

1 **VIRGINIA TOBACCO INDEMNIFICATION AND COMMUNITY**
2 **REVITALIZATION COMMISSION**

3 701 East Franklin Street, Suite 501
4 Richmond, Virginia 23219
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9 Research and Development Work Study Group Meeting
10 Thursday, September 1, 2011
11 1:30 p.m.

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13 House Room #2
14 Virginia State Capital
15 Richmond, Virginia 23219
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1 **APPEARANCES**

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3 The Honorable Kathy J. Byron, Chairman
4 Research & Development Committee

5 The Honorable Frank M. Ruff, Jr., Vice Chairman
6 Tobacco Commission

7 The Honorable James S. Cheng
8 Secretary of Commerce & Trade

9 The Honorable Daniel W. Marshall, III

10 The Honorable Edward Owens

11 Ms. Cindy M. Thomas

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13 **COMMISSION STAFF**

14 Mr. Neal Noyes, Executive Director

15 Mr. Ned Stephenson, Deputy Executive Director

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1 September 1, 2011

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4 DELEGATE BYRON: Good afternoon everyone,
5 I'll call our meeting to order. Ladies and gentlemen, this is not
6 an official meeting that we usually have but it is a work study
7 group of the R&D Committee. I appreciate those that were
8 able to attend today and show an added interest in this
9 process that we're going to look at and the application process
10 and possible changes to the application process. Today it's
11 merely going to be a discussion and any possible
12 recommendations that we may bring back to the Committee
13 on the 22nd of September at the Research and Development
14 Committee meeting in Roanoke.

15 The four of us, Cindy, Danny and Ed and I
16 went to the Virginia Economic Development Partnership and
17 met at their office although we did not participate, we viewed
18 and observed the process, the expert team that looks at our
19 applications, that is the second phase of the application
20 process. I will say that I think that while the other members
21 can give their comments in a moment here, but I think it was
22 very beneficial to each one of us today. We actually got to see
23 that quiet phase that we don't get to experience and how they
24 come up with the ratings and what the applicant goes through
25 as well sitting in front of them and it was quite enlightening. I

1 think we have a great process but that doesn't mean it can't be
2 better, not being better, things that we can do to the process
3 to enhance it and recommend changes that would possibly
4 bring in some of the things we discussed afterwards in
5 informal discussions. I'm talking about better applications for
6 people that we might be missing because of the way that our
7 process is set up and some of the requirements that we have.

8 They reviewed four of our applications or three
9 of them because one had backed out last night so they only
10 had three that they reviewed. I would say that I think their
11 questions were right on target; they were in line with the
12 things that the Commission had asked them to look for.
13 Apparently they get a workup from Jerry in advance and that
14 after they have reviewed it, correct me, this is an informal
15 meeting. He said that they have information that goes out and
16 this is their first face to face meeting that they do with the
17 applicant. Information that goes out to each of those teams
18 whether it be a university or different groups that they have a
19 team of their own and they may reach out to someone that
20 specializes in that particular field that the application is
21 referring to and then they come back with information –

22 DELEGATE MARSHALL: - They have a website
23 that they can go to and log on so that they can if you happen
24 to be one of the people, if I happen to be one of the people on
25 that review panel, then we can post our thoughts and

1 comments on there so it can be shared among the group.

2 DELEGATE BYRON: When I questioned them,
3 there were different times that I had an opportunity to do that
4 and that's good too. They're able to zero in on things. One of
5 the applicants came back and something was highlighted and
6 they specifically came in prepared to address things that the
7 partnership had highlighted and that they had questions or
8 concerns in the application. So they didn't have to go through
9 the whole thing and there's a limited amount of time but this
10 way they could really get right down to those points that
11 needed to be addressed and other things that had already
12 been reviewed and acceptable to the partnership. So the first
13 applicant, I know there was some time wasted that they could
14 have used in addressing concerns instead of giving the whistle
15 when that whole process was already solely understood.

16 I think before I continue going on, I'm going to
17 let each one that was there give an overview and we can
18 discuss ways that we can make things better. Danny, why
19 don't you address that?

20 DELEGATE MARSHALL: There were some
21 things that we were able, going around the table were very
22 helpful to those there and listening to all that. It was helpful
23 to me sitting there and listening to all that. The brain trust
24 was very helpful and very high. Each one of them asked
25 questions that I was hoping they would ask. A lot of the

1 questions were specific and a lot about commercialization of
2 the process. One of the things that we did ask of them and
3 Kathy asked it of them; what suggestions would they have if
4 maybe talk this process along. I'll run through these. I can
5 run through these in order.

