

**REGULAR MEETING OF THE
BREWSTER COUNTY COMMISSIONERS COURT
TUESDAY MARCH 22, 2011, AT 10:00 A.M.**

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

VAL CLARK BEARD	COUNTY JUDGE
KATHY KILLINGSWORTH	COMMISSIONER PCT. 2
RUBEN ORTEGA	COMMISSIONER PCT. 3
JERRY SOTELLO	J.P., PCT. 1
STEVE HOUSTON	COUNTY ATTORNEY
CAROL OFENSTEIN	COUNTY TREASURER
BETTY JO ROONEY	TAX ASSESSOR

To discuss and take action as appropriate on the following:

1. Minutes / additions / corrections / approval

The minutes from the March 14, 2011, meeting were presented for approval.

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

2. Treasurer

A. General Bills / Discussion and appropriate action

Treasurer Ofenstein said noted two large payments, the first at \$36,311 for Linebacker and the other for the water tank project in South County, totaling \$34,945. Both were reimbursed. There was also a \$25,000 hotel/motel expenditure.

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

Commissioner Killingsworth abstained from 70533, and Judge Beard abstained from the KALP bill.

Treasurer Ofenstein presented one walk-in bill from Kevin Teague for \$12,303. It's the second payment for the a/c project in the annex.

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

B. Infrastructure Projects Bills / Discussion and appropriate action

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

3. Officials' Monthly Reports / Discussion and appropriate action

There were no reports presented for approval.

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 / Discussion and appropriate action

Supt. Frenchie Causey said crews hauled several loads of sand for the septic tank project in South County. They also hauled 800 gallons of water to fill one of those tanks. They also hauled material up the hill for the same project.

They finished patching potholes on Terlingua Ghosttown Road. They have been pulling cattails along the edge of the water at Pena Park. As soon as the green comes up, they are going to spray and try to thin them out. They hauled four loads of material for a culvert they are trying to fix on Terlingua Ranch Road.

Mr. Causey said he ordered tires yesterday, but he is very limited to what he can buy by the State's contract. They didn't have several of the tires he needed in stock.

Judge Beard asked about the Houston/Galveston purchasing group that the County gets Sheriff's vehicles through, on occasion. She said she does not know if they handle tires or not. Treasurer Ofenstein said she would check to see if Brewster County is still a part of that group.

Commissioner Killingsworth also suggested the Buy Board under the Texas Association of School Boards.

Mr. Causey said it's not necessarily a supply issue; the contract is limited to certain brands, etc.

Judge Beard asked Conrad Arriola to check on the issue and find out what's going on.

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

Engineer Travis Roberts said the Marathon project will be finished this week. He said he would like to have a preliminary inspection at the end of the week, or beginning of next week. If TxDOT wants to do an inspection, they will get that scheduled. Commissioner Ortega said he is extremely happy with the project.

Mr. Roberts said they will be ready to bid the Study Butte project April 1. He said Grant Administrator Jerry Carvajal is still working on the environmental assessment.

Commissioner Killingsworth asked if there were portion of the project which could be started without the environmental study. Mr. Robert said he believes there is. He has the easements ready to go, and will have them in Austin next week.

Mr. Roberts said he doesn't believe there will be enough money in the grant to pay to move a water line on Terlingua Springs Road. However, he thinks the additional \$90,000 from the TDRA grant will cover it.

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

5. 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 Phase 1 has been completed, and the second set of applicants for Phase 2 has been approved. A.G. Hays and Virgil Clark have been looking at the sites and getting ready for bids, and should be ready soon.

There is still funding available for 26 tanks. Commissioner Killingsworth said there are some applications underway. They have until December to finish the project.

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

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 on Project

Mr. Roberts said that the tank was basically finished the week before last. There were still some minor adjustments that need to be made. He believes it will be ready for final inspection this week, and he wants to make sure it passes all the health standards. He said he hopes Commissioners Court can go and look at it soon.

Commissioner Killingsworth said it's been an excellent, easy grant project. She said County crews did an excellent job pouring the pad.

2. 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

D. State Comptroller's Energy Efficiency Grant (Energy efficient upgrade of Annex HVAC System)

1. Update on project, Conrad Arriola, Project Coordinator

Mr. Arriola said the three outside air condensers have been replaced with three new condenser. There are two-seven ton units and one five-ton units. Each unit will cover a specific portion of the annex. The three air handlers were also replaced, and digital thermostats were installed. The duct work is not quite finished yet, but should be next week. It has to be done after 5 p.m.

Commissioner Ortega thanked Mr. Arriola for his work on the project.

2. Recess to inspect HVAC installation on S/E side of Annex & return to Commissioners Court

Commissioners agreed to inspect the system at the end of the meeting, and did so.

3. Discussion and appropriate action to conclude project

6. New County Public Safety Infrastructure Facilities / (Alpine Volunteer Fire Department Station & Emergency Operations Center, South County Emergency Response Center, Marathon Justice Center)

A. Update, including matters related to management, landscaping, grounds paving, punch lists, telecommunication, utilities, maintenance and other costs related to facilities, equipment and furnishings

No updates were given.

