



*Approved June 4, 2002*

### **Executive Committee Minutes**

March 4, 2002; 10:30 am  
3 East Conference Room  
General Assembly Building; Richmond, Virginia

#### **Members Present**

Delegate Dudley  
Mr. Hopkins  
Delegate Johnson  
Delegate Kilgore  
Senator Ruff  
Mr. Walker  
Senator Hawkins

#### **Also Present**

Mr. Lawson

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**Senator Hawkins** opened the meeting at 10:30am. The Chairman stated that in the Bylaws the Executive Committee was granted the authority to make emergency expenditures and close deals when the full Commission is unable to meet and hear the requests.

**Mr. Ferguson** stated that he is not comfortable with the section of the Bylaws in and of itself as enough to provide you with the authority to make expenditures decisions. There may have been further direction given to the Executive Committee by the Commission over time and that would need to be looked into. He suggested that the Committee could review the requests before them and make any expenditure decisions subject to further discussions regarding their authority to do so.

**Senator Hawkins** responded that to do that would further delay the decisions. It is his understanding that the Commission gave the Executive Director and Chairman the authority to approve expenditures up to a certain amount.

**Mr. Ferguson** agreed with the Chairman and noted that the amount depends on the nature of the expenditure. He did not recall if that included money for projects.

**Senator Hawkins** stated that if these project requests are time sensitive and need to be acted on today, the Committee is going to have to act on them and explain to the Commission.

*Mr. Walker made a motion to approve the minutes from the September 17,2001 meeting of the Executive Committee.*

*Motion seconded*

*All in favor by aye vote*

*None opposed*

*Motion passed*

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**Mr. Currin** made his Executive Director's report to the Committee (attached).

*Mr. Walker made a motion to refer technology/e58-oriented requests to the e58 Task Force to ensure continuity.*

*Motion seconded*

*All in favor by aye vote*

*None opposed*

*Motion passed*

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**Senator Hawkins** requested that staff get a letter out to the localities served by the Tobacco Commission explaining the Commission funding intentions and guidelines so as to avoid the multitude of inappropriate requests that the Commission was beginning to experience.

**Mr. Currin** stated that the staff had two workshops, one in Southside and one in Southwest, to provide the localities with information on the grant application process and provide any assistance they needed with their applications. During these sessions the criteria and expectations of the Commission were made very clear.

**Senator Ruff** commented that he appreciated **Senator Hawkins's** concern that the Commission would receive an overwhelming amount of applications outside of the scope of the economic development fund if it didn't make its criteria clear. However, it was his belief that everyone should have the opportunity to submit an application and it is the responsibility of the Commission to make the funding decisions.

**Delegate Kilgore** responded that if the applicant feels their request is within the Commission's funding parameters they should be free to apply.

**Senator Hawkins** reiterated that the requests should be within the criteria set forth by the Commission.

**Delegate Dudley** asked for the differential between the localities' available allocation and the total requests.

**Mr. Currin** responded that the Commission had received requests totaling \$32 million. Southwest's allocation is approximately \$3 million and Southside has \$16.3.

**Ms. Wass** added that the Southwest requests totaled \$13.4 million.

**Senator Hawkins** asked how many of those projects could fall under the authority of the e58 Task Force.

**Mr. Currin** replied two major projects in Southside and two in Southwest.

**Senator Hawkins** stated that he is looking at the telecommunications requests as a different piece of funding all together.

**Delegate Kilgore** agreed.

**Senator Ruff** agreed to a degree but stated that there is an intermixing.

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**Mr. Clark Lewis** of Troutman Sanders Mays and Valentine made his indemnification report to the Committee. He stated that they are preparing to begin the 2002 indemnification program. The date mentioned in **Mr. Currin's** introductory remarks has been changed; they propose to mail out the verification forms April 25, 2002 with the deadline being May 17, 2002, allowing 22 days for submission of the form. Those forms that were submitted late last year for on average 2-4 days late, the addition of a few days should assist everyone in getting the forms in on time. TSMV will continue to include postage on the return envelopes to increase the likelihood that the forms will be returned in a timely manner. Also, they will coordinate publication of these deadlines with the local media. In the past years they have had 5 meetings, 3 in Southwest and 2 in Southside, to help with the forms. This year they will add an additional meeting in Southside.

**Mr. Currin** asked **Mr. Lewis** if they were still working with the Farm Services Agency offices within the localities.

**Mr. Lewis** confirmed that they were working with them and added that within the month they would be having a meeting with all the FSA officers and agents in Southside and Southwest Virginia. They will also be coordinating with Phase II.

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**Senator Hawkins** addressed the Special Projects requests before the Committee, first being the two from Bristol, U.S. Solutions Group, Inc and Magic Wand Car Wash Systems.

**Mr. Currin** let the Committee know that information on the projects was in their meeting folders. Each was for \$25,000.