6 One of the gentleman from Oregon made an
7 observation that they have something similar to what we do
8 but on their applications they have what are the outcomes and
9 what are the timeframes of those outcomes and they pay if the
10 grants along with the outcomes. If you jump through this
11 hoop you get this amount of money and if you jump through
12 the next hoop, you get the next set of monies. Then also on
13 the questions that they sent –

14 DELEGATE BYRON: Are you going to discuss
15 each one of those individually and there may be something to,
16 what's more important is if you jump over them, when you
17 talk about the outcomes, talk about being specific at the end
18 of the application. Tried to look online and see what
19 applications are there and I don't have one in front of me.
20 Maybe the staff can help us here but some are vague in their
21 conversations about exactly what the outcomes are and how
22 many jobs. We need to know outcomes and if we upfront have
23 the outcomes there, but then we have milestones. Each
24 project has a milestone specific to that project. There was
25 discussion about whether the Committee should consider the

1 same group of expertise that listened in on the first round of
2 this doing a review to see if they had met those milestones
3 based on what the original application was rather than our
4 staff trying to determine some of the specific outcomes, take
5 some outcomes that were in the application. That seemed very
6 worthwhile looking further and a having discussion. We all
7 know that the Tobacco Commission has been working very
8 hard going back and then doing it and going back with the
9 application and checking on the economics and giving the
10 committee something that's easier to measure. They were
11 talking about how these outcomes are measurable being able
12 to look at specifics.

13 Sorry to interrupt you Danny but that was a
14 big important part of that.

15 MR. NOYES: That's something that absolutely
16 should be discussed with the full committee. I really think
17 that's important.

18 DELEGATE MARSHALL: How do you want to
19 handle this, do you want to make a list and we can come up
20 with.

21 DELEGATE BYRON: We can do that right
22 now.

23 DELEGATE MARSHALL: Maybe we can go
24 back and prioritize them. Number 1, number 2, number 3.

25 MR. OWENS: That's right.

1 MS. THOMAS: They also mentioned not
2 allowing to come back for a second request until they had met
3 all of those requirements.

4 DELEGATE BYRON: That's the same area that
5 Danny was talking about, those bullets and that's true
6 because we talked about that, how. For example, we had
7 some applicants that I think were told in the beginning phases
8 of R&D and I'm not blaming any previous Commission
9 members, but that they could come back anytime the
10 applicants, you know, keep coming back and we suggested
11 that because of the expertise of the people, if they don't make
12 that round between our first approval and then go through
13 VEDP and don't get approved, it might be a good idea to
14 consider taking a year off and go back to their business plan
15 determining if they really were a good fit. I don't think they've
16 had any that have come back that actually made it on the
17 second go around. One dropped out and that was a good
18 example of it. So we're talking about a year delay before
19 coming back for reapplication instead of saying you can come
20 back whenever you want to versus coming back on the very
21 next round.

22 MR. NOYES: We can talk about that, I would
23 suggest for the group here that for your consideration that
24 some applicants were the principal beneficiaries will have
25 platform technologies, that is to say there may be three or four

1 or a dozen different applications based on platform or nano
2 technology projects and make an application for energy
3 storage and have an application for something entirely
4 different for some entirely different tract, research and
5 development. It may be a good idea to enable critical mass to
6 develop. Somebody should have come back for a phase II the
7 same research project, if it's a separate research project I don't
8 see why sitting out a year is a –

9 DELEGATE MARSHALL: - This is where,
10 referring to this group, this is referring to if the group is
11 turned back.

12 DELEGATE BYRON: That's another good point
13 too and I'm glad you bring that up.

14 MR. NOYES: I beg your pardon, I
15 misunderstood.

16 DELEGATE BYRON: These were turned down
17 applications. You thought different on that.

18 SENATOR RUFF: If you're going to have that
19 as a hard and set policy. Suppose they're turned down for one
20 particular reason and then they can come up with a
21 reasonable solution to do that, are we or when we have a hard
22 and fast rule like that, should we say the goal will be that way
23 for a year or should we allow the staff to use some discretion?

24 DELEGATE BYRON: What we were hearing
25 from the partnership was that these applications that come

1 forward are people that understand how the grant application
2 process works and where they're coming from and they're also
3 aware of where grants are available. If they go through the
4 whole process there, they could sit there and say you know,
5 this project, if it had X, Y, Z, it would be good but the reality is
6 that it's not and then a complicated process further. You have
7 to remember they give us a score and you make the decision.
8 If that score is low because the application really doesn't merit
9 the right thing, it's not just that one little link missing but they
10 see the value in that project and trying to say that this project
11 had real value and they talk about the talking points. You
12 recall when anyone, they want to give us some discussion but
13 not confuse things by adding to the discussion about what the
14 project needs to become a worthy project. If they can show
15 what it might be and what might be lacking and they're not
16 going to turn around and write a business plan for someone.

17 MR. NOYES: They shouldn't be expected to do
18 that.

19 DELEGATE BYRON: I know, we're not.

20 MR. NOYES: To follow up on Senator Ruff's
21 comment, I believe in the infinite capacity of human beings to
22 achieve redemption, just because someone fails at one point in
23 time, I have difficulty in saying go home for a year when they
24 could have an epiphany.

