

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

3                                   701 East Franklin Street, Suite 501  
4                                   Richmond, Virginia 23219

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8                                   **Executive Committee Meeting**

9                                   Wednesday, September 25, 2013

10                                   4:30 P.M.

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13                                   Holiday Inn Bristol Hotel & Conference Center  
14                                   Bristol, Virginia

1    **APPEARANCES:**

2    The Honorable Terry G. Kilgore, Chairman

3    The Honorable Frank M. Ruff, Vice Chairman

4    The Honorable Kathy J. Byron

5    The Honorable Charles W. Carrico, Sr. [by phone]

6    The Honorable Mary Rae Carter, Deputy Secretary of the

7            Department of Commerce and Trade

8    The Honorable Joseph P. Johnson, Jr.

9    The Honorable Daniel W. Marshall, III

10   The Honorable Donald W. Merricks

11   The Honorable Edward Owens

12   Mr. David S. Redwine, DVM

13   Ms. Cindy M. Thomas

14   The Honorable Thomas C. Wright, Jr.

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1 **APPEARANCES (cont'd):**

2 COMMISSION STAFF:

3 Mr. Timothy J. Pfohl – Interim Executive Director & Grants  
4 Program Administration Director

5 Mr. Ned Stephenson – Deputy Executive Director

6 Ms. Sarah K. Capps - Grants Program Administrator,  
7 Southside Virginia

8 Ms. Sara G Williams - Grants Program Administrator,  
9 Southwest Virginia

10 Ms. Carolyn Bringman – Performance Data Analyst

11 Ms. Stephanie S. Kim – Director of Finance

12 Ms. Stacey Richardson – Executive Assistant

13

14 SENIOR ADVISOR:

15 Mr. Neal Noyes – Senior Advisor

16

17 COUNSEL

18 Eric C. Ballou, Esq.

19 CHRISTIAN & BARTON

20 909 East Main Street, Suite 1200

21 Richmond, Virginia 23219

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1 DELEGATE KILGORE: All right, good  
2 afternoon. I'll call the meeting of the Executive Committee to  
3 order and ask Tim to call the roll.

4 MR. PFOHL: Delegate Byron?

5 DELEGATE BYRON: Here.

6 MR. PFOHL: Senator Carrico?

7 SENATOR CARRICO: By phone.

8 MR. PFOHL: Ms. Carter?

9 MS. CARTER: Here.

10 MR. PFOHL: Delegate Johnson?

11 DELEGATE JOHNSON: Here.

12 MR. PFOHL: Delegate Marshall?

13 DELEGATE MARSHALL: Here.

14 MR. PFOHL: Delegate Merricks?

15 DELEGATE MERRICKS: Here.

16 MR. PFOHL: Ms. Nyholm can't be with  
17 us today. Mr. Owens?

18 MR. OWENS: Here.

19 MR. PFOHL: Dr. Redwine?

20 DR. REDWINE: Here.

21 MR. PFOHL: Senator Ruff?

22 SENATOR RUFF: Here.

23 MR. PFOHL: Ms. Thomas?

24 MS. THOMAS: Here.

25 MR. PFOHL: Delegate Wright?

1 DELEGATE WRIGHT: Here.

2 MR. PFOHL: You have a quorum, Mr.  
3 Chairman.

4 DELEGATE KILGORE: Next we have the  
5 minutes from 8/13/13. Do I have a motion?

6 DELEGATE JOHNSON: So moved.

7 DELEGATE KILGORE: I have a motion  
8 and a second to approve the minutes. All those in favor say  
9 aye. (Ayes.) Opposed? (No response.) All right, Stephanie,  
10 you're up.

11 MS. KIM: The indemnification program is  
12 now over; it's been about a year and the final deadline has  
13 come and gone and there's a balance of \$574,515 in  
14 indemnification and we propose to transfer that for future  
15 distribution to the general fund.

16 DELEGATE KILGORE: So the motion  
17 would be today to approve a transfer of \$574,515 to  
18 Southwest, oh, to the general account.

19 MS. KIM: That's money that was left  
20 over.

21 DELEGATE KILGORE: Yes, so the  
22 motion is to move that.

23 SENATOR RUFF: So moved.

24 DELEGATE KILGORE: I have a motion  
25 and a second. All those in favor say aye. (Ayes.) Opposed?

1 (No response.)

2 MR. BALLOU: Mr. Chairman, point of  
3 order and I need to explain to you the process that is going on  
4 here. The Virginia General Assembly amended the Freedom of  
5 Information Act this past year to allow participation by  
6 electronic means remotely by your Committee members no  
7 more than two times per year as either an emergency or a  
8 personal matter. In order for that to happen, members of this  
9 body have to approve by resolution Senator Carrico's  
10 participation on this basis and record where he is  
11 participating from, which I think is the Grayson Prison. So  
12 Mr. Chairman, if you want to entertain a motion to that effect.

13 DELEGATE KILGORE: I will entertain a  
14 motion to allow Senator Carrico to participate by phone for a  
15 personal reason from Grayson Prison. I've got a motion and a  
16 second. All those in favor say aye. (Ayes.) Opposed? (No  
17 response.)

18 MS. KIM: The last motion is in regard to  
19 Deputy Secretary of Commerce funding for that position,  
20 funding for salaries and benefits. You'll recall a couple of  
21 years ago \$300,000 for funding her position and expenses. At  
22 the current rate, it looks like it will be about \$15,000 short  
23 through January 2014, the end of this administration. The  
24 motion is to transfer \$15,000 from the unobligated funds into  
25 the account administration for funding the salary and benefits

1 for the Deputy Secretary of Commerce and Trade for Rural  
2 Development through January 10<sup>th</sup>, 2014.

3 MR. OWEN: So moved.

4 DELEGATE KILGORE: I have a motion  
5 and a second. All those in favor say aye. (Ayes.) Opposed?  
6 (No response.) All right, next on the agenda is Ned  
7 Stephenson, the TROF report.

8 MR. STEPHENSON: Mr. Chairman, a  
9 month ago the Commission approved a TROF award in favor  
10 of the City of Bristol for the benefit of Virginia Intermont  
11 College in the amount of \$210,000. The staff went home and  
12 was preparing to issue that commitment when a news article  
13 appeared the next day that called in question the status of the  
14 Virginia Intermont College's accreditation. We were urged to  
15 stand still on issuing the documentation and we are still in  
16 that standstill mode. I'm bringing this up before the Executive  
17 Committee today to try to get some direction on whether we  
18 should continue to issue a commitment document or whether  
19 you wish to alter the course with Virginia Intermont.

20 DELEGATE KILGORE: It's my  
21 understanding Ned from receiving an email on the subject that  
22 moving forward here on appeal and they have raised  
23 substantially more money than was told to us last time. Can  
24 you hear Senator Carrico?

25 SENATOR CARRICO: (by phone) Yes.

1 Ask him to put the mike a little closer.

2 MS. PHILLIPS: Can you hear me? Thank  
3 you Delegate Kilgore. Yes, last August I informed you by email  
4 several Commission members from the region we lost our  
5 appeal to the SACS accreditors and we were notified of that on  
6 August 22<sup>nd</sup> and promptly notified you all that that had  
7 happened and that we were moving forward regardless. On  
8 the morning of August 23<sup>rd</sup>, we secured an injunction in  
9 federal court and the SACS folks went together with us at that  
10 time. Actually went together with us and requested an  
11 injunction and that was granted. And then on September 6<sup>th</sup>,  
12 we received a stay of that injunction to allow us to move  
13 forward with our plans during the course of the '13/'14 school  
14 year. I want to share with you an email and several options  
15 open to us. The one we are pursuing most aggressively is to  
16 merge with another institution.

17 DELEGATE KILGORE: Trying to keep the  
18 permanent jobs in the city?

19 MS. PHILLIPS: Yes, the conditions of the  
20 contract that we are negotiating and we're actually in  
21 discussion with four schools who are all very sympathetic to  
22 our situation; four schools who are also very sympathetic to  
23 the economic and the enterprise remaining in downtown  
24 Bristol and that's very important to us, to our board and  
25 supporters. So we're in discussions with four schools, three

1 very seriously and one will emerge from that process during  
2 the next eight weeks or so and we fully intend to move  
3 forward. And that's critical to the city of Bristol. As you'll  
4 recall, I mentioned before that the accreditation is not dealing  
5 with whether or not you're in operation, so it's not an  
6 impediment as to whether or not we're in operation. We prefer  
7 to have an accreditation through SACS for a number of  
8 reasons. To achieve that we will need to partner with another  
9 institution.

10 MR. PFOHL: Are you working with SACS  
11 right now.

12 MS. PHILLIPS: Yes, I'm writing them an  
13 update by our legal counsel to provide an update on the  
14 matter and we're doing that in the course of the injunction  
15 and school year, the injunction is critical for the school and  
16 the students.

17 DELEGATE KILGORE: Any questions?

18 SENATOR RUFF: This proposal before us  
19 at the last meeting, the city of Bristol was the responsible  
20 party to what. What in that proposal was required of Virginia  
21 Intermont?

22 MR. STEPHENSON: Mr. Chairman, I  
23 have some of those notes with me. It may take me a moment  
24 to find it but I think to quote the particulars that you seek.  
25 The approval you granted to the city for the benefit of included

1 a promise on the part of Intermont to create and maintain 24  
2 new jobs at certain salaries and to make a capital investment  
3 of \$3 million. They are the amounts that are in the contract  
4 that we're holding and awaiting your decision.

5 SENATOR RUFF: The follow-up question;  
6 I'm not sure at this point who your partner is going to be, if  
7 you have a partner are they going to be willing to make a  
8 capital contribution or commitment to the school, whether  
9 they're going to expand that or whether they're going to?

10 MS. PHILLIPS: The operations were not  
11 required for, the partner was for accreditation purposes. We  
12 are a corporation in Virginia.

