

Meeting Minutes
Bellville Economic Development Corporation

A special meeting of the Bellville Economic Development Corporation was called to order by David Ottmer at 4:30 P.M., Tuesday, March 25, 2003, in the Council meeting room at City Hall, Bellville, Texas.

Present were Wayne Browning, Jerome Peters, Warren Scott, David Ottmer, Kenneth Stein, Nancy Allen and Bob Simpson. All members were present. Attorney Charley Smith was also in attendance. The recording secretary was absent and the proceedings were recorded on cassette tape.

Wayne Browning made a motion the Agenda be approved. The motion was seconded by Warren Scott. Before the president could call for the vote, Jerome Peters stated it had not been made clear to him if tourism had been approved as an allowable expenditure of funds in Section 4B of the Development Corporation Act of 1979.

David Ottmer responded the representative from the Attorney General's office had indicated 10% of our budget could be used for promotion. Jerome opined the word "promotion" doesn't appear in the motion made on February 11. The motion says only "if the expenditure for tourism is approved". He understood the Assistant Attorney General to say tourism was not allowed in the spectrum of EDC activities. Nancy Allen countered her opinion the Assistant Attorney General had said such a decision could be made at the discretion of the Board. Our decision was to make the grant; though it was not unanimous, the motion did receive a majority of votes of the Board. Discussion ensued on what constituted tourism and promotion and did the intent of the motion mean to include both words. There was also discussion of whether or not the Gathering would provide income, jobs and economic development to Bellville. President Ottmer asked Charley Smith to make comments based on the discussion which had taken place. Charley asked Jerome to restate his point of order. Jerome stated his comment was really a matter of parliamentary inquiry. The action we are trying to take tonight is not consistent with the adopted motion of February 11.

Charley Smith stated if the motion is to amend the minutes because the minutes do not correctly reflect the action, then that would be appropriate. If the minutes correctly state what the action was, then the issue of whether or not it is appropriate

to approve the contract based on that motion would come at a later time. Through additional lengthy discussion, it was determined the minutes in debate had already been approved and were not on the table at this time. Charley indicated a motion to take action on the contract must be made before a point of parliamentary inquiry could be raised.

President Ottmer called for the vote on the adoption of the agenda as presented per the motion of Wayne Browning and second of Warren Scott. The motion carried unanimously.

Agenda Item #5 Public Comment

President Ottmer indicated no one had signed up to speak at the meeting.

Agenda Item #6 Review and Approve Contract with the Bellville Chamber of Commerce for Disbursement of EDC Grant to the Bellville Heritage Gathering

to be Held May 3, 2003

Jerome questioned Charley if this was the correct time to make his point of parliamentary inquiry. Charley indicated it was not because no one had made a motion to approve the contract.

Wayne Browning made a motion the contract as prepared by Charley Smith be approved as written. Warren Scott seconded the motion. President Ottmer called for discussion. Jerome then stated his opinion that the motion adopted by the Board on February 11 does not match the agenda for tonight for approving this contract. The motion made by Kenneth Stein on February 11 addresses tourism only, promotion is a different matter altogether. Kenneth Stein asked if his motion had included the word "promotion" would we be having this discussion? Jerome responded in the negative because the Chamber of Commerce's application specifically stated "the promotion of Bellville". Nancy Allen stated it has

been established by the Attorney General's office that tourism is economic development. One of the biggest incomes in our state is tourism. To this, Jerome responded that as a board, our actions are put on record and that our record says currently that on February 11 this board approved \$30,000 to go to the Chamber of Commerce provided that tourism, and tourism alone, came under the coverage of 4B taxes. Jerome proceeded to read the motion as it appeared in the minutes and asked David to correct Nancy regarding whether or not tourism is allowed as economic development at the board's discretion or can only be funded by the Hotel-Motel Tax. David stated it was also his understanding that 10% of the budget could be used for tourism or promotion at the discretion of the board based upon what was presented by the Assistant Attorney General at the recent workshop. He then reminded everyone we had a motion and a second to approve the contract on the floor and asked Charley Smith if he was happy with the wording of the contract.

Charley stated his opinion that, based primarily on the representation from State agencies as to the amount of money contributed to the economic development of a community by the tourism industry, it is permissible to fund a such a project. He went on to say he had made a distinction in the contract between promotion and "the Event". The Event is the project. Promotion is the advertising of the general welfare of the city and what a fine community we have. Two things were in his mind when he prepared this contract: \$17,500 going to the Event and \$12,500 going to promotion. This contract calls for the Chamber to come forward with a plan to spend the \$12,500 and our evaluation of their plan. The \$17,500 designated for the Event can be used for insurance, security, entertainment, any of those kinds of things.

As to whether or not the Board is doing anything illegal or not right, Charley stated this was an area which the OAG had interpreted could go both ways, but one to which they would defer to the discretion of the board since there was not penalty for the way the funds are spent. The area is not clear, but an open-ended phrase included in the statute and also in our ballot says something to the effect: "...and other things that the board of directors from time to time determines to be appropriate." The ballot was written as broad as could possibly be written. The decision of whether or not it is legal to fund tourism is on the cutting edge; it is not clearly right or wrong. However, tourism is an industry which produces income, jobs and economic development.

Bob Simpson stated his thought that paragraphs numbered 3 and 4 need to be changed. The wording doesn't meet our purposes and creates too much paperwork. Discussion then ensued regarding the intent of the wording in the contract which was to delegate authority to the EDC treasurer to authorize payment upon receipt of an invoice. Tom Bennett spoke for the Bellville Heritage Gathering regarding an account established at First National Bank and the service of Charlene Wehring as treasurer. Funds are also being received from sponsorships and other forms of revenue. Charlene and Reva Loesch of FNB both must sign checks. It

would be a cumbersome process if another account has to be set up for EDC funds. David stated it was not the intent of the BEDC to make things more difficult for the Gathering, but everyone who receives an EDC grant must be treated the same. We will not pay until an invoice has been presented. Jerome read from the minutes of the February 11 meeting the motion which he presented and Kenneth Stein seconded which states: "requests for expenditure of grant funds and proof of expenses be reviewed and scrutinized by all members of the BEDC before checks are dispensed by the treasurer." The motion carried unanimously.

Expenses cannot be paid tonight because the item did not appear on the agenda. Another meeting must be scheduled to pay invoices due.

Joe Ed Lynn, representing the Gathering, stated the indemnifying hold harmless clause in the contract leaves the Gathering standing alone to face lawsuits. Charley suggested the wording be changed to include the following: "The insurance policy shall provide a defense for all other parties against any claim." That inclusion was agreeable to Joe Ed.

President Ottmer called for the vote. Wayne Browning amended his motion to accept the contract as amended. Warren Scott seconded and the motion carried by a vote of 5 to 1.

There being no further business to come before the board of the BEDC, the meeting was adjourned.

Respectfully submitted,

Suzanne C. Edwards

Recording Secretary