25 DELEGATE BYRON: When you have an

1 applicant and they come back, when the application process is
2 open, do they say come on back next month or we'll look at
3 you again?

4 DELEGATE MARSHALL: I don't agree with
5 that, no. There's nothing, we heard one today that will
6 probably come back in my opinion. A greater number on
7 science, commercialization number is pretty low. If they can
8 come back and figure out how they can make that
9 commercialization number better, then they should come
10 back.

11 SECRETARY CHENG: Just a quick comment.
12 I think the ones we should be concerned about, some keep
13 coming back that don't substantially change and that's what
14 we need to worry about when you consider the staff time and
15 research and some come back and don't substantially change.
16 We should have some flexibility. If something comes in that is
17 worthwhile that is important.

18 MR. OWENS: But this doesn't curtail us from
19 tabling an application, sending it back to VEDP vetting
20 process, that can be costly. We're trying to watch the costs
21 that we have to do. Whether you're improving the application
22 or not, I don't know if we can see the merit in the project or if
23 we can see merit in the project then there's one or two pieces
24 and that may be all that's needed and then they can always
25 come back. We could table it and send it back to VEDP.

1 Every time it goes back there's a cost involved. That's one
2 potential way.

3 DELEGATE MARSHALL: I think the statement
4 that's been made, if somebody has a really low score and they
5 were told as a saving grace when they walked out of the room,
6 by the way feel free to reapply, some actually would do that.
7 That was a member from the General Assembly and that
8 person had to be in that district.

9 MR. NOYES: This has happened on two
10 occasions and in round two both times that applicant had
11 been successful. I think at some point word's going to get
12 around that if you don't have a strong project, something that
13 cannot be easily remedied.

14 MS. THOMAS: One thing we need to
15 remember is all of the teams heard at the actual application
16 and then feedback back to the applicant so they have a chance
17 to strengthen their application before they come before the
18 board. They've been told where they're lacking. It's not like
19 send in the application and then you're out. You don't get
20 approval because they have been told.

21 MR. STEPHENSON: Prior to today madam
22 Chairman, VEDP has handled or reviewed 24 cases for you
23 and three of which were the second time through.

24 DELEGATE BYRON: Did any of those three go
25 through and I know one –

1 MR. STEPHENSON: - A couple of them were in
2 that one, one of them was in, one withdrew. They haven't
3 made it to the finish line yet so they have been through VEDP
4 once.

5 DELEGATE BYRON: Are you saying there was
6 another one in today's batch the second time through?

7 MR. STEPHENSON: Back in the beginning
8 you had two that you tabled and sent back to VEDP for a
9 second time. You had one that you instructed the applicant to
10 bring it back and they were tabled and then they came back a
11 second time and failed and we sent them back. The other two
12 haven't run the full course yet.

13 DELEGATE MARSHALL: It was also suggested
14 that we talk about adding a business plan from the applicant
15 to application because they think some of the groups are just
16 following the dollars. Some of the applications are just so far
17 blue sky, there's no commercialization so that was a
18 suggestion. Gerry said a couple of times that \$5 million is a
19 huge amount of money and that stirred the conversation
20 about our R&D goals -

21 DELEGATE BYRON: We know \$5 million is a
22 lot of money and it's a lot of money in these grant applications
23 as far as the awards go and you don't generally see \$5 million.

24 DELEGATE MARSHALL: One of the
25 suggestions we should look at according to them, is the goals

1 like energy, et cetera. They're too limited and cost or the
2 question was why are we getting more applications and that
3 was one of the reasons and we'll talk about the 800 pound
4 gorilla later on. That's something they suggested we may want
5 to look at, take away the goals we had, maybe open it up.

6 MR. NOYES: In the Board's view?

7 DELEGATE MARSHALL: No, we have energy
8 as far as trying to achieve energy and help me with the rest of
9 them.

10 MR. NOYES: Life Science, transportation, it's
11 pretty broad right now.

12 DELEGATE MARSHALL: They thought it was
13 too limited.

14 MR. STEPHENSON: Biomedical, information
15 technology, chemicals, clean energy, transportation.

16 DELEGATE BYRON: I was not sure where
17 they were going with that.

18 MR. OWENS: Talking about the research piece
19 lower, lower ceiling, two tiers.

20 DELEGATE BYRON: Talking about that and
21 there was another suggestion about separating the
22 applications from those that are big R and little D and big D
23 little R and reviewing them, I don't know if reviewing them
24 separately or separating them so we could get a better
25 evaluation differently.

1 MS. THOMAS: With different things.

2 DELEGATE MARSHALL: The other piece we'll
3 deal with at the end, we also heard that Georgia and Oregon
4 also had programs similar to this and my thoughts were we
5 might want to look at some of their good points and some of
6 their bad points and see what we can learn from them; Dr.
7 Allen from Georgia Tech and Mallory from Oregon. Then we'll
8 get to the 800 pound gorilla in a second.

