 FM 170, near Terlingua & Study Butte, covered porches for Marathon Community Center, Multipurpose slab for Pattillo Community Center & Terlingua Fire & Medics

A. Project Updates

- 1. Final “Wrap Up” for Marathon Justice Center, AVFD Fire Station and South County Emergency Response Center / Discussion and appropriate action to conclude projects***
- 2. Alpine Public Library Project / Construction for Alpine Public Library, a non profit organization / Update***
 - a. General Update***
 - b. Update on drywall & related issues / Discussion and appropriate action to go forward with drywall***

Judge Beard said this hasn't started yet because crews are at work on the multipurpose pad in South County.

- 3. Multipurpose concrete pad at Pattillo Community Center***
 - a. Update***

Commissioner Stone said they are forming it up, and plan to pour concrete Jan. 18.

b. Discussion and appropriate action to go forward with project

4. Porches for Marathon Community Center

a. Update

Commissioner Ortega said they welded the plates last week, and they are ready to erect the steel. A fish fry will be held Feb. 12 to raise money for the tin.

b. Discussion and appropriate action to go forward with project

5. Parking Shed for South County Yard / Discussion and appropriate action to begin project with focus on using materials on hand

B. General Discussion concerning remaining public dedication events for Marathon Justice Center and Alpine Fire Station and Emergency Operations Center / Discussion and appropriate action

Commissioner Ortega suggested Friday, Jan. 28, for the Marathon Justice Center dedication. He said he would schedule it just before lunch, after which he would feed folks lunch.

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

Mr. Carvajal said they finally received approval from TDRA from the plans which were submitted last May.

2. Approval of Additional Applicants for Program / Discussion and appropriate action

They will sign contracts with the first 12 applicants this Friday.

3. General and administrative matters related to going forward with program including approval of additional applicants, bids &

proposals & other matters / Discussion and appropriate action to go forward with grant project

B. 2009/2010 Texas Department of Rural Affairs Community Grant Program (Study Butte Water Tank Project)

1. Update

The foundation has been completed by County crews, and they did a good job. Engineer Travis Roberts is meeting with the contractor today to make sure they are on the same page.

2. Reorganization of Pioneer Water Tank – Blue Scope Water/ Request to approve newly reorganized company, Pioneer Water Tank, (DBA), Blue Scope Water as vendor / Discussion and appropriate action

Mr. Carvajal said the company with which the County signed a contract has transferred assets to a different company.

The County, then, needs to approve a new contract with BH Tanks, rather than Blue Scope Water. The contract does not change in any way.

Commissioner Killingsworth made a motion to transfer the original contract with Pioneer Water Tank/Blue Scope Water to BH Tanks, Inc. due to internal restructuring in the company.

Commissioner Ortega seconded the motion, which passed unanimously.

3. Discussion and appropriate action to go forward with grant program

C. Upcoming 2011 / 2012 Texas Department of Rural Affairs Grant Program / Discussion and appropriate action to go forward with grant application

Mr. Roberts is still at work at getting the water line moved from the middle of the road. Mr. Carvajal said TCEQ approval is not going to be necessary.

D. Texas Department of Housing and Community Affairs HOME Investment Partnerships Program/ 2010 HOME Single Family Programs

1. Update

Mr. Carvajal said applications are due April 30. Nothing has changed in the process since Mr. Carvajal last spoke about it around a year ago.

The County can apply for up to \$500,000, with \$75,000 per home.

The target is very low income households, and clear titles are hard to come by. Mr. Carvajal reviewed complicated requirements for property liability and casualty insurance, probates, wills, etc. for the loans. Given the costs of all of the above, and the fact that this program is now more in the nature of a loan which may not be forgiven at the end of five years, Commissioners discussed that it would be nearly impossible for very low income households to afford to participate.

2. Discussion and appropriate action, if any

E. State Comptroller's Energy Efficiency Grant (Energy Efficient upgrade of Annex HVAC System)

1. Update by Conrad Arriola, Project Coordinator

Mr. Arriola said the equipment should arrive in the next couple of weeks. The contractor said it shouldn't take more than two weeks for installation.

2. Discussion and appropriate action concerning going forward with & completing project, including authorization of partial payment and draws on grant funds

11. 2010 Audit / Review Proposals to perform Audit / Discussion and appropriate action concerning selecting Auditor for 2010 Audit

Judge Beard said one proposal was received from Skinner & Lara.

Treasurer Ofenstein said the County always receives great service from Skinner & Lara. She said she has no problem with the firm.

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

12. Recognitions / Discussion and appropriate action

A. Recognize Study Butte Water Corporation President Dave Fricker upon his retirement as President of this Rural Water Supply Corporation

Judge Beard said Mr. Fricker has done so much for the Water Corporation, for South County and for all of Brewster County.

Judge Beard asked him how long he has been working with the Water Corp. He has served as president for eight and a half years, but has been involved with the corp. for a year longer.