13 DELEGATE CARTER: How much money  
14 have you raised?

15 MS. PHILLIPS: Some of it is pledged with  
16 four schools, and I understand their decision at this point is to  
17 be in Bristol in operation.

18 DELEGATE WRIGHT: At the last  
19 meeting, I asked a question the accreditation whether that  
20 would be lifted and I understand what you're saying today it's  
21 all involved with a court action?

22 DELEGATE KILGORE: The accreditation  
23 is in the hands of the court.

24 DELEGATE WRIGHT: This reminds me  
25 of the situation with St. Paul College. As I recall, St. Paul's

1 was in the same situation with the SACS accreditation and  
2 they were planning on merging and we placed some conditions  
3 and the accreditation had to be reversed and approved and so  
4 forth. That's the only thing I see. I don't know how we can go  
5 forward at this point without specifying some conditions to go  
6 ahead with this in light of the fact that accreditation was  
7 reversed and then losing the appeal and is involved with court  
8 action.

9 DELEGATE KILGORE: It may be  
10 premature for us to, it's a little different here. Due to the fact  
11 that with the injunction and if we do that and this is what  
12 they could do if they merge but if it just doesn't work out the  
13 city of Bristol is on the hook. That's a different situation.

14 MS. PHILLIPS: Last night the city council  
15 of Bristol approved funds for VI to pursue this, so that's  
16 important.

17 DELEGATE MARSHALL: Is anyone from  
18 the city of Bristol here?

19 DELEGATE KILGORE: We're right in the  
20 city of Bristol.

21 DELEGATE MARSHALL: So at the  
22 council meeting last night, this was approved by the city  
23 council of Bristol?

24 MS. PHILLIPS: Yes, \$22,000 that had  
25 been pledged to this drive.

1 MR. OWENS: How much was our grant?

2 MR. STEPHENSON: \$210,000.

3 MR. OWENS: Well is anything we said  
4 before different?

5 DELEGATE KILGORE: I think they have  
6 to move forward with their investments.

7 MS. PHILLIPS: We are legally obligated  
8 to pay the city of Bristol back by the terms.

9 MR. OWENS: Three million that has  
10 been raised?

11 MR. STEPHENSON: The \$3 million  
12 commitment under the standard language in the TROF  
13 contract it provides that the taxable assets of record must  
14 increase by that amount in the name of Virginia Intermont  
15 College.

16 MS. PHILLIPS: We own taxable assets  
17 and the contract allows for improvement.

18 DELEGATE KILGORE: Anyone have any  
19 questions?

20 MS. THOMAS: You mentioned or if I  
21 heard it right the accreditation would not make any  
22 difference?

23 MS. PHILLIPS: The accreditation is not  
24 required to operate in the Commonwealth of Virginia. The  
25 State Council of Higher Education authorizes colleges and

1 universities to operate in the state. We are a 501(c)3 not for  
2 profit corporation in the Commonwealth of Virginia as all of  
3 the private colleges are as far as I'm aware. The accreditation  
4 is sought for quality. You'll recall that we have 81 of the 83  
5 standards we've met, our academic standards are fine; we did  
6 fail two standards. We want regional accreditation because  
7 that is the most secure and accepted way to gain financial aid  
8 for the students. There are other ways, so the accreditation,  
9 we want to have open financial aid for the students.

10 DELEGATE KILGORE: Are you still  
11 there?

12 SENATOR CARRICO: [by phone] I'm  
13 listening. I'm having a little hard time hearing but what you're  
14 looking at is \$3 million because of the match, 24 jobs created.

15 MS. PHILLIPS: Senator Carrico, I  
16 apologize if you can't hear.

17 DELEGATE WRIGHT: I just want to say  
18 as I recall St. Paul's went through a similar project and there  
19 was an injunction, I believe, went to court and then finally  
20 didn't receive their accreditation. I don't see what's wrong  
21 with doing the same thing here and at some point in time if  
22 you don't receive the accreditation emerge with the other  
23 institution, we need to make a decision.

24 DELEGATE KILGORE: It may be  
25 premature at this time.

1 DELEGATE MARSHALL: Ned, St. Paul's  
2 did not, did they go through Southside Economic Development  
3 or St. Paul's made the request?

4 MR. PFOHL: I think it was Southside.

5 DELEGATE MARSHALL: Then they  
6 wouldn't have had the guarantee from the locality, correct?

7 MR. PFOHL: Correct.

8 DELEGATE MARSHALL: So the  
9 difference here is that the locality is on the hook or city of  
10 Bristol.

11 DELEGATE WRIGHT: Whatever you  
12 decide is fine with me, I was just making a point.

13 MS. PHILLIPS: I knew the people at St.  
14 Paul and they tried to do, initially tried to merge with a public  
15 institution in the Commonwealth and that became  
16 problematic and involved and then the legal action and by the  
17 time all that played out, they were running low on time and  
18 tried approaching, we still have some options to pursue.

19 DELEGATE KILGORE: Any other  
20 questions? We've got to move on.

21 MR. PFOHL: Mr. Chairman, I think what  
22 your staff is looking for is affirmation that the TROF dollars to  
23 be released now and we'd issue a grant agreement releasing  
24 funds versus any other options. The grant is approved and if  
25 the Executive Committee affirms it.

1 DELEGATE MARSHALL: So moved.

2 DELEGATE KILGORE: Do we have a  
3 second?

4 MR. OWENS: Second.

5 DELEGATE KILGORE: We have a motion  
6 and a second. All those in favor say aye. (Ayes.) Opposed?

7 DELEGATE WRIGHT: No.

8 MS. THOMAS: No.

9 DELEGATE KILGORE: Thank you. Ned,  
10 let's get on then.

11 MR. STEPHENSON: Mr. Chairman, the  
12 Committee is aware we are now operating under a new TROF  
13 policy which was from August and is working well. On page  
14 32 of your book, there's a list of all the TROF transactions that  
15 have been executed under that pilot policy since August 13<sup>th</sup>.  
16 We can answer questions that you might have on that. On the  
17 next page, if you will, at page 33 there's a default summary  
18 and a couple of highlights. The next page on the footing page  
19 34 it shows that we have put out today 127 TROF contracts  
20 some \$70 million and a promise of 13,000 jobs and \$4 billion  
21 in capital investment. And these contracts are in various  
22 states of maturity. I just thought it was worth mentioning to  
23 the Committee that you have considerable dollars  
24 outstanding.

25 DELEGATE KILGORE: So basically, most

1 of those do not end up in default, is that what you're saying?

2 MR. STEPHENSON: Most do not end up  
3 in technical default and we'll get into that in detail in a few  
4 minutes.

5 DELEGATE KILGORE: That's pretty  
6 good, 127 and capital investment almost \$4 billion.

7 MR. STEPHENSON: Mr. Chairman, to  
8 move on I need to present to you today several of the TROF  
9 contracts for which I need a decision from the Committee as to  
10 the disposition of these TROF contracts. Before I present  
11 them to you and if you would permit, I want to give you a very  
12 high altitude overview of what we're dealing with when we  
13 consider these contracts. Carolyn Bringman is going to help  
14 me with that, so Carolyn if you would advance to the next  
15 slide.

16 I'm going to give you a little bit of history  
17 just to kind of set this up. Of the last fifty TROF contracts  
18 that reached a maturity date, 27 of them failed to meet their  
19 promised obligation and made a refund to cover the shortfall  
20 what they promised and did not meet. You'll notice over half  
21 of them failed to meet the promise. They did pay the money  
22 and cured that and those 27 are not in default. We asked  
23 them to pay and they did. Some of them reluctantly but all of  
24 them with a little bit of correction and pressure they stepped  
25 up and paid it. Of those 27 grants, that was a refund of \$2.7

1 million out of the \$11.6 that you granted to them.

2                                   Next slide. They promised 6,900 jobs  
3 and they delivered 4,831 so you see the shortfall. That's your  
4 investment numbers that were promised and the number  
5 actually delivered.

6                                   DELEGATE KILGORE: You're closer on  
7 investment than on jobs.

8                                   MR. STEPHENSON: That is correct.  
9 Next slide. That is self-explanatory and the point is that  
10 almost every one was hit at one point or another it happened  
11 some worse than others. Next. I wanted to give you a little bit  
12 of look into the future. In the next 36 months, you have 68  
13 contracts that will reach their maturity date and look under  
14 the microscope to see if they performed or not. We granted  
15 \$47 million and 69 contracts, 6,000 jobs promised, \$2 billion  
16 in capital investment, every one of those. We want all of them  
17 to perform as agreed. If the past is any indication, somewhere  
18 near half of them will fall short and we'll have to rectify that  
19 one at a time.

20                                   With that, Mr. Chairman, several of the  
21 TROF contracts on an individual basis. This is a particular  
22 grant that was made in Henry County. You can see the stats  
23 before you as to what the agreement was and the date  
24 delivered and the promises. In this particular case, the jobs  
25 promised was overstated in the beginning and the company

1 confessed to that and it didn't work out as they planned. They  
2 do have a \$100 million on the ground in Henry County that's  
3 not going anywhere. They asked me for an extension of time  
4 and I indicated to the company that we would not make any  
5 extension of time unless you would empower us to do that.  
6 I'm sure they cured the overstatement of jobs. Yesterday, I  
7 received a check in the mail for \$309,000, which cured the  
8 overstatement and buys down the promise to a more realistic  
9 number for which they're asking an extension. I'm asking the  
10 Committee today if they would consent to an extension for this  
11 company to give them time to reach their goal.

12 DELEGATE MARSHALL: Ned, they sent  
13 \$309,000 and that bought the job promises from 150 down to  
14 70? Seventy is a realistic number?