9 The other suggestion was that should this
10 panel make a recommendation on the application, written
11 recommendations other than just a score, they say maybe they
12 need to do A, B and C to help this application. So maybe
13 there's something we're not asking them to do now. They
14 thought it would be beneficial for us to understand that.

15 DELEGATE BYRON: We discussed if there
16 should be some discussion points rather than just a score.
17 Gerry wanted to know if his presentation was enough to the
18 Committee or if we felt that we wanted to know more and hear
19 more or anything else in that regard as well. I mentioned that
20 we had recognized the fact that I felt that the committee
21 needed a longer time which we've tried to accommodate going
22 over the applications because of the fact that we are different
23 from the other committees. We get a lot of staff work done in
24 advance and they can see the applications have been
25 thoroughly vetted for other reasons. These are a little harder

1 to get your arms around in a short period of time.

2 MS. THOMAS: Just to add onto the number of
3 times that they come back before the Vetting Committee, they
4 mentioned that if you apply for a grant, that you've got to get
5 certain things accomplished and what you put down as the
6 measurable things and milestones before you can even apply
7 again. They mention that was important.

8 DELEGATE BYRON: Talked about the fact
9 that you can get up to \$5 million three different times. In
10 regard to the investments and we have not met those
11 outcomes or met some of those things on a previous one that if
12 the second one, unless maybe from Neal there's something
13 different but if they're both following one another that the
14 outcome should be met before you start to disburse the
15 money.

16 MR. NOYES: Certainly we should know the
17 outcomes from the beginning of the project and from the first
18 project before embarking on a second or a third project. We've
19 had some situations where upfront we are told that it's going
20 to be more than \$5 million dollars to get to the goal line. The
21 project CAER, a perfect example, \$10 million. We were told
22 from day one they couldn't get the project done with \$5 million
23 which was a cap for year one, maybe that's the problem;
24 maybe removing that piece or that ceiling piece so that it could
25 be done and done. Maybe that's something the committee

1 should consider. My fear is that if you remove any ceilings,
2 you're going to invite, you're going to invite carnage from folks
3 that say they've got \$65 million left, let's go for 40 and we've
4 got a heck of a project. They may very well have a heck of a
5 project but we will not get the distribution across the southern
6 and southwest part of our footprint. I think the committee
7 chair can have and should, if you choose to discuss this,
8 where somebody comes in and says this is what it will take
9 and the committee can make an exception to that and
10 recommend that to the full board. We don't want to go below a
11 certain point because we will have every bench scientist
12 coming to do a \$25,000 research project. That's not workable
13 and that's something the committee discussed in considerable
14 detail and that's why you established the \$500,000 goal. How
15 we accommodate larger projects is kind of a separate issue but
16 there may very well be times when the committee will wish to
17 do this and we may want to modify the policy. The Board may
18 want to modify policies based on a recommendation of the
19 committee to allow maybe a two-thirds majority vote. There
20 are ways to manage the issue but to simply open it up and say
21 you all come on, I'm not going to be about –

22 DELEGATE BYRON: I didn't get that direction,
23 I think it's the other way. We were concerned it would hinder
24 the projects. The discussion was more cutting it off and the
25 danger in cutting it off is that it would take more than what

1 that cap is.

2 MR. NOYES: To be able to accomplish the
3 objectives that are set out in that project before they come
4 back or the continuation of that project and I don't think
5 there's a problem and I don't think anyone would disagree
6 with that but there are platform technologies that particularly
7 exists in the IP base where one technology has many different
8 applications and there might be an applicant that would be
9 able to come in for separate research projects and the
10 committee might say we haven't seen or you haven't shown us
11 anything on the first one.

12 DELEGATE BYRON: All right, we've beat that
13 one.

14 DELEGATE MARSHALL: This one everyone
15 already knows and it is a big issue. The biggest issue we
16 heard about is how we are not getting more projects with the
17 IP. For example, we were told first by Georgia Tech that
18 Georgia Tech and the money they don't tie the IP. They have
19 dollars come back and it's almost like a loan. Some of the
20 other groups said that they know people pay a percentage of
21 sales back to the group that advanced the money. We
22 especially heard this from the universities.

23 MR. NOYES: You awarded.

24 DELEGATE MARSHALL: We also heard the
25 other side that Virginia Tech's projects are already owned by

1 the State of Virginia anyway. So that's one of the main
2 reasons that we are, according to them, not getting more
3 projects.

4 MR. OWENS: Sometimes they say no return if
5 we don't get IP. Their argument is return to the state with
6 jobs, producing jobs in the footprint.