B. Letter of February 11, 2010, from City of Alpine re inspection of Fire

Station & related issues / Discussion and appropriate action

EMC Tom Santry said the County received a letter from the Utilities Director requested that the backflow devices be inspected. They are supposed to be inspected every 12 months.

Mr. Santry said they may have been installed, but they have not been in use. The building has not been in use for 12 months.

Virgil Clark has said he will do the inspections for free.

Mr. Santry said there are two backflow preventers at the building. Commissioner Killingsworth remarked that was unusual; Santry said the City required that.

C. Discussion and appropriate action concerning management and operations of these facilities

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

Mr. Santry said that at last week's meeting, Commissioners talked about how the AVFD only has two serviceable brush trucks. He has spoken with the Department, and found that what they really need is a chassis. They can take one of the platforms from an old truck and put it on a new chaise.

AVFD has agreed to sell some of their old equipment, but they need to make sure they have a clear title first.

Mr. Santry said he told the Department that the County needs to know about necessary maintenance as soon as possible.

Commissioner Killingsworth asked how long the two brush trucks have been down. Mr. Santry said he thought several months.

Commissioner Killingsworth said she was under the impression that when the County purchased a rescue vehicle last year, all of the other AVFD equipment was in good shape. It would have been good to know then that they had two brush trucks off-line. She asked if they know how much it will cost to get the two trucks operational. Mr. Santry said he doesn't know now.

Mr. Santry said they received a check for \$5,500 from Ector County a couple of weeks ago for reimbursement from when they helped with a fire there a couple of years ago. It's a step forward.

Commissioner Ortega said they need to really get to work on selling surplus equipment, and then see where we stand.

Following up on a report from the last meeting, Mr. Santry said one of the last things the ISO inspector asked for was the square footage for the biggest building in town. The City Utilities Director said she would get that information. However, the ISO rep called yesterday and said he did not have that information, and needs it to complete the survey. The fire department went yesterday and got the measurements to send to the ISO.

B. Personnel / Executive Session Concerning Duties and Responsibilities of Emergency Management Coordinator in working with other governmental entities and volunteer organizations

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

At 10:50 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.074, Government Code, to discuss the duties and responsibilities of the Emergency Management Coordinator in working with other governmental entities and volunteer organizations. The courtroom was cleared of all but Commissioners Court and Mr. Santry.

Reconvene in Open Session

2. Discussion and appropriate action resulting from Executive Session

At 11:17 a.m., the Commissioners Court reconvened in open session. Judge Beard said that the Court had been in Executive Session pursuant to Section §551.074 of the Government Code.

Judge Beard said that Commissioners Court very much values Mr. Santry and the services which he provides, not only to Brewster County, but also to the City of Alpine.

She then asked if there was any action to be taken as a result of the executive session.

Commissioner Killingsworth made a motion to give Tom Santry the authority to investigate the brush truck situation with the AVFD. Commissioners Court would like a cost estimate on the replacement of that equipment, and what reserves the AVFD has on hand to contribute to the purchase, and the estimated revenue on all possible surplus equipment sales. Commissioner Ortega seconded the motion, which passed unanimously.

Commissioner Killingsworth made a motion to authorize Commissioner Ortega to represent Commissioners Court in meeting with Tom Santry and the AVFD in resolving Emergency Management issues. Commissioner Ortega seconded the motion, which passed unanimously.

Commissioner Killingsworth made a motion to authorize Commissioner Ortega to represent Commissioners Court with the City of Alpine in working on Emergency Management issues. Commissioner Ortega seconded the motion, which passed unanimously.

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

8. Brewster County Clerk's Office / Elections update on work related to Elections, including training, equipment, personnel and related matters

Judge Beard said that this item will not be taken up today as the County Clerk is ill, and is not present.

9. Brewster County Groundwater Conservation District

A. Update and Comment on District's work concerning the inclusion of the City of Alpine's water wells in the Brewster County Groundwater Conservation District/Discussion and appropriate action

Judge Beard thanked the GWCD board for their tireless efforts before turning the floor over to the board's chair, Chachi Hawkins.

Ms. Hawkins started by saying that she feels as though the District has failed Brewster County, and apologized. She said they started out on a mission, acting in good faith. They spent a fair amount of time working with the Alpine City Council, trying to answer their questions. The Council was misinformed from the very beginning. The District tried long and hard to make sure they understood the situation, and to make sure they didn't see the District as "the enemy."

Ms. Hawkins said she believes the situation is highly political. She said the District didn't make a big enough impact in helping them to understand that they are on the same side, and that they're all here to protect Brewster County groundwater.

At two of their meetings, the City Council had the opportunity to provide the group with wording and structure for the agreement. On both occasions, the Council did nothing.

Another meeting was held last Monday, and the City Council wanted more time to review a new, simple contract. Another meeting was set for April 6.

However, at their March 15 meeting, they voted against supporting the legislation. The District has sent the mayor a letter saying that it's time to call it quits. Time is running out for this Legislative Session.

Judge Beard said, at this point, after observing the process, she disagrees with Ms. Hawkins on one point. She does not believe the City is on the same side.