**Delegate Johnson** noted that **Senator Wampler** was in support of these projects.

**Mr. Currin** clarified that the Commission would work with the City of Bristol on these projects; money would not go directly to the companies.

**Delegate Kilgore** added that both of these projects were adding jobs to the locality.

*Delegate Kilgore made a motion to approve the City of Bristol's request for \$25,000 for the U.S. Solutions Group, Inc and \$25,000 for Magic Wand Car Wash Systems.*

*Motion seconded*

*All in favor by aye vote*

*None opposed*

*Motion approved*

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**Delegate Kilgore** (acting as Chairman) introduced **Mr. Earl Reynolds**, Martinsville City Manager, to address their West Piedmont Business Development Center request.

**Mr. Reynolds** stated that the Commission had provided the City with funding for this project in the past. This project is hard-core economic development. It is the Small Business Incubator located in uptown Martinsville but will serve not only the City but also Henry and Patrick Counties. This project is regional and highly leveraged; the partners have included the Economic Development Administration, DBA, US Department of Agriculture, the City and the IDA. Originally, the Community College began plans for this project and completed the feasibility study; the City took it over from there. The building is being completely renovated for the small business program and they expect the property to be ready for at least an opening later this month. However, because of the delay in obtaining the EDA funds, one of the main sources of financial assistance, the original cost estimates were two years out of date by the time the money was available. Therefore, about 1/3 of the building (7000 square feet) which has been dedicated to small assembly, high tech manufacturing types of applications, is not included in the construction contract nor are two critical building mechanical issues, a 25 years old chiller and furnace that is over 50 years old. The most inexpensive time to do these renovations is when the contractor is on site, right now. The contractor is holding his prices for us, but if the City has to rebid this later on it could cost more. He then reinforced the benefits of this project to the community.

**Mr. Walker** asked if the other areas were supporting the project financially.

**Mr. Reynolds** replied that they are not. When the project began with the feasibility study in early 1999, some of the tragic job losses had not yet occurred. The project was able to begin under the auspices of the Martinsville IDA and the plan was to fund the project with federal, state, and IDA monies. As the community continued to lose jobs, it

became apparent to the City that just like them, their surrounding communities just did not have local funds available. Any available local funds are going to go first to education and then to fuel local economic development efforts, creating sites for new development and infrastructure.

**Delegate Dudley** commented that it looked like this project was dealing with a built-in shortfall. Did they know the total cost to begin with?

**Mr. Reynolds** responded that the time lapse created the differential. When the project began and the cost estimates were developed, they thought they would be able to get it all done. However, the two year delay in receiving the EDA funds, then the year of actually getting the project under contract and the time since then have added these costs to the project.

**Mr. Walker** asked if this project had received other Tobacco Commission funds.

**Mr. Reynolds** responded that the operations and maintenance stage of the project was assisted by the Commission but not the construction phase.

**Senator Ruff** asked how much the Commission had already put into it.

**Mr. Reynolds** stated that the Commission had provided \$114,000 for operations and maintenance.

**Delegate Dudley** noted that the financial information before them stated furniture, fixtures and equipment.

**Mr. Reynolds** responded that those things were purchased with the previous \$144,000 from the Commission.

**Mr. Don Lawson** added that the City is looking at about a \$30,000 increase if the project is delayed and possibly more additional costs if it goes beyond April 1. After this point the contract will be pulled and the project will have to put out for new bids for the remaining work.

**Senator Hawkins** asked if it would be helpful if the Commission provided a loan rather than a grant.

**Mr. Reynolds** responded that they currently did not have any loans in the program. The EDA has deed of trust on the building so for loans involve collateral they would have to go back to the EDA, which would cause additional delay.

**Delegate Dudley** asked what they got from EDA if it was not actually a grant.

**Mr. Reynolds** stated that it is characterized as a grant but that EDA has a 15-year deed of trust on the building in case the IDA or its successor, the Small Business Board, would

like to dispose of the building for anything other than an approved economic development project.

**Delegate Dudley** asked if they had received the Commission's initial funding.

**Mr. Reynolds** confirmed that they had. He added again that part of that funding was for operations and maintenance and included some of the up-fit items in the building, which they would have otherwise not been able to afford.

**Senator Hawkins** asked **Mr. Currin** for his recommendation.

**Mr. Currin** stated that he was in support of funding this request.

**Delegate Dudley** asked **Mr. Currin** if he thought the previous money was used for what it was supposed to be used for.

**Mr. Currin** replied that he thought it did.

**Mr. Reynolds** clarified that in the original application, they outlined the purchase of furniture, fixtures and equipment under operations and maintenance.

**Delegate Dudley** stated that he thought it sounded like a VDOT project and voiced his concern over the signing of the contract for less than the project was going to cost.