7 DELEGATE BYRON: I think part of the initial
8 argument before you get to the IP before you get on this case,
9 you have to, before Neal gets into this, the discussion we've
10 had is that we had applicants that were coming to us and we
11 didn't want to be perceived as merely a bank giving out a loan
12 that they could come in do research and then leave the
13 Tobacco Commission region. We wanted to have something
14 tangible out of that that benefited us being their banker. We
15 wanted to be able to have some kind of jobs tied into it, some
16 long term commitment. If they couldn't commit the IP because
17 it's the only thing you have to grab a hold of, how could we do
18 this or could we say it's worth our while to take a risk and
19 invest money in this research project, is that not correct?

20 MR. NOYES: I couldn't have said it better
21 myself.

22 DELEGATE BYRON: So maybe we need to
23 relook at this again and say based on that –

24 MR. NOYES: We don't take an ownership
25 interest in IP and originally that was part of the documents

1 that we look to the security interest. The security takes the
2 form that no IP may be licensed for commercialization outside
3 of the footprint for a period of three years after the research
4 project is completed. So we offset our risk with the promise of
5 commercialization, we require commercialization within the
6 footprint for three years after the research project is done. We
7 don't take ownership of the IP and that's retained by whoever
8 it is and that is usually the private sector beneficiary.

9 Universities in particular want to own and commercialize the
10 IP, they can generate revenues from that. The fact that a
11 Virginia University would or might own the IP is no guarantee
12 that it will not be licensed outside of the Commonwealth for
13 commercialization. I can assure you that that is true. They'll
14 license that IP wherever they can get money for it. I think
15 maybe it's somewhat disingenuous for the universities to be
16 saying but it's only to say that it's owned by the
17 Commonwealth entity. If our objective is to have things
18 commercialized for the benefit of employment and tax benefits
19 within the footprint, we pretty much have or I think we have a
20 fairly generous platform right now. We're only saying for three
21 years afterwards and people are free to license that outside.

22 The idea that the Committee can't consider an agreement
23 where there would be a payment back to a revolving loan fund
24 sort of arrangement. That's something that's been proposed to
25 two or one of the applications that I'm working on at the office

1 and that will be reported to you when your committee meets
2 Madam Chair. Offer one percent of after tax net sales but not
3 any agreement that the product, if the research is successful,
4 be commercialized. Of course, there is the blue sky of \$350
5 zillion on a weekly basis in sales so we can all find ourselves in
6 the Warren Buffet mode in an amount of days here. Either
7 you want the jobs and the private investment through the
8 footprint, what do you want?

9 SENATOR RUFF: What if we wrote it as a
10 revolving loan, jobs and capital investment in the footprint and
11 this would be an offset.

12 MR. NOYES: We can do that, we can do that.
13 There was a project –

14 DELEGATE BYRON: That would be an offset
15 by the jobs?

16 SENATOR RUFF: The formulary with the jobs.

17 DELEGATE BYRON: If they default and there's
18 no job.

19 SENATOR RUFF: If there's no sales and no
20 jobs, we're up the creek either way.

21 MR. NOYES: The other thing on the one
22 percent example, I just spoke about, it presumes as that
23 applicant does that the research will be successful and there
24 will be possibly some commercialization. As the Senator just
25 said, if it's not successful, the money is going to produce no

1 outcome.

2 DELEGATE BYRON: I have some, first of all,
3 they said they had the best practices in Georgia that they
4 would share with us. I think its worthwhile looking into those.
5 Secondly, I think that the big issue, bring us examples
6 especially since we're hearing it from the partnership, not just
7 the universities. Bring some examples of the areas that use
8 this type of agreement and benefited from it. Other areas that
9 they can look at and say they gave grant money or gave money
10 to doing some research and they did not have anything to do
11 with the IP that benefited from it. Show us where some of
12 those are. They could be out there but we're not getting them
13 so they might not be there.

14 MR. NOYES: You can cherry pick any place
15 you want.

16 SECRETARY CHENG: The University
17 Intellectual Property practice throughout the State of Virginia
18 and that's another issue that some of your colleagues have
19 brought up in the General Assembly. Looking at some of our
20 institutions, they try to figure that out and trying to figure out
21 the intellectual property. The market is very competitive.
22 Right now you're saying what they're objective is which is part
23 of what you're saying that we do want them to stay here for
24 three years.

25 SENATOR RUFF: We want them to stay here.

1 SECRETARY CHENG: I'm a little worried
2 about the three years.

3 SENATOR RUFF: We want them to stay here
4 and the clock is running and I don't see why anybody should
5 have any advantage just by waiting to beat the clock.

6 SECRETARY CHENG: Commercialization may
7 take longer.

8 DELEGATE BYRON: If they do the research
9 and they might want the research at a manufacturer out west
10 unless they say you can have the research. We'd say you can't
11 have it unless you manufacture it here in Virginia and that's
12 another way to get around that. I'm not saying anything is
13 wrong with that either.

14 SECRETARY CHENG: If it works, you might
15 attract less people if you say you stay here and then you might
16 have a bridge loan or conventional loan that guarantees just
17 the security and that could scare people away.