15 MR. STEPHENSON: Yes, which they  
16 believe they can meet and the evidence is that that's likely to  
17 occur.

18 DELEGATE MARSHALL: They've already  
19 spent \$100 million?

20 MR. STEPHENSON: It's \$82 million  
21 approaching \$100 million now. The commitment was for \$100  
22 million so that's going to happen or already has. That's  
23 routine and we gave them a six month extension some time  
24 ago and staff is empowered only to grant one. That will be for  
25 six months.

1 DELEGATE MARSHALL: How long do  
2 you want this?

3 MR. STEPHENSON: Eighteen months.

4 DELEGATE KILGORE: Do I have a  
5 motion? It's been moved and seconded to extend number one  
6 to eighteen months. All in favor say aye. (Ayes.) Opposed?  
7 (No response.)

8 SENATOR RUFF: Mr. Chairman, a  
9 clarification, is that a total of eighteen?

10 MR. STEPHENSON: Eighteen months  
11 from the contract end date of December 31, 2012. Mr.  
12 Chairman, I have about five or six others and if you'd permit,  
13 I'd like to run through them fairly quickly so you'll understand  
14 what we're up against and then we'll come back and take  
15 them one at a time, peel them down. Each one has an  
16 individual here that probably will want to speak to the grant.  
17 I thought it would be helpful to the Committee for the  
18 Committee to know what's on the table as you begin your  
19 process.

20 The facts are before you and this was  
21 grant 170 and the contract end date of November of '12, 51  
22 jobs promised 31 delivered. The investment is there before  
23 you and the refund due is also before you and I want to give  
24 you a couple of comments real quickly on the status of this  
25 grant.

1 DELEGATE KILGORE: Are we supposed  
2 to know what counties these are from?

3 MR. STEPHENSON: If you'll permit Mr.  
4 Chairman, I'm going to run through these very quickly, their  
5 names and everything else. I want you to get the facts of the  
6 case unclouded by who it is. This company has shuttered and  
7 folded and there are alleged restructuring efforts occurring.  
8 Payment was demanded in July and I can't get them to pay.

9 Next, this was the grant of 390, 118 jobs  
10 that have occurred out of 150 and met the capital investment  
11 promise. There's a refund due and this particular company is  
12 shuttered and gone. There's a shortfall in jobs and there's a  
13 balance due and this particular company is gone.

14 DELEGATE JOHNSON: The first group,  
15 is that the first group?

16 DELEGATE KILGORE: He's not telling us  
17 the company name.

18 MR. STEPHENSON: I'm thinking you're  
19 going to have a lot of questions about each one.

20 DELEGATE KILGORE: He wishes to be  
21 fair.

22 DELEGATE JOHNSON: Did he say it was  
23 eighteen months?

24 DELEGATE KILGORE: We're going to get  
25 to that one.

1 MR. STEPHENSON: This one is a  
2 \$60,000 grant, there's a refund due and we've not been able to  
3 find any jobs or any investment in this particular one. The  
4 company failed and the county has filed suit against the  
5 company and obtained a court judgment for the amount of the  
6 grant. We have not demanded that payment yet from the  
7 county but there is a judgment lien on record that the county  
8 filed and await your instruction.

9 Next, this is a grant of \$450,000 and the  
10 contract date is not up yet, another few months yet to run.  
11 We always check these at the midpoint of the contract to see if  
12 there's any performance or any material progress. No jobs, no  
13 investment yet and a refund due of \$450,000, a couple of  
14 months yet to go but no performance so far.

15 This is number six, \$235,000 grant,  
16 matured in March, nine jobs present out of 84 promised. A  
17 half million capital investment where three and a half  
18 promised. The entire refund is due because your contract has  
19 a \$1 million minimum capital investment and all the money is  
20 due and there's no stipulation for that.

21 This is a \$283,000 grant matured on  
22 March 12. 46 jobs found and promised with 70, \$2.9 capital  
23 against \$5 million and the pro-rata calculator refund would be  
24 \$157,000. This is a good strong company and is still in  
25 operation. We've been working toward a resolution we cannot



1 extended for eighteen months. The town has put in an  
2 additional \$196,000 and a new company has it now and they  
3 have invested \$480,000 since May.

4 DELEGATE KILGORE: Is that on top of  
5 the \$3.8?

6 DELEGATE JOHNSON: Yes, they have  
7 paid the investment. That's been delivered more than they  
8 promised, \$180,000. They are short twenty jobs. The amount  
9 due is \$34,000 which is a very small amount. The town of  
10 Marion has already contributed over \$100,000 to keep the  
11 new tenants going and no reason why we can't do this.

12 DELEGATE KILGORE: So we would be  
13 because of a belief they will meet the job requirements?

14 DELEGATE JOHNSON: Yes, sir.

15 DELEGATE KILGORE: Senator Carrico,  
16 you can vote.

17 SENATOR CARRICO: (by phone) All  
18 right.

19 DELEGATE KILGORE: You may want to  
20 vote on this, this is in Marion. Delegate Johnson moved to  
21 extend this for eighteen months.

22 SENATOR CARRICO: (by phone) I'll  
23 second that.

24 MR. STEPHENSON: That's all right, Mr.  
25 Chairman, but it just occurred to me the entity with whom the

1 contract is issued is gone, bankrupt and I don't know where  
2 they are; they may not exist. I don't know who the new entity  
3 is to whom we look to to make the promise.

4 DELEGATE KILGORE: Can you prepare  
5 another agreement, a TROF agreement? Counsel can we  
6 prepare the TROF agreement with the town of Marion and the  
7 new, how do we do that?

8 MR. BALLOU: I think you could but I  
9 think you would want to maybe have the new company go  
10 through the TROF procedure and the same TROF procedures  
11 that you would use to make the TROF grant in the first place.  
12 I don't know if that sort of due diligence with an application is  
13 done so the staff of the Commission would have before it the  
14 information you currently have before you make the TROF  
15 grant.

16 SENATOR CARRICO: (by phone) That  
17 money is on the ground now?

18 DELEGATE KILGORE: Yes.

19 MR. HEATH: The new company holds  
20 title to the property. When we were first contacted First Fruits  
21 was going to be restructured. They failed and this new  
22 company came in and they've been new on the ground since  
23 May of 2013. Since then they've invested \$480,000 as the  
24 Delegate pointed out and they own the assets between them  
25 and the lienholder they're working to purchase and the

1 property is owned by a local businessman.

2 MR. OWENS: Any language in the  
3 contract or the TROF agreement, does that talk about or is  
4 this transferrable?

5 MR. BALLOU: I haven't seen the  
6 agreement. I think you would want to make it's transferrable  
7 by all the parties involved; obviously the town of Marion and  
8 there would be a substitute obligor.

9 DELEGATE KILGORE: Our agreement is  
10 with the town of Marion.

11 MR. STEPHENSON: It's a three party  
12 agreement. Mr. Owen, the agreement is clear that successors  
13 assigned, heirs or whatever the terms must be reported to the  
14 Commission in writing and approved thereby before they can  
15 be included as part of the contract. The reason we do it is we  
16 don't know unless we are told who's running things. All we  
17 have is First Fruits and they are gone. That's the only party  
18 we know of unless we're told. In these situations if the  
19 community will come forward with a brand new TROF request  
20 and that the proceeds of the new TROF deal to fund the old.  
21 Then we have a clean contract with a live party and fresh  
22 dates and fresh approval and everyone knows where we are.

23 DELEGATE KILGORE: If we go back to  
24 the TROF the executive director would approve.

25 MR. STEPHENSON: That is correct, Mr.

1 Chairman, assuming the new application meets the standards  
2 of the TROF program. We won't know it until it's presented.

3 SENATOR RUFF: Is there a requirement  
4 in the TROF program that there be a capital investment?

5 MR. BALLOU: Obviously in the original  
6 one, that was a factor in how much money would be received.

7 SENATOR RUFF: How are you going to  
8 factor it now?

9 MR. BALLOU: The TROF contract  
10 requires a capital investment and a promise of \$1 million or  
11 more not sooner than the approval date of the contract. Prior  
12 investments do not count and the executive director can  
13 approve that. In this particular case if you want to count  
14 historical investment that would require Commission  
15 approval.

16 SENATOR RUFF: It seems to me the  
17 proper motion is the Commission give TROF the latitude to  
18 consider that previous investment.

19 DELEGATE KILGORE: We would have to  
20 do that. I think that would have to be in the motion if you  
21 would make that. Delegate Johnson made the motion and  
22 Senator Ruff seconded the motion.

23 DELEGATE JOHNSON: We just don't  
24 want this business to go away.

25 MR. HEATH: As the delegate said, at

1 Fresh Fruits we don't want it to be gone and the town of  
2 Marion understands our responsibility to bring this to fruition  
3 for all of us.

4 MR. STEPHENSON: As I understand the  
5 essence of the motion is that there is to be a new TROF  
6 application subject to the TROF policy with the exception of  
7 previously acquired capital assets will be credited to the new  
8 company in satisfaction of its capital investment obligation.

9 DELEGATE KILGORE: Ed?

10 MR. OWENS: New costs.

11 DELEGATE KILGORE: So we don't have  
12 to do the eighteen months, how long would that be?

13 MR. STEPHENSON: The standard clock  
14 is three years.

15 DELEGATE KILGORE: Let's say two  
16 years. Do you want to do two years? Let's amend that to say  
17 also with the \$3.8.

18 MR. OWENS: That will satisfy.

19 MR. STEPHENSON: Will that work for  
20 you?

21 MR. HEATH: Very much so. We were  
22 discussing here or the question I have we were discussing on  
23 the job but also the jobs previously committed count toward  
24 that or would they have to come back and start adding the 51  
25 jobs?

1 DELEGATE KILGORE: Count the jobs,  
2 creating the jobs, 31 jobs. I have a motion and a second. All  
3 those in favor say aye. (Ayes.) Opposed? (No response.)  
4 Ned?