**Mr. Reynolds** responded that he understood his concerns. He added that EDA has a staff civil engineer who has to approve every document that dealt with this project. They were fortunate to have **Mr. David Reeves** on the staff who is a registered AIA and was able to deflect some of the problems with EDA on the project. However, they could not deflect them all. The additional costs on this project of the parts that they are currently building came from the mind of a civil engineer in Philadelphia. They could have done it better if they had total control over the project.

**Mr. Lawson** reiterated his support for the project.

**Senator Hawkins** spoke in support of the project as well.

**Delegate Kilgore** asked if this is just a band-aid, or will it really work toward fixing the project.

**Senator Hawkins** commented that most of what the Commission can do at this point is just a band-aid until the entire infrastructure within the regions can be changed with projects like e58.

**Senator Ruff** stated that he has a real concern with starting down the path of saying that they are going to let a community underbid something or risk underbidding something

and then come back to the Commission for the rest of the funds. According to the information provided to the Commission, the City knew in August that they were not going to be able to do everything they originally planned to do.

**Mr. Reynolds** responded that they awarded the bid in September 2001. The bids came in in August but then had to be submitted to EDA.

**Mr. Lawson** asked if the project was excess of \$1.2 million.

**Mr. Reynolds** stated that it was.

**Delegate Dudley** commented that he did not think it would be come a precedent setting decision and that he would vote for it but no more like it.

**Senator Hawkins** agreed.

**Delegate Johnson** asked how this project came to be heard by the Executive Committee.

**Mr. Lawson** responded that because of time constraints the project needed to be heard immediately.

*Delegate Johnson made a motion to approve the City of Martinsville's request for \$150,000 for the West Piedmont Business Development Center.*

*Motion seconded*

*All in favor by aye vote*

*None opposed*

*Motion approved*

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**Delegate Johnson** asked if this decision still had to come before the full Commission.

**Senator Hawkins** responded that they were thinking that the Executive Committee had the authority to make the decision. He added that he would like the record to reflect that the Office of the Attorney General has some concerns about this and the decision was made based on the Chairman's interpretation of the bylaws.

**Delegate Kilgore** directed the Committee's attention to the final request from the Town of Gretna for a \$100,000 loan.

**Senator Hawkins** addressed this request on behalf of **Ms. Carol Motley** who was unable to attend due to illness. Capps Shoes is a shoe manufacturing plant in Gretna Virginia. They have a contract with the federal government to produce about 58,000 pairs of military shoes a year. They need a loan of \$100,000 to purchase the equipment needed to retain the contract. Since the Commission is unable to grant a loan to a private entity it has been determined that the Pittsylvania Industrial Development Authority could loan them the funds and the Commission in turn would loan the money to the IDA. This

should not be a grant because it is not within the parameters of the Commission to purchase equipment for private businesses.

**Delegate Kilgore** clarified that the Pittsylvania County IDA would be paying the Commission back. He then asked if it was going to be an interest free loan.

**Senator Hawkins** responded that it was not going to be interest free.

**Delegate Kilgore** stated that it needed to be clear that the IDA would do all the legal work to develop the loan document.

**Senator Hawkins** agreed. He added that the Commission should set up a mechanism to handle these types of situations in the future because there are going to be requests that should not be granted funds but loaned.

**Ms. Wass** asked what the terms of the loan would be.

**Delegate Kilgore** stated that it would be \$100,000, five years and from there we need to make sure what the interest rate will be.

**Senator Hawkins** added that we could work that out with Pittsylvania County. Now we just need to get the authority from the Executive Committee to move forward with the process understanding where we want to end up.

**Delegate Kilgore** asked **Ms. Wass** if she needed any more information.

**Mr. Currin** stated that they would speak with **Ms. Carol Motley**.

**Senator Hawkins** added that they would get that done today.

**Delegate Kilgore** reiterated that in theory it is a \$100,000 for five years with some interest on the pay back to the Pittsylvania IDA.

**Mr. Ferguson** stated that the OAG will review the loan documents but not create them.

*Delegate Dudley moved to approve the \$100,000 loan to the Pittsylvania County IDA to in turn loan it to the Capps Shoe Company.*

*Motion seconded*

*All in favor by aye vote*

*None opposed*

*Motion approved*

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**Senator Hawkins** again stated that he would like the record to reflect the concerns of the Attorney General's staff regarding this approval process and the interpretations of the

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bylaws. The decisions of the Executive Committee were solely based on the Chairman's interpretation of the bylaws and not the Attorney's General's.

**Mr. Ferguson** responded that even if he ends up disagreeing with the Chairman's interpretation, he would try to offer a solution that may help back up the Committee.

*Delegate Kilgore made a motion to adjourn.*

*Motion seconded*

*All in favor by aye vote*

*None opposed*

*Motion accepted.*

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Submitted by **Carthan F. Currin, III**

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Executive Director of the Commission