18 MR. NOYES: It's a different question. This
19 conversation has moved from the context of revitalization of
20 the Tobacco Commission footprint region and now we're
21 talking about the state. It won't be 10 minutes before it's the
22 mid-Atlantic region. What is the statutory mandate that this
23 Commission has, economic revitalization of the Tobacco
24 Commission region. Whatever solution the Committee
25 recommends to the Board and the Board adopts seems to me

1 it must be directly linked to that.

2 I recall sitting with a couple of universities
3 when we first talked about the R&D program and they said
4 you just send the money to Jose' in place B and we'll use
5 those funds for the benefit of the tobacco region. I just looked
6 at them and said unless there is a clear path of revitalization,
7 and if it's not in the footprint, I see no point in our continuing
8 this conversation. Of course, there was never a clear path.

9 So there are ways in three years, maybe right,
10 maybe somewhere to say at point X you have invested so
11 much money, created so many jobs and there's ways to
12 calculate something like that but from day one a company
13 might say we're going to build an \$80 million plant and hire
14 150 people, we've had \$2.5 million in that project. I would go
15 to the Committee and say it's over, I wouldn't do that. There
16 may be other ways but what it is, the way things are right
17 now, the objective is revitalization in the footprint that is our
18 charge. It's not something else. We can incrementally or in
19 big chunks use that up but I would hope we don't.

20 DELEGATE MARSHALL: I want to base it on
21 the economic experts that look at our applications that are
22 saying we are missing some opportunities that perhaps were
23 not intending and just missing opportunities that will work.

24 MR. NOYES: We should hear what the best
25 practices are from Georgia and Oregon.

1 DELEGATE BYRON: Or any private sector
2 people that can tell us anything to better this.

3 SENATOR RUFF: Was that statement in
4 theory or was that statement actually knowing some that did
5 not apply?

6 MR. OWENS: Someone who did not apply,
7 maybe they didn't want to hear that.

8 MR. NOYES: We're not sharing.

9 DELEGATE BYRON: I don't think it's a
10 question that the Tobacco Commission being interested in the
11 IP there. I think the question is the jobs and other things that
12 come from the area. It can come full circle and get the
13 research done and get the commitment to stay and you
14 brought it here and we're now going to stay here.

15 MR. NOYES: Getting a commitment up front,
16 you don't want to try to get it after the fact but I guess the
17 bottom line for me is that best practice is somewhere indeed
18 may be a good practice but the lesson is that until it conforms
19 to the mission of the Tobacco Commission which is
20 revitalization of our area, it's no darn good to us. It may be
21 very good and practical, might be a great research and great
22 research might be done but unless something happens as a
23 result of this and benefits the citizens of the Tobacco
24 Commission, that's the problem. But we'll hear for sure.

25 DELEGATE BYRON: Anything else?

1 DELEGATE MARSHALL: Just a suggestion.
2 We ask the staff to look at getting information from Georgia
3 and Oregon and maybe locations to see what their doing and
4 how we can change and we might look at can we give them an
5 option as far as the IP. You give us, I think maybe there's
6 some misinformation about the IP out there with that group.
7 They probably don't understand it the way you explained it.
8 So if they don't understand it, maybe the people applying do
9 not understand it.

10 SENATOR RUFF: No knock on Oregon or
11 Georgia but I think what we should do is look at what states
12 are leading the nation in research and development and look
13 at those also and find the best model to model after; ones that
14 are working and where they came from.

15 MR. OWENS: I don't know the R&D that well
16 but we have specific and bona fide questions; do we quantify
17 the questions on the application itself, think about outcomes,
18 milestones?

19 MR. NOYES: We're doing better than we did
20 the first year or so, requiring and reporting that to the
21 Committee where there's a staff recommendation. I've gone a
22 little bit further in this current round asking to see a specific
23 timeline, quarter by quarter of what is going to happen during
24 that quarter and how much of the approved money has been
25 spent to accomplish that. I've had two of the five or six

1 applications and they've completed that and I'm very satisfied
2 with that, what they've done. They all mention how many jobs
3 in relationship to R&D funding. Then there's the other part
4 that talks about what the market is for this innovation.

5 MR. OWENS: You integrated those kind of
6 questions?

7 MR. NOYES: Yes, we're getting there and we're
8 doing better.

9 DELEGATE BYRON: Looking back on those
10 applications, are they ones that you can project and a timeline
11 for VEDP to look at?

12 MR. NOYES: Yes, on the ones we've been
13 working on, this batch, there's very specific information on
14 what the staff wants and who's doing what and what we're
15 looking for.

16 DELEGATE BYRON: As far as the Committee
17 recommendations from the committee, what would be the best
18 way to handle that next process internally or does it need to
19 come back before our Committee or our Commission?

20 MR. NOYES: I expect to bring it before the
21 Committee when we meet on the 22nd. You'll see some new
22 things you haven't seen on previous applications and plus the
23 model can be modified and of course VEDP probably won't
24 have that by the time the Committee meets. That's in the
25 process.