5 DELEGATE JOHNSON: Thank you, Mr.  
6 Chairman.

7 MR. STEPHENSON: On the screen, Mr.  
8 Chairman, is Mecklenburg County. I have taken the position  
9 with all of these TROF contracts that the Commission is not  
10 demanding repayment from the county as long as the county  
11 is showing due diligence in its efforts to collect what is owed.  
12 The county in fact has been diligent with the company. The  
13 company, I believe, is not bankrupt however it has been  
14 represented to us by the county that they have investigated  
15 and that there are no assets to be found and that chasing the  
16 company is likely to be futile.

17 DELEGATE KILGORE: In our books,  
18 \$150 million but it's only \$1.5?

19 MR. STEPHENSON: There may be a  
20 decimal out of place, that \$1.5 obligation was met. The  
21 question before the Committee today is who should bear the  
22 risk of a corporate failure, the Commission or the community.  
23 The contract says the community bears that risk and I'm  
24 before you today to ask you if you want to enforce that or  
25 wait?

1 DELEGATE KILGORE: Didn't we have  
2 some other counties before us that in the past where there  
3 was a bankrupt company we asked them to pony up?

4 SENATOR RUFF: We might be able to get  
5 an answer from Mr. Carter.

6 MR. CARTER: Yes, sir. The company  
7 does not have any assets per se to meet payback and those  
8 assets have been bought by another firm and I'd like to do the  
9 same thing if we would try to make a new TROF agreement  
10 with the new firm. They have only hired back 25 of the people  
11 and at this time they are looking to continue to expand in the  
12 facility. We'd like to change our TROF agreement to the new  
13 company. They have been purchased by another company,  
14 the assets, the liabilities were not. It's all in the same process,  
15 same building, same equipment and many of the same  
16 employees.

17 DELEGATE JOHNSON: Mr. Chairman, I  
18 would move that we retain terms.

19 DELEGATE KILGORE: Two years or  
20 three years?

21 MR. CARTER: Two years.

22 DELEGATE KILGORE: As long as we're  
23 trying that makes sense. So I have a motion and a second.  
24 All those in favor say aye. (Ayes.)

25 SENATOR CARRICO: (by phone) Aye.

1 DELEGATE KILGORE: Opposed? (No  
2 response.)

3 MR. STEPHENSON: Next, this is a  
4 company that came to Washington County for various reasons  
5 and the company failed and they did not perform as you can  
6 see before you and there is a \$60,000 obligation again and I  
7 have not made a demand of Washington County that they pay  
8 this, saying to the county as long as you are diligently seeking  
9 action from the company, we'll stand by and let that process  
10 run. The county has been diligent and done anything I ask  
11 including file suit against and obtain a judgment. There is a  
12 judgment lien of record in favor of the county and the  
13 company is gone and the question arises whether the county  
14 should bear the risk or the Commission.

15 DELEGATE KILGORE: Any hope of  
16 collecting?

17 MR. STEPHENSON: We have some folks  
18 here.

19 MR. LYLE: Mr. Chairman and members  
20 of the Committee. My name is Joe Lyle and I'm an attorney  
21 for the Industrial Development Authority in Washington  
22 County. The assets of the company have all been foreclosed  
23 upon. In my estimation and based on our investigation, there  
24 is no hopes of collecting anything from this company, not a  
25 chair, not a computer, nothing. The principal of this company

1 or the gentleman was in business for several years and it was  
2 a small family owned company filed a personal chapter 7  
3 bankruptcy petition, which is not relevant here but just to let  
4 you know that it trickled down to the family as well.

5 DELEGATE KILGORE: Thank you. Any  
6 other questions?

7 DR. REDWINE: This began in 2009? Is  
8 that correct?

9 MR. STEPHENSON: Yes, sir.

10 DR. REDWINE: Is this the Washington  
11 County IDA or EDA signed this as the guarantor on this  
12 contract?

13 MR. LYLE: That's correct and I will point  
14 this out, I think in terms of the jobs and those are evidenced  
15 by the VEC records. With respect to investment, we don't  
16 know what was invested because we were never able to obtain  
17 any information from the company. We suspected there may  
18 have been a capital investment but we never were able to  
19 obtain information from the company.

20 DR. REDWINE: This is probably not  
21 necessarily relevant but just to give me an idea of how much  
22 they have tried, how long roughly would you say after  
23 September of '09 did this company actually exist and try to  
24 operate in Washington County?

25 MR. LYLE: I guess it would be an

1 estimate but it would be at least two years. This is a company  
2 that existed for a long time in the county. What they had done  
3 was attempt to go through a significant expansion. This  
4 involved the purchase of additional property and was related  
5 to the pharmaceutical industry if I'm not mistaken. This was  
6 something that the chairman of the company, a doctor, a  
7 chemist, and he was in the business of packing  
8 pharmaceuticals and he was trying to get into the  
9 manufacturing of pharmaceuticals. Unfortunately for he and  
10 his family that venture failed.

11 DELEGATE KILGORE: In the past what  
12 have we done in this situation?

13 MR. STEPHENSON: Historically the  
14 contract did not bear what we call a county liability clause and  
15 where there was a corporate failure we had no recourse to the  
16 county and we had not pressed that. We had a lot of money  
17 going out the door to companies that quickly failed and we  
18 instituted the counter liability clause to induce the county to  
19 look at it hard before they gave the money. This is a hard  
20 case, Mr. Chairman. The counties are trying to do a good job  
21 with investment and court the companies and they look good  
22 on the front end and if they give the money and it goes bust  
23 the question is who is going to take that hit. It's a hard  
24 question.

25 DELEGATE KILGORE: Have we made

1 any other counties?

2 MR. STEPHENSON: Yes, all of the  
3 counties on that list that you saw at one time or another have  
4 paid up. We don't always know whether they county got the  
5 money from the companies or not. The companies are not  
6 obligated to the Tobacco Commission, the county is. So we  
7 look to the county and they can either collect it if they want to  
8 or let it go if they want to. So yes, almost all the counties  
9 including Washington County have taken a bullet in the past.

10 DELEGATE KILGORE: All right,  
11 questions?

12 DELEGATE MERRICKS: Mr. Chairman,  
13 some of these counties or companies are going to have the  
14 same story, I think going forward with recovering from  
15 bankruptcy. I know what it's like to take a hit so we have  
16 fiduciary responsibilities as Commissioners because we have  
17 contracts and agreements and we've had counties and cities  
18 pay back already and to me it's a sad situation and I think we  
19 have no choice but to hold up to the contract. The question is  
20 would we have granted this TROF had the locality refused to  
21 be obligated for it, I think the answer would be no. I'm asking  
22 what has changed. It's a risk and everybody hopes everybody  
23 makes it but we have responsibility to look after the funds  
24 that we're entrusted with as well. Do we need a motion to live  
25 up to the contract? I don't know. It is what it is.

1 MR. STEPHENSON: Counsel, can you  
2 help us with that?

3 MR. BALLOU: I think that would be in  
4 keeping Delegate Merricks with what the Commission's past  
5 policies have been in regard to the TROF enforcements and  
6 where that is in there in terms of the overall position of the  
7 Commission and the Executive Committee has taken has been  
8 to enforce the agreement.

9 MR. STEPHENSON: For what it's worth,  
10 Mr. Chairman, I need the weight of the Commission's will  
11 behind my instructions and I need it to be of record what you  
12 want me to do because that's what I'm going to do and it's  
13 going to be unpleasant sometimes.

14 DELEGATE KILGORE: All right.

15 DELEEGATE MARSHALL: Do you need a  
16 motion to enforce the contract?

17 DELEGATE KILGORE: Do you need a  
18 motion to enforce the contract? What are you asking for?

19 MR. STEPHENSON: I have taken the  
20 position all along that we're at this to enforce the contract and  
21 we do that. And this is not true in the case of Washington  
22 County in this matter. We often encounter resistance and  
23 non-payment and the tools available to us to collect these  
24 items, I know how to collect it and I've done it before but  
25 you're not going to like it because it's pretty messy.

1 MR. LYLE: Mr. Chairman, if I could say  
2 one thing. I hear what the Committee is saying and can see  
3 the handwriting on the wall so to speak or at least when I read  
4 the agreement, the spirit of that agreement is that we realize  
5 we have an obligation to repay and frankly the IDA is ready,  
6 willing and able to do that but on the other end of that  
7 agreement there is I believe an understanding of thinking that  
8 even though we have an obligation to repay, we have a remedy  
9 to ourselves that is to collect from the company. We tried  
10 that. What we're submitting to you is that no matter how  
11 much we try we never collect it from this company. Is it the  
12 IDAs fault? Or of course it's not but we did sign the  
13 agreement. We'd ask you take that into consideration. We've  
14 taken every step we can take to try to collect this money. We  
15 obtained a judgment and it's recorded; it lives for twenty  
16 years. We'll never see a single dollar of that because this  
17 company now is no more. We'd ask the Commission to  
18 consider that.

19 DELEGATE JOHNSON: Mr. Chairman,  
20 may I ask a question?

21 DELEGATE KILGORE: Yes.

22 DELEGATE JOHNSON: Who signed the  
23 contract?

24 MR. STEPHENSON: It's a three party  
25 agreement between the Tobacco Commission, the corporate

1 entity and in this case I believe it was the IDA. To lend some  
2 balance to this Mr. Chairman, there is a contract and we try to  
3 enforce that and it is a little hard for our partner in economic  
4 development to bear all of the burden of the failed company  
5 for what it's worth.

6 MR. LYLE: I'd like to point out that the  
7 IDA also provided \$60,000 so the total grant to the company  
8 was \$120,000.

9 MR. CANNON: Mr. Chairman, I'm not on  
10 the Executive Committee but as far as the IDA and I know  
11 how much trouble it is to get out and try to get companies to  
12 move to your area, it's pretty hard to put all of these things  
13 together. It may be a case they're not as good managers of the  
14 moneys as some CPA firm might be. I think sometimes these  
15 things slip through the cracks and they are good companies  
16 trying to create jobs but these IDAs often have budget  
17 restraints, I know in Halifax we do. I think there ought to be  
18 some type of thing that says some IDA signs an agreement  
19 and I understand contracts, I've been dealing with them all my  
20 life. There ought to be something that says they have really  
21 tried to get the company who has gone bankrupt to get all the  
22 funds they can out of it, the IDA really can't afford out of their  
23 budget to be hit with \$100,000 or \$50,000. I'm just saying it's  
24 a big concern and it really worries me.

25 DELEGATE KILGORE: Thank you and

1 that's true.

2 MR. CANNON: I'm only voicing my  
3 opinion.

4 MR. OWENS: Mr. Chairman, are we  
5 going to move on, do we need a motion? The promise was 18  
6 new jobs created and the promise was \$2.5 million investment  
7 and there was no invested. So I move we require the company  
8 to, Washington County to live up to the contract.

9 DELEGATE WRIGHT: Second.

10 DELEGATE JOHNSON: Mr. Chairman, I  
11 agree with Mr. Cannon that the integrity of this Commission  
12 and the contract we can't overlook. As sad as it may be, the  
13 contract was signed and I think we have to honor it. I wish  
14 there was some way that we could ease the pain a little bit, I  
15 don't know if it has to be all and I don't know if they've agreed  
16 to negotiate or not.

17 DELEGATE KILGORE: The motion before  
18 us is all ---.

19 MR. LYLE: Mr. Chairman, would the  
20 Committee consider half?

21 DR. REDWINE: Briefly, we've all been  
22 through these in our counties and I have the unpleasant  
23 circumstance of having to vote in the last year to enforce one  
24 of my own in my own county, which I did. Mr. Stephenson  
25 was nice enough to be able to work with the county to split

1 that up over three years and let them pay it in small amounts  
2 and that didn't affect the budget but so bad. This particular  
3 decision to me today is not so much about this one project  
4 TROF agreement as it is about the other 126 TROF  
5 agreements that we have. Some of them may be a whole lot  
6 more money than this, the circumstances are all different.  
7 Some people meet part of the goal or a percentage of the goal  
8 and some people none. I would agree with Mr. Owens when  
9 they meet none of the goals and we're on the hook for this  
10 thing to enforce it and we're reviewed by judicial review to see  
11 if we're doing our job, I would back that.

12 DELEGATE KILGORE: Are you asking or  
13 do you want staff to maybe do it in payments?

14 DR. REDWINE: I don't mind. I think  
15 maybe Washington County stands ready to make the  
16 payments or that's the decision if they can do it and I'm  
17 certainly not against payments if any county with any  
18 agreement when it comes to that it makes it easier on them as  
19 far as the obligation and the amount, I would support the  
20 motion.

21 MR. STEPHENSON: Mr. Chairman,  
22 absent an objection, the staff has always been amenable to  
23 payment terms.

24 DELEGATE KILGORE: I don't think the  
25 motion has an objection there. I have a motion and a second,

1 any more discussion? All those in favor say aye. (Ayes.)  
2 Opposed? (No response.)

3 MR. STEPHENSON: Mr. Chairman, we  
4 made a grant some time ago of \$250,000 and the TROF has  
5 not run out.

6 DELEGATE KILGORE: This is Lee  
7 County?

8 MR. STEPHENSON: Yes. It was our  
9 practice to make a midpoint or eighteen month check. The  
10 contract provides that if there's not at least 25% achievement  
11 on either the job or investment that is in event of default, that  
12 being the case with this one, it's a midpoint and no jobs and  
13 no investment. We've asked for the money back and I think  
14 there's some folks from Lee County here who may want to  
15 speak.

16 MR. PFOHL: First of all, there's a typo on  
17 this slide, the contract is 12/31/14 not 13.

18 MR. JAMES: We're about eighteen  
19 months in right now rather than 33. I want to talk about  
20 some of the job losses we had in Lee County this year. Only  
21 two percent of our workforce has been deployed so far this  
22 year. The IDA we're very passionate about new industries in  
23 Lee County creating new employment opportunities. As most  
24 of you know our hospital is closing next week and that's  
25 almost 170 jobs all told and some of them have been let go

1 previously. This project has not moved at the pace we  
2 anticipated or the pace we wanted it to. We probably wanted  
3 it to move at 40 miles an hour and it's moved about 20 miles  
4 an hour and five miles an hour. This is my first deal as an  
5 economic developer and the IDA and Green USA and myself  
6 made a few mistakes along the way and starting at the very  
7 beginning. In fact, we shouldn't be here today. I applied for  
8 the TROF grant prematurely and started the clock ticking too  
9 early. I know the Southwest Economic Development  
10 Committee and Special Projects and the other grants take  
11 several months sometimes from the time you submit the  
12 application until the application is approved. I mistakenly  
13 assumed that TROF worked the same way and that's my fault  
14 and 100% my fault. The TROF grant was turned around in  
15 like a week and I greatly appreciate that now that I know that  
16 but I didn't know that at the time. So I put myself in the hole  
17 before we even started here. There has been work done on the  
18 site and a lot of engineering. A minimal amount of benefit to  
19 the county. I know Cumberland Partners are a surveying  
20 company in Jonesville made \$30,000 so far hotels and meals  
21 and things like that. About October or November of last year  
22 Green USA's original financing fell through and we were stuck  
23 in the mud for several months that the project is back on  
24 track. We expect the contract for the sale of our property  
25 Green USA and the economic development agreement in place

1 by January or February of 2014, a few months down the road.  
2 I'd like to emphasize one point most of  
3 all. We are not asking for forgiveness of this obligation.  
4 Anyone that has internet access has read all the email  
5 correspondence between myself and the Tobacco Commission,  
6 both employees and board members. Nowhere in any of that  
7 correspondence is the concept of forgiveness either expressed  
8 or implied or into that. We fully understand the contract and  
9 we are prepared to repay the money if that's what the  
10 Commission desires. We're simply asking for the remainder of  
11 the 36 months contract to make this deal happen to bring this  
12 company to Lee County. If we have not met our obligation at  
13 that time, we will make arrangements and repay the money.  
14 I've only disbursed half the money so far and I've brought a  
15 check with me for \$225,000 for the money we have not yet  
16 disbursed to Green USA as a token of good faith.

17 MR. STEPHENSON: Thank you.

18 DELEGATE KILGORE: I've never seen  
19 Ned move that fast.

20 MR. JAMES: The IDA has elected to hold  
21 this money in a carrot and stick approach to keep the property  
22 moving forward and I know that violates the contract but they  
23 just and so upon my strong recommendation. I apologize for  
24 any problems this may have caused the Commission. I'll be  
25 happy to answer some questions.

1 DELEGATE KILGORE: Are you in active  
2 negotiations again?

3 MR. JAMES: We are, yes, I had lunch  
4 with Willis on Saturday; we're expecting things to move  
5 forward very quickly. I certainly would not stake my life on it  
6 and I wouldn't stake my life on the fact that I would show up  
7 tomorrow.

8 DELEGATE KILGORE: Is your contract  
9 date 12/31/14?

10 MR. STEPHENSON: This is in error, it is  
11 2014.

12 DELEGATE MERRICKS: Mr. Chairman,  
13 in light of this good faith effort, see the TROF continue on and  
14 see where it's going.

15 DELEGATE KILGORE: We'll talk about  
16 it. That would be my motion.

17 SENATOR CARRICO: Mr. Chairman, was  
18 there a motion to continue the present contract?

19 DELEGATE KILGORE: Well, the motion,  
20 you didn't see it of course but he handed to Ned a check for  
21 \$225,000 and that's where we are right now Senator Carrico.  
22 Would you identify yourself if you wish to speak?

23 MR. BAUGH: Mr. Chairman and  
24 members of the Commission, my name is Robert Baugh and  
25 I'm a citizen of Lee County. In addition to the demand to

1 return the \$450,000 grant to Green USA Recycling because it  
2 hasn't met its obligation under the terms of the performance  
3 agreement governing this grant. If you ponder what actions  
4 you need to take if you need to, I'm going to provide you with a  
5 fact story and this story is not very pretty. What I'm about to  
6 tell you is based on a FOI request for public information and  
7 fairly or rarely direct discussion with involved parties. The  
8 FOI request and the following: the first reported contact  
9 between Mike James and Don Willis, president of Green USA  
10 Recycling was on February 6<sup>th</sup>, 2012. According to Mr. James,  
11 this was their first contact ever. On February 15<sup>th</sup>, nine days  
12 later, the Lee County IDA applied to the Tobacco Commission  
13 for a grant of \$2.5 million and the grant application included  
14 the statement that Lee County would provide another half  
15 million. So nine days after this first contact our IDA was  
16 prepared to give Willis \$3 million. One might argue that nine  
17 days is enough to do due diligence but subsequent findings  
18 prove this not to be the case. When I asked Mike James who  
19 performed the due diligence for the IDA, he said he did.  
20 However, to this date we still don't have background or  
21 financial information on Don Willis and Green USA Recycling.  
22 It would be required of any loan applicant on any ordinary  
23 loan.

24 Furthermore, cursory review of the public  
25 record would reveal the following. Don Willis established a

1 gambling operation in January of 2006 and he later opened  
2 two more clubs, the Jackson River Club and another River  
3 Club. On April 27, 2007, this account appeared in the  
4 Kokomo Tribune and I quote Donald J. Willis, 44, Nokesville  
5 was arrested Tuesday on two Class D felony accounts of  
6 promoting professional gambling. If convicted, a possible  
7 three year sentence on each count. On October 22<sup>nd</sup>, 2007,  
8 Willis was found guilty of two Class D felony counts of  
9 promoting gambling. It appears these charges were reduced  
10 to a misdemeanor in November of 2008. This might make it a  
11 little difficult for Willis to obtain a permit to operate a solid  
12 waste recycling center in Virginia. The Code of Virginia states  
13 that the cost or denial or revocation of a permit, any two  
14 personnel that have been convicted of the following crimes  
15 punishable as a felony under the laws of the Commonwealth  
16 or the equivalent of them under the law of any other  
17 jurisdiction; murder, kidnapping, gambling, robbery, bribery,  
18 extortion, etc. etc. It may be telling that gambling is third on  
19 the list.

20 DELEGATE KILGORE: Was he convicted  
21 of a felony?

22 MR. BAUGH: He was, yes, he was  
23 convicted of a felony but a year later it may have been reduced  
24 to a misdemeanor.

25 DELEGATE KILGORE: You can't be

1 convicted of a felony and then reduce that; it doesn't work that  
2 way.

3 MR. BAUGH: That's what the record  
4 showed. As an aside, if this were not bad enough, Kelly Black  
5 White, a close associate of Don Willis and one time chief  
6 financial officer of Green USA Recycling ended up pleading  
7 guilty to conspiracy to commit securities fraud and wire fraud  
8 and faces up to 25 years in prison and a \$250,000 fine. I  
9 would have thought due diligence would have found this  
10 information out, it would be in the public record and that  
11 Willis is unable to keep current on his real estate taxes for  
12 2006 to 2012, that is until the IDA gave him \$225,000. This  
13 is the same Don Willis that told the IDA over a year ago that  
14 he had \$11 million to invest in this project and clearly he did  
15 not. He had financing lined up to CD Bank and CD  
16 Ameritrade, he clearly did not. He had construction underway  
17 for recycling centers around the country; he clearly did not.  
18 He had patents on recycling or composting and he clearly did  
19 not. So with this background, in my opinion there's no way  
20 that Don Willis' Green USA will build a waste facility in Lee  
21 County or anywhere else in the country. This information has  
22 been available to the IDA and board of supervisors for the  
23 better part of a year. Yet these bodies have taken no action to  
24 understand what Willis has done with the money or number  
25 two in an attempt to get it back. This reminds me of the

1 phrase the dead --- local control. In my view, the dead needs  
2 to be stimulated and I think you've just done that and you've  
3 got \$225,000 back. That's the easy part because that was in  
4 the IDA account. The hard part now is going to be what to do  
5 to try to get the money back from Don Willis. I understand  
6 he's in Indiana; it's going to be tough.

7 DELEGATE KILGORE: Do you realize we  
8 could go to the county and get it back?

9 MR. BAUGH: I understand that. You  
10 would get \$225 from the county and they would get it  
11 wherever they got it. I know Mike James is asking for an  
12 eighteen month extension. I would agree we need an  
13 extension, 90 days, not only 90 days where the county does its  
14 utmost to get funds back from Don Willis. At that point, I  
15 think we'd all be in a better position to figure out where we  
16 are.

17 DELEGATE KILGORE: Thank you for  
18 coming. Sorry you had to wait so long.

19 MR. ROWLETT: My name is Jeff Rowlett  
20 and I'm a lifelong resident of Lee County, Virginia. The words  
21 that I had on my sheet here when I listened to what you've  
22 done, I'm going to repeat some things that you have already  
23 heard so when you hear things being repeated and you're  
24 doing them, that means thank you. Mr. Baugh gave you some  
25 background information on Green USA Recycling and his

1 information is correct. He's got books and volumes to verify  
2 that. I believe the Green USA deal is only a symptom and a  
3 sample of a larger problem and I understand you're dealing  
4 with many contract defaults in the region and I know you'll be  
5 seeing more coming from Lee County in the near future.  
6 These facts led me to start trying to understand what the real  
7 problem is in Lee County from our perspective. In studying  
8 the Green USA deal what prominent characteristics seem to  
9 always be present on all the boards, directors and officials  
10 with no accountability, no accountability for the money and let  
11 me try to explain. On many occasions, I have listed to local  
12 officials distinguish between grant money and local tax dollars  
13 and there seems to be a consensus that the grant money is  
14 free and expendable but the local tax dollars must be used  
15 wisely showing due diligence. This operation not only applies  
16 to the Tobacco Commission dollars but also the CETA, state  
17 grants, federal grants and all of the resources we tap into. So  
18 I started thinking why do our officials see grant dollars as  
19 being different from the local tax revenue. I even went to the  
20 bank vault where I work to see where the grant dollars were  
21 kept and guess what it was ---. In the real world tax dollars  
22 and grant dollars are public funds and should be treated so. I  
23 want our officials to start looking at private or what's funded  
24 by local tax dollars. If they feel the project is worth spending  
25 local tax dollars on, by all means ask for a reasonable grant. I

1 want them to quit committing projects just because they can  
2 get free grant money to do so. The potential liability for  
3 maintenance or upkeep of the project is already straining our  
4 local tax dollars and we need to remind ourselves that a free  
5 water run to serve a few houses will need to be maintained  
6 forever. Our officials on more than one occasion have stated  
7 and I quote the Tobacco Commission will give grant dollars  
8 and we'll only have to pay ten cents on the dollar like we did  
9 last time and we will go and negotiate a settlement or  
10 extension and this attitude has become so common it's  
11 become the norm. I believe the reason this attitude exists is  
12 because there is no accountability. Lee County as well as  
13 other areas of the Tobacco Commission have contracts with  
14 you and those contracts spell out the terms with each party  
15 and what each party is to do. When contracts go into default  
16 and you can get that without terms of the contract being met,  
17 you're not doing the location a favor, you're indulging  
18 irresponsible behavior. You must claw back money, you must  
19 demand the location including mine do their job and if you do  
20 not sooner or later the Tobacco Commission will be broke and  
21 these projects will be wasted because no one demands  
22 accountability. By bringing the money back, it becomes  
23 available not only to the locality if they need to get it for future  
24 use but also other projects in the region and then the money  
25 is not wasted or lost. In an ideal world, I think it would not be

1 unreasonable for the Commission to adopt a zero tolerance  
2 and not awarding a contract amendment. Today our officials  
3 say if we almost meet the terms of the grant then they will  
4 forgive it. This has caused applications to be inflated on the  
5 front side so as to maximize the dollar request. Let's say we  
6 can employ 250 if we really employ 150 we know that grant  
7 will be forgiven. I propose we change things and let's get them  
8 to say let's say we can employ 150 and do it so we won't have  
9 to pay back the money. Our boards are made of normal  
10 everyday people. They're farmers, housewives, teachers,  
11 retired, who may or may not have a clear understanding as to  
12 what to ask for from grantees. I've asked local board members  
13 if they have financial scrutiny information on some of the  
14 grantees and the answer is you can't ask for that it's too  
15 personal. Mistakes indicate a need for training and localities  
16 do not have the expertise to make million dollar deals but  
17 demand they get it. You set the criteria for some success and  
18 demand local governments to comply. Help them put in place  
19 people that can do that. Help them to succeed by teaching  
20 them how to do it. Help us help ourselves. The old slogan of  
21 feeding a man a fish and teaching him how to fish would not  
22 be any more appropriate than here. Our county is, we've lost  
23 our hospital, a car dealership, mining is dying and people are  
24 becoming more desperate about the future. It's time for  
25 serious, honest and open discussion on how to help them.

1 Throwing money at senseless projects that haven't been well  
2 thought out, financial sound or shown to have a reasonable  
3 chance to succeed is a prescription for failure. I want  
4 accountability. You make one and the county to pay back  
5 money, to me that's the question to answer. I'm sick and tired  
6 of seeing money wasted and I don't want the people in Wythe  
7 County to suffer and not have a chance in life. I want to see  
8 our leaders answer questions and I want a well thought out  
9 plan for excellence. You are the future and I'm sure there's  
10 things you couldn't have foreseen. You might wish yourselves  
11 to improve yourselves in considering grants and considering  
12 projects, you can no longer count on clients or contracts and  
13 you cannot excuse yourselves completely from allowing this  
14 attitude and risk and I expect accountability from the Tobacco  
15 Commission as well. Thank you very much for your time.

16 DELEGATE KILGORE: Anyone else? As  
17 I understand it, the time is not up on this?

18 MR. STEPHENSON: Mr. Chairman, the  
19 contract provides that in the event of default, there's not  
20 specific performance by the midpoint so we are in default and  
21 the demand has been made. I think the question before the  
22 Commission today is whether you want to maintain that  
23 course or waive in the event of default and let it run to  
24 maturity.

25 DELEGATE KILGORE: I think the

1 gentleman that appeared a few minutes ago made a  
2 suggestion an alternative and take the \$225,000 back from  
3 the county. What I propose that we do to ensure the time is  
4 not run yet, so I would propose that we take a hard look at it  
5 again in January since you say you are in negotiations. We  
6 don't know how that's going to go but I would suggest we have  
7 a hard look at this in January and if it's not moving we'd have  
8 no other course but to go forward. I know you're time's not up  
9 on the contract but and we appreciate you giving back the  
10 \$225,000 today so they would have more time. We've got until  
11 January and in light of the testimony and I think the  
12 gentleman was here and they're making an effort and we rely  
13 on the EDA or IDA to look into these companies and to make  
14 the best case of what the jobs might be and then the contract  
15 with the locality. I know a lot of things are going on in Lee  
16 County and we've got to know if this is a real project or not.  
17 Can you make sure you do that and report back to us in  
18 January?

19 MR. JAMES: Yes, sir.

20 SENATOR RUFF: Mr. Chairman, in this  
21 process can they clarify what the criminal charges involve?

22 MR. JAMES: Our attorney researched  
23 that and he pled guilty to two misdemeanors and a ten dollar  
24 fine on each. I don't have the paperwork with me today but I'll  
25 have it.

1 DELEGATE KILGORE: Can you provide  
2 that to Mr. Stephenson and get it to our counsel?

3 MR. JAMES: Yes.

4 DELEGATE WRIGHT: Mr. Chairman, do  
5 I understand the motion will be that come January it will be  
6 settled or take another look at it?

7 DELEGATE KILGORE: I'd say we're  
8 going to settle it in January. We should know by then  
9 whether it's going to move forward or not.

10 DELEGATE WRIGHT: I think that's the  
11 best thing to do because the contract I don't know about the  
12 jobs but we don't want to go through this again.

13 DELEGATE KILGORE: All right, I've got a  
14 motion and a second. All those in favor say aye. (Ayes.)  
15 Opposed? (No response.)

16 SENATOR CARRICO: (by phone) Aye, I  
17 vote aye.

18 MR. STEPHENSON: Number six. This  
19 particular grant has an investment promised of \$3.5 million,  
20 investment delivered \$505,000 with 84 jobs promised and  
21 jobs delivered 9. The grant amount was \$235 and the refund  
22 amount due is \$235. There's a representative from the  
23 company here. This matured in March.

24 MR. DICKER: Good afternoon  
25 Commissioners. I'll make a short presentation and I'll be glad

1 to answer any questions that come out.

2 DELEGATE KILGORE: You'll have to pull  
3 up the mike and speak into it please.

4 MR. DICKER: You also have our  
5 controller here that will be available to answer any questions  
6 that you might have as we go along. Three years ago, due to  
7 your efforts we were able or had an opportunity to partner  
8 with ---.

9 SENATOR CARRICO: (by phone) Can  
10 you speak up?

11 DELEGATE KILGORE: Speak into the  
12 mike please.

13 MR. DICKER: I'm sorry, I will. In August  
14 there was a record month of strong sales today. As shown on  
15 this chart, electric vehicles which physically target the electric  
16 grid in order to charge their batteries at a rate of over two  
17 times the option rate of the conventional hybrid Toyota Prius  
18 in the year 2000. This is why manufacturers continue to  
19 pursue electric vehicles and an investment in technology  
20 related to their sales. May I have the next slide? Evatran  
21 spent the last three years developing and bringing to  
22 production our technology, which allows an electric vehicle  
23 driver to avoid the repetitive process of plugging in their  
24 electric vehicle each and every day. With over 500 systems  
25 reservations made it possible for us to become the first

1 company in the world to commercialize this technology with  
2 the available packages initially for the new Chevrolet Volt.  
3 Additional packages and features will be rolled out in the next  
4 year. Slide four, please. There's a lot of information on this  
5 slide. I'll just hit the highlights. For the accomplishments  
6 that have been achieved by Evatran recognizing our position  
7 as a leader in this state, the Department of Energy awarded to  
8 Oakridge National Labs, which we are a partner in that project  
9 and we're now the lead in that project with General Motors  
10 and Toyota. We have raised capital with a venture capitalist  
11 within the state of Virginia. We have joint agreements with  
12 several OEM manufacturers. That's confidential but if you'd  
13 like that information, I could provide that on a confidential  
14 basis and I'm willing to do that and will provide that  
15 information. We have several concepts and development  
16 programs going on as mentioned already. We have personnel  
17 over in Germany right now and several major automotive  
18 manufacturers sending up some of these deals. We secured  
19 the services of Bosch International as our provider who is a  
20 worldwide electronics manufacturer and service provider.  
21 This will be the first commercially available wireless system  
22 available in the world, recently named in 2013 as an emerging  
23 technology company and this was written by the CEO Rebecca  
24 Hough. She was just named thirty under thirty for the year  
25 2013. That's quite an accomplishment for someone in this

1 technology field, which is dominated by Silicon Valley high  
2 tech companies. Next slide, please. We are not asking to be  
3 excuse for our commitment what we're asking for in the  
4 performance date be extended to March 2015, which would  
5 coincide with the extension that we've already secured from  
6 the Governor's Opportunity fund and the Whip Opportunity  
7 fund. This will allow us the time needed to continue good  
8 faith and reasonable effort to meet these requirements and to  
9 take advantage of the fantastic opportunity to lead the world  
10 from Wytheville, Virginia in the electric car and recharging  
11 state. Thank you for your time and if you have any questions,  
12 I'd be glad to try to answer them.

13 DELEGATE KILGORE: You've already  
14 received a deal now with Wythe County?

15 MR. DICKER: That is correct.

16 DELEGATE KILGORE: Secretary Cheng  
17 called to tell us about this. Ned, do you propose we do this to  
18 March of 2015 to coordinate better with the Governor's  
19 Opportunity fund?

20 MR. STEPHENSON: We used to do that,  
21 Mr. Chairman. We had declined the request for the extension  
22 on the grounds that there was not material progress and  
23 that's our standard. We don't make extensions where there's  
24 not progress evident. The Committee should know that this  
25 company has received an R&D grant of \$1.3 million but

1 certainly if the extension is what you wish, we can do it.

2 SENATOR CARRICO: (by phone) Mr.  
3 Chairman, I move that we make an extension. To my  
4 knowledge, Wythe County hasn't asked for an extension before  
5 and I think we should grant it and I'll make that motion.

6 DELEGATE JOHNSON: I'll second it.

7 DELEGATE KILGORE: We have a motion  
8 and a second. Any more discussion on this motion? All those  
9 in favor say aye. (Ayes.) Opposed? (No.) All right, next.

10 MR. STEPHENSON: Mr. Chairman, one  
11 final grant. This was a grant for \$283,000 that matured in  
12 March. The VEC records reveal 46 employees and a promise  
13 of 70, \$2.9 million investment at the time it was \$5 million.  
14 The math in the contract results in a refund due of \$157,000  
15 and this is in Washington County. There's a gentleman here  
16 today with the company and they want to speak to you. If you  
17 notice in the contract end date of March, we've been working  
18 with this for well over a year trying to reach a resolution. I will  
19 tell you that staff followed a diligent and unrelenting on the  
20 enforcement of this contract. We moved very slowly  
21 intentionally and we want to grant abundant opportunities for  
22 appeal and for this Committee to weigh in. It's taken a while  
23 because each of our efforts there has been an appeal  
24 requested. This is the same contract that in January you  
25 instructed the staff to enforce the contract and we began those

1 enforcement efforts and further appeals were sought. So  
2 they're back before you again today seeking an additional  
3 appeal and I believe the plant manager is here if you'd like to  
4 hear from him.

5 DELEGATE KILGORE: Yes, come on up.

6 MR. LACOMBE: My name is Lance  
7 Lacombe, I'm the plant manager for the Damascus operation  
8 of Columbus McKinnon. Part of this debate here has been  
9 relative to the debate on the job requirements. \$157,000  
10 represents both components, the shortfall in the jobs and the  
11 shortfall in the investment and I'd like to take them in  
12 tandem. Starting with the shortfall of the jobs, the period  
13 ended March 31, 2009. At the time the company entered into  
14 three agreements related to this movement of work. The other  
15 two agreements specified that the baseline during that period  
16 was 174 employees. This agreement did not represent a  
17 specific number instead it says quarter ending payroll. The  
18 VEC document that defines the payroll is a quarterly report  
19 and there's some interpretation as to what that means. Is it  
20 the quarter ending number or is it the average during the  
21 quarter. During 2009, we were in the midst of the recession  
22 and the payroll was declining month after month during that  
23 time. When you take the quarter ending number versus the  
24 average during the period you get two different results. The  
25 company did bring on the 70 jobs and met the requirement of

1 the other two agreements and it's our view that we also met  
2 the requirement of the agreement adding 70 jobs. However,  
3 that debate over the baseline is what caused this delay. In the  
4 agreement it does very clearly spell out in future periods  
5 exactly how the measure will be made. The average  
6 employment throughout the quarter but does not spell it out  
7 in the baseline and that is the company's view.

8                   Relative to the capital investment, we do  
9 realize and acknowledge there has been a shortfall and the  
10 company has not invested the \$5 million that was expected  
11 and there's two points there I'd like to speak to. One of them  
12 is that there's been some confusion in the understanding of  
13 the capital that was counting toward this agreement. The  
14 company has initially applied this definition of capital rather  
15 than the exact base that was defined in the contract and that's  
16 our mistake in terms of the interpretation of the language.  
17 Secondly, in the application of the language, the investment of  
18 \$5 million was specified and part of the recognition of that  
19 investment had been the increase in property taxes. We had  
20 invested \$600,000 in the facility but the property taxes only  
21 increased by \$300,000. So there's a debate about should it be  
22 \$300,000 and get a credit for it or was it \$600,000 we actually  
23 invested. Regardless of that, we do realize there is a shortfall  
24 for the capital portion of \$65,000 and the company is  
25 prepared to make payment for that shortfall of \$50,000 but

1 unfortunately I don't have the check with me today but we'd  
2 make that payment in October. That's the view of the  
3 company and why it's taken some time to resolve the lack of  
4 clarity around the language in the contract.

5                   In closing, I'd like to comment about the  
6 operation in Damascus. We've been a pillar to this  
7 community. We've been there for 45 years. I see it as my  
8 urban responsibility to make sure we're there for another 45  
9 and I want to see the location and the area to continue to be  
10 viewed in a very positive light and I think we are currently.  
11 We're making regular decisions about where work should be  
12 performed. In the past few months those decisions have  
13 yielded additional work content being moved to Virginia. So  
14 we're a fixture at this location and facility and hope to  
15 continue.

16                   DELEGATE KILGORE: Tell us what you  
17 do there.

18                   MR. LACOMBE: Columbus McKinnon is  
19 a material handling company and at our site we manufacture  
20 hoists and chain hoists and lifting devices and we have 240  
21 employees and the Damascus community consists of about  
22 800 people. We feel we are a very good corporate citizen and  
23 I've been with Columbus McKinnon for the past eight months  
24 and the company says it's a priority being an important part of  
25 the community. Just for the time I've been there we've

1 sponsored multiple charitable events, contributed to various  
2 organizations and we are participating in community events.  
3 We're not trying to shirk our responsibilities; we just have a  
4 different interpretation of the language. It's our goal to clear  
5 this matter up and move forward and pay the \$50,000 and  
6 hopefully reach an agreement if we can and move on.

7 DELEGATE KILGORE: Thank you. Any  
8 questions?

9 MR. OWENS: What's the average  
10 number of jobs?

11 MR. LACOMBE: I don't know exactly but  
12 currently we're at about 230 or 234. Our view of the baseline  
13 is 174 and we did exceed the 70 additional by week one. We  
14 average 244 over the definition of the term. Since then our  
15 exact head count has fluctuated plus or minus ten to fifteen  
16 employees for a variety of reasons. One due to economic  
17 conditions and two because some of the investments we make  
18 in the facility, essentially part of this funding did result in  
19 being more productive and not requiring as much labor.  
20 Overall, there has not been work content that has left the  
21 facility. It's been the economic conditions and the investment  
22 that we made that resulted in the fluctuation.

23 DELEGATE KILGORE: Is the job over a  
24 quarter or three months?

25 MR. STEPHENSON: Mr. Chairman, we

1 believe the contract is excruciatingly clear as to precisely how  
2 the math was used and calculated the number of employees.  
3 We honed this down several years ago and the same contract  
4 everybody signs. We placed this particular matter in the  
5 hands of several people to put it under the microscope to test  
6 it and it all comes up with that the matter is clear and that's  
7 the point over which the company differs with us and we  
8 haven't resolved that difference.

9 DELEGATE MARSHALL: Does it require  
10 an agreement Ned or how does it define the number of jobs?

11 MR. STEPHENSON: When these deals  
12 are struck, we do not know how many people or how many  
13 employees there are at the company. The company knows  
14 because they have access to the records. So we simply say in  
15 the contract that the number of employees at the beginning of  
16 the contract are those found on the VEC form SC20 being an  
17 average of three months. Whatever that number is, that's the  
18 baseline.

19 DELEGATE KILGORE: What's the  
20 difference between that and the Governor's Opportunity fund?

21 MR. STEPHENSON: The other two  
22 contracts, which we believe are not relevant to this contract,  
23 they are statements of employee baseline, which I might take  
24 exception to because they don't line up with the VEC form and  
25 I'm not party to those contracts so I need to dismiss those

1 from consideration.

2 DELEGATE KILGORE: Delegate  
3 Johnson?

4 DELEGATE JOHNSON: There's been  
5 much disagreement about different things, has that been  
6 negotiated or worked out as to the evaluation of equipment  
7 and whether or not it's taxable or non-taxable and whether or  
8 not the full time jobs or part time jobs, what's the status of  
9 those negotiations?

10 MR. LACOMBE: Those issues have been  
11 worked through with the help of the county and initially we  
12 thought the investment or reported investment was less than  
13 one million dollars and we worked very closely with the  
14 company providing them line item detail and worked with the  
15 tax office to account for and all that you should see before you  
16 so that matter has been resolved in terms of understand  
17 exactly where we are from the tax standpoint. The point I'd  
18 like to add also to the headcount and baseline are two points.  
19 One is that in seeing the baseline it does not say an average.  
20 We don't view this as being as clear cut perhaps as Ned does.  
21 Just as a case in point, we actually did receive a letter from  
22 the Commission that said we met the headcount requirement.  
23 So I don't view that as being a very clear indication one way  
24 or the other. I would agree that it could be either way.

25 DELEGATE JOHNSON: Mr. Chairman,

1 another question. Sir, do you disagree with \$157,539?

2 MR. LACOMBE: Yes, what I'm saying is  
3 that \$157,000 is comprised of two components. \$92,000 is  
4 related to additional jobs and \$65,000 related to the capital  
5 investment. The \$92,000 we particularly take issue with for  
6 the reasons I stated previously. The investment, we believe  
7 that there is some disparity perhaps in how it's interpreted  
8 and how it is applied. However, we're looking to pay back  
9 \$50,000 of that \$65,000. I have a personal stake in this at  
10 this location, so if it makes a difference, we came to an  
11 agreement on the \$92,000 the employment and we've met that  
12 requirement, then we need to be in full payment of refunds in  
13 the \$65,000. If that's what it takes, I'll take the \$15,000 out  
14 of my local budget and we'll pay that and put this behind us  
15 and move forward. This has been ongoing since 2012 and I'm  
16 hopeful today we can resolve it.

17 DELEGATE JOHNSON: Mr. Chairman  
18 and members of the Committee, I know this has been ongoing  
19 for some time, this controversy. Columbus McKinnon is very  
20 important to Washington County and to that economy.  
21 There's a lot of jobs involved. Mr. Chairman, is there some  
22 way we can maybe not force or get the people to decide and  
23 resolve this once and all and maybe it should be reconsidered  
24 in January.

25 DELEGATE KILGORE: I don't know Joe

1 that it's going to get better with time. I mean, I think we need  
2 to get it resolved and I know the company's got a lot of time  
3 into it and Ned and Senator Carrico has called in today. Do  
4 you have any input Bill?

5 SENATOR CARRICO: (by phone) Mr.  
6 Chairman, at the last meeting and what we're describing here  
7 is the number of jobs and the company's record shows that  
8 they have this number of jobs for quite a while and maybe  
9 they don't reflect on the VEC, maybe some people out on leave  
10 or part time. My recommendation would be that we move  
11 forward and we accept the jobs they have in place and we  
12 accept their offer for the advancement and move forward.  
13 Especially consider the employees and has been said this is  
14 an important business in Damascus and Washington County.  
15 I think they've been good stewards of Virginia and have been  
16 the last four or five years. I think if we continue down this  
17 path where it's been very stressful and then the job numbers  
18 coming out from VEC.

19 MR. OWENS: You've got a letter from the  
20 Commission saying you met your jobs requirements?

21 MR. LACOMBE: That's correct.

22 MR. OWENS: Who signed that letter?

23 MR. LACOMBE: If it's okay, I'll present  
24 the letter to the Committee.

25 MR. STEPHENSON: While Lance is

1 passing that out, the Committee needs to know that letter was  
2 on Chairman Kilgore's stationary with Chairman Kilgore's  
3 signature. It contains a release of Columbus McKinnon from  
4 all liability and the content of that letter is directly  
5 contravening the minutes of the meeting in which that  
6 decision was made. We're not sure of the origin of that letter  
7 but two days later Chairman Kilgore issued another letter and  
8 retracted the one that you see. Mr. Chairman, in response to  
9 Delegate Johnson's suggestion, we are eager to work this out  
10 but staff is without the authority to grant any latitude other  
11 than what's in the contract under these conditions. So we  
12 really rely on this Committee to tell us what it wants to do.

13 DELEGATE MERRICKS: Mr. Chairman, I  
14 was going to make a motion in light of the discrepancy, I  
15 would recommend we accept the performance there but we get  
16 \$65,000 in lieu of \$50,000 and settle this thing once and for  
17 all.

18 DELEGATE MARSHALL: Second.

19 DELEGATE KILGORE: All right.

20 MR. STEPHENSON: Mr. Chairman, a  
21 word of thanks to Lance in his diplomacy in bringing this. I  
22 asked him to try to bring you a solution and he has done that.  
23 One thing I need to ask the Committee to consider on  
24 whether Lance's offer which you're about to consider whether  
25 or not that absolves the county from its obligation to you. The

1 county is your obligor.

2 DELEGATE KILGORE: This will settle it  
3 all, I think.

4 MR. STEPHENSON: Just so we're clear.

5 DELEGATE KILGORE: That settles it  
6 once and for all.

7 DELEGATE JOHNSON: What is the  
8 motion, Mr. Chairman?

9 DELEGATE KILGORE: \$65,000 and  
10 they're going to pay it by October sometime.

11 MR. LACOMBE: October 15<sup>th</sup>.

12 MR. PFOHL: Mr. Chairman, just for  
13 further clarification, that would also include forgiveness of the  
14 \$92,000 job claw back with no further obligation by the  
15 county IDA in additional claw back?

16 DELEGATE KILGORE: That's correct.  
17 You've heard the motion, all those in favor or any more  
18 discussion? All those in favor say aye. (Ayes.) Opposed?

19 DELEGATE WRIGHT: No.

20 DELEGATE KILGORE: Thank you and  
21 thank you for bringing this to conclusion. Any public  
22 comment?

23 MR. STEPHENSON: I have a brief  
24 comment if I may. Would you please stand. Mr. Chairman,  
25 I've done all the talking. All the data and numbers before you

1 Carolyn has done a wonderful job and I just want to  
2 acknowledge her.

3 DELEGATE KILGORE: Thank you.

4

5 PROCEEDINGS CONCLUDED.

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## 1 CERTIFICATE OF THE COURT REPORTER

2  
3 I, Medford W. Howard, Registered Professional  
4 Reporter and Notary Public for the State of Virginia at large,  
5 do hereby certify that I was the court reporter who took down  
6 and transcribed the proceedings of the **Virginia Tobacco**  
7 **Indemnification and Community Revitalization**  
8 **Commission Executive Committee meeting when held on**  
9 **Wednesday, September 25, 2013 at 4:30 P.M. at the**  
10 **Holiday Inn Bristol Hotel & Conference Center in Bristol,**  
11 **Virginia.**

12 I further certify this is a true and accurate  
13 transcript, to the best of my ability to hear and understand  
14 the proceedings.

15 Given under my hand this 11<sup>th</sup> day of October,  
16 2013.

17  
18 \_\_\_\_\_  
19 Medford W. Howard

20 Registered Professional Reporter

21 Notary Public for the State of Virginia at Large

22  
23 My Commission Expires: October 31, 2014.

24 Notary Registration Number: 224566