Ms. Hawkins said she doesn't know if they will ever be able to get the issue through to the City Council.

Ms. Hawkins thanked Councilman Mike Davidson, who has been a positive influence. He has articulated the history and statistics of the current situation. He has tried to help the District to help the Council understand.

Mr. Davidson said he has been very frustrated by the process. He said at the Council meeting when they voted to oppose the legislation, there were still people repeating fallacies about the issue.

Ms. Hawkins said the District really believes they acted in good faith. They addressed every single concern the City had, but the City continues to believe they are fighting against one another.

District Manager Conrad Arriola thanked the board for their efforts and cooperation.

Judge Beard said there's right, and there's wrong, and the District has been in the right.

Judge Beard proposed that comments made in an editorial by Mike Perry be adopted as Commissioners comments.

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

10. Legislative Issues

A. Discussion and appropriate action concerning H.B. 684/ Relating to housing prisoners in a tent or other facility in lieu of a county jail

Judge Beard said she wants to bring HB 684 to Commissioners' attention. She said there is authority to do this in an emergency situation, although she doesn't think Brewster County would be faced with this. HB 684 gives a County the authority to do house prisoners in tents or other facilities on an indefinite basis.

Commissioner Killingsworth asked if they are going to change jail standards. Judge Beard said jail standards, supposedly, will work to accommodate this.

B. Other related legislative issues concerning the County/ Discussion and appropriate action

FIRST SUPPLEMENTAL AGENDA

To discuss and take action as appropriate on the following:

1. Alpine Public Library Project

A. Personnel Matters re County's Representative on APL Board and Confer with Counsel re issues related to contract with APL Board

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 & 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 Board of Texas clearly conflicts with this Chapter (Privileged matters)

Judge Beard said she doesn't think an executive session is actually needed. Instead, she gave a review and some background. Library board representatives were present at the meeting.

Since 1995, Judge Beard said that this Commissioners Court has engaged in several public projects and construction management, and has served as their own general contractor. It saves time and money.

Commissioners Court has not done a project for a non-profit entity before.

Construction Management demands clearly delineated lines of authority and communication. When those lines break down, a project is at risk. Decisions based on bad information or other factors outside the lines of authority can potentially make for a bad building. If everybody is not in the loop, it is more likely that mistakes will be made and time will be wasted.

Judge Beard said she would like everybody to understand that the County has, according to the contract, considerable responsibility and liability.

When the situation is evolving into one where the County doesn't have any authority, it becomes untenable. Judge Beard said that is where things were headed.

Judge Beard said the contract with APL provides considerable guidance. In the last few months, things have been muddled, and things came to a head last week when Commissioners Court gave intent to terminate the project.

Judge Beard and Commissioner Stone met with APL President Kathy Bork and Vice President Mary Jane Morgan. At that meeting, Judge Beard made a proposal for a plan to get back to the contract and clearly delineate the lines of authority, and appoint one person to communicate on behalf of the library with the County. Judge Beard has suggested Pete Peterson, a member of the board.

Reconvene in Open Session

2. Discussion and appropriate action resulting from Executive Session

B. Discussion concerning issues, terms & conditions for further County participation in APL building project / Appropriate action

Pete Peterson spoke on behalf of the library. He said the board met after the meeting with the County, and responded favorably to Judge Beard's plan to get back to the contract. He said part of the plan includes a time frame for completion under six months. The board agrees that the time frame is the most important thing and would like to work toward getting it done.

The board also agreed to appoint Mr. Peterson as the sole liaison between the County.

The board also agreed to focus fundraising exclusively on finishing the building. Discussions related to furniture will be deferred until built out dimensions are in place. Professional assistance with furnishings will be considered.

Commissioner Ortega said he's happy that they've been able to work something out and can get back to work.

Commissioner Killingsworth made a motion to continue working with APL on the construction project, including a timeframe for completion within six months, a focus of fundraising exclusively on completion of the building, and getting the building finished out before decisions are made about furniture. Commissioner Ortega seconded the motion, which passed unanimously.

SECOND SUPPLEMENTAL AGENDA

To discuss and take action as appropriate on the following:

1. Tourism Council / Impact of excessive cuts in proposed State Tourism Spending/ Discussion and appropriate action

Judge Beard explained that the Tourism Council is a County board comprised of public and professional representatives in the travel and hospitality industry. They manage the County's hotel/motel funds.

There is concern about the impact of state cuts on tourism in the area. Judge Beard said there have been letters and editorials in the local media.

She turned the floor over to Ron Sanders, who has served on the Council since its inception.

Mr. Sanders explained that the State is cutting the advertising budget from \$30 million to \$5 million. They have scheduled a meeting with Susan Combs in hopes that she will certify that tourism brings money into the State. If so, they are hopeful that they will get back more of that budget. They don't believe they will get the full \$30 million, and they are willing, of course, to make some cuts.

Mr. Sanders asked for a letter from Commissioners Court to our elected representatives and the Governor asking them to reconsider.

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

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

VAL CLARK BEARD, COUNTY JUDGE

ATTEST:

BERTA RIOS MARTINEZ, COUNTY CLERK