1 DELEGATE BYRON: You're talking about the
2 milestone part and about them evaluating it after?

3 MR. NOYES: I haven't given any thought to
4 having VEDP go back and actually evaluate whether or not
5 this particular grant is meeting the milestones. There was a
6 discussion earlier with Gerry and some others, we ought to
7 stop the money if they fall behind in the milestone. It is at
8 that point and for whatever reason they're not progressing,
9 where they said in the application we're progressing, it's time
10 out. You've got to catch up before further funds are
11 disbursed. That's probably worth some discussion with the
12 full committee.

13 DELEGATE BYRON: I'm not suggesting we
14 bog them down with work but at some point when they said
15 there was measurable outcomes, milestones it would be time
16 for review and some kind of things to come back to us and give
17 us some information about what's going on.

18 MR. OWENS: Even if they had not been
19 drawing down any tobacco money, some process might
20 postpone the timeline and we might say we don't give them
21 any money until.

22 MR. NOYES: No, the Committee has not
23 provided that direction and this would be something new. If
24 the grant's approved then the invoice is sent in and we
25 disburse against that invoice. Whether or not they've

1 accomplished those objectives that they have for that period of
2 time. Another part of this is that R&D more than any other
3 types, a lot of these projects that, R&D projects more than
4 other projects the Commission has seen are front loaded with
5 significant equipment costs and absent that, sometimes you
6 have to order it and sometimes it takes a considerable period
7 of time to get so we're disbursing and to not do that would be
8 undermining the project. It's never one side fits all. There's
9 got to be some flexibility and judgment on the part of the staff
10 to say yes, we got to do this now in order to get to the next
11 point. The issue of having those milestones clearly understood
12 by the Committee at the point of application, certainly at the
13 point of approval. Then saying if you're not on track to meet
14 the milestones, let's step back and at least get an explanation
15 of this, that's probably something we need to give thought to
16 and something if we're not doing that now. To just continue to
17 disburse money and at least bringing it back in front of the
18 Committee to say hey, this is what we've discovered.

19 DELEGATE BYRON: The last two things I
20 want to mention, one is a time from VEDP, is it where it needs
21 to be, if we should review that or something to bring it before
22 the Committee before you're doing that and whether there's
23 commercialization and maybe considering commercialization
24 whether there's job creation.

25 MR. NOYES: They had just an even scale,

1 there were five questions in each and the average weight
2 across those. The Committee had acted based on the average
3 of that research merit on commercialization things and we're
4 not going to approve anything below this level and we won't
5 deal with it. I don't know that VEDP has added additional
6 weight in its scoring system this time or whether they may
7 have emphasized commercialization without modifying one or
8 two or three or four or maybe four exceeds expectations, three
9 or whatever meet expectations. I don't know how they
10 structured that. I'd be interested in hearing from Gerry on the
11 22nd. However, it is entirely within the purview of the
12 Committee to make a decision it will pay more attention to the
13 commercialization scores than to the scientific scores. You
14 can say we're not going to consider anything that doesn't make
15 it 2.75 in commercialization or three.

16 DELEGATE BYRON: To my point, because we
17 have X amount of applications out there now that are working
18 their way through the research phase of their project. Do you
19 want to consider or discuss whether or not in the future, and I
20 mean ones that have not applied yet, whether or not we want
21 to put more weight or are we going to start emphasizing more
22 for the next round or are we going to emphasize
23 commercialization more than we are something else?

24 MR. NOYES: I believe I advocated for that at
25 our last meeting.

1 DELEGATE MARSHALL: We're not doing this
2 for research.

3 MR. NOYES: We have not done anything else.

4 DELEGATE BYRON: I just wonder if we need
5 to come out and make a decision. Are we going to utilize the
6 research projects right now or go for commercialization more?
7 Specifically, added weight on scores for people to know. Now,
8 the other thing and the last question I had was I asked Gerry
9 how much time our staff is reviewing. They didn't exactly
10 know. In reviewing the initial applications that we get and it's
11 my understanding that application, maybe we should look to
12 see whether or not it fits R&D application criteria to go
13 forward. I didn't really look at the details of the application.

14 MR. NOYES: Does not look at the science nor
15 does it make any kind of projections on the commercialization
16 potential relying on the vetting process to do that. Looking
17 pretty carefully at the pledges and whether or not it complies
18 with the program guidelines.

19 DELEGATE BYRON: Maybe it's worked so far
20 and I don't think Gerry indicated, say a project is looked at
21 and it's horrible, why are we here and that kind of thing. Until
22 the staff identifies projects that are ready to go forward even
23 though you may not look deeply into it but my question is, do
24 we need to teach anything in that process to make it easier for
25 the staff to identify those. If there is, what do we need to get

1 some guidance on?

2 I think it's been very beneficial for us that went
3 today and we do feel comfortable with what's being done and
4 look ahead at what we need to do in future applications.

5 MR. NOYES: I'm pretty much doing the R&D
6 applications, Tim is doing other things and Ned is doing other
7 things. The applications are on my desk, if I have a question, I
8 try to get back in a timely fashion and when I ask people for
9 information, they try to generally give it.

10 DELEGATE BYRON: You think you're okay?

11 MR. NOYES: Yes. We'll keep moving along.

12 DELEGATE BYRON: Anything else the
13 Committee members want to bring up, if not, any comments
14 from the public?

15 MR. ROGERS: I'm Ed Rogers and I'd like to
16 say I think your IP is fine but the problem, from my experience
17 and by way of background; before taking the position as
18 director at the R&D Center, I practiced law for 11 years and
19 then venture capital and then further the university and ran
20 that for six years so I have some background in intellectual
21 property. We see a lot of deals in Abingdon, Southwest
22 Virginia. We see some deals going that don't make any sense
23 at all and we see some good projects the Committee is funding.
24 I don't think the IP is really a problem. If you put a lien on it
25 just to make sure that people do what they promise to do.

1 Early on I think the IP issue was a problem but I think it has
2 been improved. It may be that the perspective for the IP, some
3 difficulty out there but I think it's merely a misconception. If
4 you read the grant security agreement, it should not be
5 problematic to anyone doing what they promised to do. So I
6 think it's helpful but I don't see the IP currently as, the
7 current policy as a problem.

8 Now, I think that the revolving loan fund
9 perhaps interest free tied to the promise to create jobs in the
10 Tobacco Commission would be worth consideration. Some
11 type of alternate funding would be worth consideration.

12 DELEGATE BYRON: All right, anyone else?
13 With that, I'll call the meeting to –

14 MR. STEPHENSON: I think in the real world,
15 we all deal with that when you put money out; you get one of
16 three things. You can get a debt instrument, you can get
17 equity, you get service. When you put money out, you've got
18 to get one of those three things. In many of these cases, we're
19 not getting any one of those three. We don't get a note, we
20 don't get a share of stock and we get the hope of some kind of
21 service but if we don't get it, we don't have a way to enforce
22 that. I would suggest that if at least for consideration, that
23 maybe the Committee needs to think about requiring an equity
24 position with this company because with equity comes control
25 and votes. Right now that's going to scare some folks away

1 but right now, you're putting the money out there without debt
2 instrument, equity or service. We're vulnerable for that. I
3 suggest we think about, I know it's new for the Commission,
4 with equity comes responsibility so it's different.

5 At this moment we are half way through \$100
6 million. Whatever we do, we got to get on with it.

7 DELEGATE BYRON: A good reason why we
8 start looking and evaluating that.

9 MR. NOYES: Ned and I have had
10 conversations about this several times or many times. We
11 don't require that service when we do an agribusiness project,
12 we don't require an industrial park to actually produce the
13 anticipated jobs when we provide the utility infrastructure
14 money for site work. There's no consequence to the grantee
15 and to our communities if something doesn't happen and we
16 believe as a Commission it should happen. Equity would
17 scare off, taking an equity position and diluting the value will
18 limit folks that are willing to do this. We won't get early stage
19 companies as easily.

20 SECRETARY CHENG: Companies looking for
21 funding –

22 MR. NOYES: Nothing pleases the DC area
23 with the investor more than knowing that you're not going to
24 dilute their interest.

25 SECRETARY CHENG: They have to get over

1 that.

2 DELEGATE BYRON: We just had a ribbon
3 cutting promotion that I was able to attend at the Center for
4 Advanced Engineering and Research. The thing that is good
5 about the projects that we've invested in, that this Committee
6 has invested in, the hard part of not being able to or the
7 important piece is the collaboration, so many groups of people
8 who are from industry and government and coming to a center
9 and it doesn't bring guarantees but it does bring promise and
10 because of that, there's been some very good success stories.
11 Babcock and Wilcox and some well known companies who are
12 experts in the nuclear field already are doing work with mini
13 reactors. I met a gentleman that flew in from Las Vegas for
14 this ribbon cutting from one of the local industries was doing
15 simulation modeling. That industrial park that we invested in
16 years ago and when we talk about investment in industrial
17 parks we were all sitting waiting for people like that to come
18 in. The traffic in and out of that place now or every single
19 room is occupied by companies already and it's full. The
20 research that's going on and they're bringing in people from as
21 far away as Japan and all over the country to see what they're
22 doing. Those people are getting an opportunity to see what's
23 happening. That's where you start to look for an immediate
24 result that we have invested long term and that's really
25 pleasing and significant. That's going to bring a good future.

1 All that investment and research is bound to bring people and
2 economic revitalization and that's what we're about. All right,
3 with that said, I have the last word. Thank you all for coming.

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5 PROCEEDINGS CONCLUDED

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