Judge Beard said Mr. Fricker has lead the Corporation through some difficult times in a cheerful, persistent manner.

Commissioner Killingsworth said his work is very appreciated, and noted in particular his development of the voltage regulators for submersible pumps.

Judge Beard asked for a motion to recognize Mr. Fricker and to present him with a plaque.

Commissioner Killingsworth made such a motion, which was seconded by Commissioner Ortega, and passed unanimously.

Mr. Fricker accepted on behalf of everyone at SBWSC. He said they all work very hard.

B. Local Workforce Development Leaders

1. Recognize Workforce Solutions Board Member Judy Ledbetter for her work to promote job growth for rural young people in Far West Texas and

Judge Beard said that because Brewster County is lumped in with El Paso for Workforce Development, we always have to be vigilant and aggressive in seeing that needs of rural Texas are met.

Ms. Ledbetter, a former school superintendent, has special expertise in working with young people. She has been a hard-working member of the Workforce Development Board and advocate for rural young people.

Commissioner Killingsworth made a motion to recognize Ms. Ledbetter, which was seconded by Commissioner Ortega, and passed unanimously.

2. Recognize Workforce Solutions Board Member Dave Wilson for his representation and advocacy of Brewster County

With his work at the Small Business Development Center, Mr. Wilson brings special expertise as a board member, said Judge Beard.

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

13. 2011 Salary Grievance Committee / Draw names for 2011 Committee from those who served on 2010 Grand Juries, as required by State Law / Discussion and appropriate action

The Salary Grievance Committee is only called into service if an elected official wants to dispute his/her salary.

The County Clerk will contact the people whose names are drawn to ask if they are willing to serve. If not, another name will be drawn until there are three willing volunteers. The names draw include:

*Shannon Tribbett
Jean Hardy-Pitman
Maria Lavendar*

14. Declare nonfunctioning or outdated County computer hardware as surplus to facilitate recycling / Discussion and appropriate action

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

15. County Alcohol and Drug Free Workplace Policy and New County facilities (Marathon Justice Center, Alpine VFD & ERC, South Brewster County ERC

Judge Beard noted that the new facilities which have just been brought to completion are County facilities. They are not community centers, they are work places, and are under control of the entire Commissioners Court.

1. Judges' request to reaffirm that these facilities are County facilities and workplaces and under management of Commissioners Court and subject to County policies and procedures / Discussion and appropriate action

Commissioner Killingsworth said the Terlingua Fire & EMS are going to having a Fireman's Ball. They wanted to have the event at the ERC, and Commissioner Killingsworth expressed her concern about the use of alcohol at that facility. There are other County facilities available to rent in South County, the Community Center, where alcohol could be served.

2. Review of County assurances in various grants which require Alcohol and Drug Free Workplace policies

The ERC was built for emergency services, said Commissioner Killingsworth. She said the last thing we would want to happen is for federal compliance to be jeopardized by the use of alcohol in a County workplace.

Judge Beard said she commended the Terlingua Fire & EMS for being proactive with their fundraising. She said, however, that she doesn't think there's any doubt that the facility at issue is a workplace and the County has a long-

standing alcohol and drug-free workplace policy in effect. This policy is a condition for federal grant funding.

Commissioner Killingsworth noted that the use of the facility for an event is not at issue; it's the use and/or consumption of alcohol that is drawing concern.

- 3. Review of policy and request by Terlingua Fire and EMS to waive policy for a fundraising event to be held in bays at South County ERC/ Consider availability of alternative County sites for this event and related issues***
- 4. Discussion and appropriate action concerning Waiver of County Drug and Alcohol Free policy for Terlingua Fire and EMS fundraiser***
- 5. Discussion and appropriate action concerning reaffirmation of County Alcohol and Drug Free Workplace policy and related prohibitions or Consumption of alcohol in County workplaces***

Commissioner Killingsworth made a motion reaffirming that the standard alcohol and drug-free workplace policies followed in other County workplaces be followed in the South Brewster County ERC and the in the Alpine EOC. (There are other facilities available for private use where alcohol is permitted.) While workplace facilities can be used for fundraising events, under no circumstances should alcohol be used or served at county workplaces.

Commissioner Stone seconded the motion, which passed unanimously.

SUPPLEMENTAL AGENDA

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

Executive Session – Pursuant to Section §551.071, Government Code, VTCA, Pending Litigation and Consultation on a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Chapter (Privileged Matters), and Pursuant to Section §771.072, Government Code, VTCA, Deliberation regarding real property

At 11:23 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.071, Government Code, to discuss pending litigation concerning Mills Road. The courtroom was cleared of all but Commissioners Court and the County Attorney.

Reconvene in Open Session

B. Discussion and appropriate action resulting from Executive Session

At 11:37 a.m., the Commissioners Court reconvened in open session. Judge Beard said that the Court had been in Executive Session pursuant to Section §551.071 of the Government Code. Judge Beard asked if any action was to be taken as a result of the Executive Session.

No action was taken.

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK