

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                   Monday, January 6, 2014

10                  5:00 o'clock p.m.

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14                  The Hilton Richmond Hotel and Spa/Short Pump  
15                  Richmond, Virginia 23233

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1     APPEARANCES:

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3     The Honorable Terry G. Kilgore, Chairman

4     The Honorable Frank M. Ruff, Vice-Chairman

5     The Honorable Kathy J. Byron

6     The Honorable Charles W. Carrico, Sr.

7     Ms. Mary Rae Carter, Deputy Secretary

8         Department of Commerce and Trade for Rural Development

9     The Honorable Daniel W. Marshall, III

10    The Honorable Donald W. Merricks

11    Dr. David S. Redwine, DVM

12    Ms. Cindy M. Thomas

13    The Honorable Thomas C. Wright, Jr.

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1     COMMISSION STAFF:

2     Mr. Timothy S. Pfohl, Interim Executive Director

3         Grants Program Administration Director

4     Mr. Ned Stephenson, Deputy Executive Director

5     Ms. Sarah K. Capps, Grants Program Administrator -

6         Southside Virginia

7     Ms. Sara G. Williams, Grants Program Administrator -

8         Southwest Virginia

9     Ms. Carolyn Bringman, Performance Data Analyst

10    Ms. Stephanie S. Kim, Director of Finance

11    Ms. Stacey Richardson, Executive Assistant

12    Ms. Jessica Stamper, Assistant Grants Program Administrator -

13         Southside Virginia

14    Mr. Benjamin Dawson, Assistant Grants Program Administrator -

15         Southside Virginia

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17     COUNSEL:

18     Eric E. Ballou, Esquire

19     CHRISTIAN & BARTON, L.L.P.

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23     Richmond, Virginia 23219-3095

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1 January 6, 2014

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DELEGATE KILGORE: All right, good afternoon,  
4 everyone. I call the meeting of the Executive Committee to  
5 order, and ask Tim to call the roll.

6

MR. PFOHL: Delegate Byron.

7

DELEGATE BYRON: Here.

8

MR. PFOHL: Senator Carrico.

9

SENATOR CARRICO: Here.

10

MR. PFOHL: Ms. Carter.

11

MS. CARTER: Here.

12

MR. PFOHL: Delegate Kilgore.

13

DELEGATE KILGORE: Here.

14

MR. PFOHL: Delegate Marshall.

15

DELEGATE MARSHALL: Here.

16

MR. PFOHL: Delegate Merricks.

17

DELEGATE MERRICKS: Here.

18

MR. PFOHL: Ms. Nyholm can't be with us today. And  
19 Mr. Owens isn't on the Commission anymore.

20

MR. PFOHL: Dr. Redwine

21

DR. REDWINE: Here.

22

MR. PFOHL: Senator Ruff.

23

SENATOR RUFF: Here.

24

MR. PFOHL: Ms. Thomas.

25

MS. THOMAS: Here.

1 MR. PFOHL: Delegate Wright.

2 DELEGATE WRIGHT: Here.

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

4 DELEGATE KILGORE: Do I have a motion to approve  
5 the minutes at 9:25:13? All those in favor, say aye. (Ayes).  
6 Opposed? (No response).

7 All right, Ned.

8 MR. STEPHENSON: Mr. Chairman, Mid-Atlantic  
9 Broadband received a grant from the Tobacco Commission to  
10 build a fiber routes, and now they've made some money, and this  
11 is some income. They have returned that income to the  
12 Commission to the extent of some \$700,000. And together with  
13 their request that they be permitted to use that piece of money  
14 to employ additional fiber routes in the Counties of Mecklenburg,  
15 Henry, Halifax, Prince Edward, City of Martinsville, also Charlotte  
16 County. That's under the same grant that was originally issued  
17 for that purpose. The money is in your treasury, but they're  
18 simply asking if they may continue to use that money in the  
19 same manner as they did before.

20 DELEGATE KILGORE: What would be the motion of  
21 the Executive Committee if we were so inclined to allow them to  
22 make that investment?

23 MR. STEPHENSON: It would be a motion to approve  
24 Mid-Atlantic use of \$719,000 of grant-funded programs, income  
25 for additional fiber routes of those named counties.

1 DELEGATE BYRON: Is this going to be similar to the  
2 pilot they've got, Action the Last Mile, how many people are  
3 going to be affected as far as where the lines go?

4 MR. PFOHL: They're going to spend money on the  
5 fiber routes in 200,000 in electronic equipment in the seven  
6 Southside counties and cities.

7 MR. DERUSO: Mr. Chairman, the purpose of those  
8 funds, as Tim said, to build additional fiber routes to customers.  
9 We serve wireless data and others. And we use the network, and  
10 all of this is within the footprint. Those funds would be restricted  
11 to those uses for purposes of a federal grant, which is part of the  
12 matching, and involving the last mile.

13 DELEGATE BYRON: I think there's a great need for us  
14 to continue to find a way to increase the broadband usage. Do  
15 you have any numbers as to how many households will be served  
16 or geographically?

17 MR. DERUSO: Geographically, maybe about a day I  
18 can come up with some numbers and provide that to you.

19 MR. PFOHL: Mr. Chairman and Delegate Byron, the  
20 localities include Martinsville, Henry, Bedford, Halifax, South  
21 Boston, Mecklenburg, Prince Edward, and Charlotte. For the  
22 record, Grant Number 2031 that we're discussing.

23 DELEGATE KILGORE: Any other questions? I have a  
24 motion to allow Mid-Atlantic Broadband use these grant funds  
25 and the income in the amount of \$719,790 to be used in those

1 named counties. I have a motion and a second. Any more  
2 discussion? All those in favor, say aye. (Ayes.) Opposed? (No  
3 response). All right, thank you.

4 And, Ned, Tobacco Region Opportunity Program.  
5 Before we get started in your books, page 89. Ned.

6 MR. STEPHENSON: Mr. Chairman, we have a handful  
7 of TROF contracts that are in default. And I have four that I  
8 need to present you today and ask for direction from the  
9 Executive Committee as to how you'd like to dispose of these. In  
10 most cases, there are representatives from those entities here.  
11 They may want to speak. If it please the Chair, I can run  
12 through all four and then come back and speak individually.

13 Today, we have four grants that are in default,  
14 totaling approximately \$1.96 million, a promise of 807 jobs, and  
15 we have 11, and a promise of \$65.3 million investment, and we  
16 have less than a million. We're looking for about a \$2 million  
17 refund. I'll quickly go through the four of these.

18 Lee County was before you in September, but you did  
19 ask that we wait until January today before anything was done  
20 and give Mr. James a chance to come to speak to you today. I  
21 saw him in the audience. I think he'll want to speak to you  
22 before a decision is made.

23 I also have from Lee County another grant, and that's  
24 Green USA Recycling. The jobs that were delivered haven't been  
25 any so far. I'll point out to you that the contract ends on this

1 particular one, is not until the end of this calendar year.  
2 However, the contract provides that at a mid-point, from mid-  
3 point assessment, and they have not performed at least 25  
4 percent or promise at mid-point, and it's a technical default, and  
5 you can ask for a refund, or you can give them additional time or  
6 whatever you want to do.

7 The third one is the City of Danville, US Green Energy  
8 Corp. On this one, we're looking for a refund of about \$170,000  
9 There's been some limited performance and there's some  
10 representatives, I believe, from the City of Danville who may  
11 want to speak.

12 The fourth one is also the City of Danville, Web Parts,  
13 LLC. We're looking for a refund of a million dollars.

14 Now, the contract end date has not yet arrived, but  
15 the mid-point performance hasn't been met, but again you can  
16 give them more time. I don't know if they can refund that much,  
17 but I'm not sure.

18 DELEGATE KILGORE: The money has already gone  
19 out of the door from us.

20 MR. STEPHENSON: The money went out on the front  
21 end of the transaction subject to their performance under the  
22 contract. We monitored the performance and we're reporting  
23 that to you.

24 DELEGATE KILGORE: We'll hear from these folks  
25 because of the default, but just let me say that we take this very

1 seriously, this is money that we've invested based on the  
2 promises and the contract that we had with these folks.

3 Who's first?

4 MR. JAMES: Good afternoon, I have a couple of brief  
5 remarks I'd like to make before we talk about these particular  
6 grants. First of all, I thank all the Commission, I thank the  
7 Commission for what you've done for Lee County. Those of you  
8 familiar with the county know that there's never been any really  
9 significant manufacturing bases, typically, maybe some extracted  
10 industries, plus agriculture. The severe downturn in the coal  
11 industry has hit Southwest or actually all of Southwest pretty  
12 hard. I know all the officials are very familiar with that. Coal is  
13 down to zero, and that's just a matter of fact.

14 For the first time in many generations, there are no  
15 active coal mines in Lee County, Virginia at this time. Hopefully,  
16 the R&D grant that was just approved a few minutes ago, one in  
17 Lee County and one in Washington County, hopefully, those will  
18 work to improve the coal industry and throughout Southwest.

19 The idea in Lee County is very passionate about jobs  
20 and economic development, and we appreciate all the assistance  
21 we've received from the Commission over the years and various  
22 TROF grants and any economic development help and other  
23 types of grants, and we hope they'll be approved in the future.  
24 Each time we've had a TROF grant on behalf of the company, we  
25 do so hopefully with full expectation that the project will succeed

1 and the consequences if they do not succeed. When I first  
2 started a couple of years ago, we had an agreement with all the  
3 board members and I pledged to get them all of the contracts  
4 that we could and we would understand all of this before we  
5 would vote on anything and pledge to read and understand all  
6 the documents before we did anything. And, of course, we strive  
7 to be good stewards on all the funds.

8           Regarding the Elite Apparel, LLC, specifically here, this  
9 operation has benefited the county the past three years, and all  
10 this was done before I started here. The proceeds of the grant  
11 was used to purchase equipment, which is currently owned by  
12 the IDA. The original ownership group ran this for about a year  
13 or operated a business for about a year, and they closed or left  
14 town in May or June of 2012. The plant was idled for several  
15 months until August of 2013, and that's when the LLC was  
16 purchased by new principal owner, a native Virginian.

17           The plant reopened in late April, and they have been  
18 struggling since then. From probably March through April, I have  
19 personally been there three days a week. At that point in time,  
20 they were manufacturing the official PGA shirt. The high point of  
21 this manufacturing program, they were manufacturing a shirt for  
22 a PGA golf event that took place in January. We took several  
23 members out for a tour of the facility. That was Mr. Strickland,  
24 and that was while production was going on.

25           Since that time, production has dwindled and the

1 operation is really at a standstill. Actually, the operation has  
2 been idled since Thanksgiving. Approximately 21 or 24 or 36  
3 months of contract period, and that was the contract period, and  
4 generally you have around six employees. I personally  
5 purchased six or eight shirts from them, and all those shirts have  
6 been very high quality, if you've ever seen them, and they're all  
7 short sleeves and very popular. But I know they're high quality.

8           Unfortunately, we are in default on the agreement,  
9 there's no getting around that. Unfortunately, our board  
10 considered today asking for an extension of time to meet the  
11 requirements, but it's probably not going to change the end  
12 result here. We want to work with the company and hope  
13 they're able to resume production in the future, but they're trying  
14 to seek some capital right now. This is not a situation where  
15 nothing ever happens and no one shows up. The company was  
16 in operation, and I have good friends at the Virginia Employment  
17 Commission, and six employees certainly worked long enough to  
18 meet the minimum requirements. And we certainly feel that six  
19 twenty-fifths of the employment portion was met, that's 57 out  
20 of 120, and that would reduce the amount to 418,880. We're  
21 certainly prepared to make correction efforts and make  
22 repayment on that amount. We do respectfully request that you  
23 consider that.

24           Last time, Mr. Stephenson checked with the VEC and  
25 not, I think there was a problem as far as being correct. I know

1 typically the Commission's practice you allow localities a  
2 sufficient amount of time to start collection efforts for a  
3 repayment commitment, so, therefore, we'd still ask today for a  
4 continuation of that practice. We voted at our meeting last  
5 Saturday, but the weather had something to do with it, but we  
6 voted to begin a collection action. Our attorney will deal with  
7 that.

8 DELEGATE KILGORE: How long would the county ask  
9 for a delay, when you talk about payment, how long?

10 MR. JAMES: Well, a few months, maybe six months  
11 or something like that.

12 MR. STEPHENSON: The obligation was due on  
13 September 30<sup>th</sup>, that's when the contract ended. Perhaps the  
14 committee would like to do a payment plan if you can, or you can  
15 instruct staff to work out a payment plan, and we'll do that.

16 DELEGATE KILGORE: I think the staff has worked out  
17 a payment plan, and that would be a way to get some, we could  
18 get something done, also give them a little time to do this.

19 MR. STEPHENSON: We can do that.

20 MR. JAMES: I would respectfully request that the  
21 amount be reduced to 418,080, and with the number of  
22 employees working 30 or 40, and I don't know if VEC shows that  
23 with their records.

24 We had six people that worked for the company the  
25 first time, and at the end, and then there was ten at one time.

1 DR. REDWINE: Is there any contact with the original  
2 owners?

3 MR. JAMES: No.

4 DR. REDWINE: So nobody in the county has had  
5 contact with these people or is there any assets?

6 MR. JAMES: Nothing.

7 DR. REDWINE: Mr. Stephenson, this is for my  
8 edification, when you've got a transfer of ownership like this,  
9 you've got them, and then a year later, you got new owners.  
10 Who's responsible for that agreement or in a situation like that?  
11 Do you understand what I'm asking? You've got two sets of  
12 owners.

13 MR. JAMES: The contract was signed by the LLC, I  
14 don't know if that was the new owner.

15 MR. STEPHENSON: We take the view that it's the  
16 locality's responsibility to know who're they dealing with and  
17 when they get these deals, we look to the counties to make them  
18 good. LLCs are formed for the express purposes of escaping  
19 liability and that's why people do it. We're not chasing the LLC or  
20 any of their successors or assignees. They're not on the  
21 contract, we don't know who they are. We count on the county  
22 to do that. If the county is concerned about an LLC and the  
23 liability, they need to take steps to insure that the LLC can  
24 perform.

25 DR. REDWINE: Ultimately, the IDA go after either one

1 of the owners and try to get the assets from either of the  
2 owners, but ultimately it's the EDA that's responsible.

3 MR. STEPHENSON: That is correct. They can pursue  
4 the company or not as they choose and some counties choose  
5 not to.

6 DELEGATE KILGORE: Can you address the reduction  
7 request?

8 MR. STEPHENSON: We rely exclusively on what the  
9 company reports to the Virginia Employment Commission on  
10 employment transactions and tax returns. We rely on the  
11 Virginia Employment Commission exclusively and what the  
12 companies report to the Virginia Employment Commission on  
13 their unemployment tax returns for signature under penalty of  
14 perjury. We rely on that, and the records here don't show any  
15 employees. If there were six and the Commission wants to  
16 accept that on its face today, we could do the math accordingly  
17 and work out a payment plan on those numbers.

18 DELEGATE KILGORE: Any other questions?

19 SENATOR RUFF: I would propose we work out a  
20 payment plan on that net figure, not release them on the  
21 responsibility of the employment part until after today, until after  
22 the 418,000 is paid.

23 MR. STEPHENSON: Understood.

24 DR. REDWINE: Is it possible, does the VEC show  
25 zero, six people employed, or can we get that information for

1 those years in question?

2 MR. JAMES: I'll see if we can do that.

3 DELEGATE KILGORE: We've got a motion and a  
4 second on this. All those in favor, say aye. (Ayes). Opposed?  
5 (No response).

6 MR. JAMES: A couple of years ago, the IDA and Lee  
7 County, we had a proposal from Green USA Recycling, and we  
8 were going to have a center. This was very attractive for two  
9 major reasons. Number one, it was quite a number of people  
10 employed, and those jobs were very much needed in the county.

11 Secondly, we believe the IDA or what was tied into  
12 this project could be the key to the future of sustainable  
13 economic development in the county. We cannot continue to  
14 bury our trash in landfills forever, there's no way to do that. We  
15 believe these recycling centers sometimes in the future will  
16 reduce or eliminate the use of a landfill. In September of 2013,  
17 these recycling centers, I know there's at least two in California,  
18 very similar. Our board voted to pursue such a facility,  
19 considering the economic and environmental impact, and I think  
20 these can be very successful.

21 However, additional progress on this project has not  
22 been made. Unfortunately, we can't fulfil what we told the  
23 Commission. We are going to try to continue to pursue the  
24 project, but that scenario is probably two or three years away  
25 from groundbreaking at this point. Therefore, today, we

1 respectfully request an opportunity to work the things out with  
2 Mr. Stephenson and staff, and over the next several weeks, we'll  
3 report back in May on what's happening. That's our request.

4 DELEGATE KILGORE: Is that agreeable, Ned?

5 MR. STEPHENSON: Well, actually, half of that amount  
6 has already been by Lee County, but we'll work that out.

7 DELEGATE KILGORE: Any questions? I think we need  
8 a motion.

9 MR. STEPHENSON: That would be helpful.

10 SENATOR CARRICO: I make a motion that we work  
11 with Lee County and set up a payment plan and report back to us  
12 in May.

13 UNIDENTIFIED: 225.

14 DELEGATE KILGORE: Got a motion, a second. All  
15 those in favor, say aye. (Ayes). Opposed? (No response).

16 All right. Let's go to Danville.

17 MR. STEPHENSON: We have the City of Danville here,  
18 and there's two issues.

19 UNIDENTIFIED: Good afternoon, rather than me  
20 trying to explain this to you, this US Green Energy Corporation,  
21 and I brought the CEO with me, Mr. Bob Handick.

22 MR. HANDICK: Good afternoon, Mr. Chairman and  
23 Commission members, we acknowledge and accept that we have  
24 not met the agreement. We, however, do plan to cure this  
25 problem if we can. Our problem has been cash, and I have a

1 whole list of the programs we've gone through, starting with  
2 Governor McDonnell's grant.

3 We then negotiated \$150 million investment. And  
4 to make a long story short, our investment got killed. We had  
5 \$20 million worth of orders, and the Federal Reserve tightened  
6 the money supply and requirements, and it's all disappeared  
7 because we could no longer finance these lines of credit. In  
8 2012, we had commitments and other factors. We invested  
9 almost \$2 million into the facility. In the summer of 2012, a  
10 \$150 million loan was made, and that was made in investments  
11 in the Heritage Fund. In April, 2013, the currency between the  
12 U.S. and China was a problem. In June, 2013, we closed a \$50  
13 million loan. All the documents are available, and we had a  
14 problem through July. President Obama and South Africa  
15 imposed a new, a problem with international money transfers,  
16 and we had to cancel some programs, and we just had further  
17 problems.

18 In August, we negotiated a new loan with a U.K.  
19 investor, money is in the bank, and that loan should be  
20 completed by the end of January. This month, we have  
21 negotiated an advance of a million dollars to bridge it until the  
22 \$50 million loan, and those funds are expected no longer than  
23 the end of, in January. Those funds are free and clear and not  
24 tied up by international loan transfers. At the present time, we  
25 have a trained workforce and we've got certification. The

1 certification costs are between \$150,000 and \$250,000. We  
2 have a major national distributor to implement distribution of our  
3 products.

4 Therefore, we are going to ask you or request, and we  
5 understand that, and we're fully prepared once the loan funds  
6 come in, to become all or part of the TROF funds. We've  
7 invested already in this business close to \$5 million, but we plan  
8 to pay all this back. The only way we can compete is big. We  
9 anticipate to invest at least \$25 million and more this year,  
10 maybe more depending on the market, and we have about 200  
11 to 250 employees by the end of the year.

12 What I'm requesting is basically a 60 to 90 day clause,  
13 and at the end of that, we're going to be clear or not clear, and  
14 we're fully prepared to honor our commitment and negotiate the  
15 repayment agreement. I'm just asking for a little patience to  
16 close this loan. The initial million put salesmen on the ground.  
17 This is what we need more than anything else and let us get back  
18 and start production.

19 Each line we have, we have 40 people on one shift,  
20 and we have more than enough room to do what we want to do.  
21 So I would respectfully request 60 to 90 days of patience. We  
22 want to honor our employees. I invite anyone who cares to see  
23 the property. So if there's any questions, I'll try to answer them.

24 DELEGATE KILGORE: Any questions? You're asking  
25 us for 60 to 90 days?

1 MR. HANDICK: Yes, it'll take us at least that many  
2 days.

3 DELEGATE KILGORE: Any other questions?

4 DELEGATE MARSHALL: I make a motion that US  
5 Green Energy 90 days. Our next meeting is May, they should  
6 have that done by that time.

7 SENATOR RUFF: Second.

8 DELEGATE KILGORE: Is the city okay with that?

9 MR. WRIGHT: Yes.

10 MR. HANDICK: Yes, and we appreciate that. When  
11 we get these loans, all of the Tobacco funds will be replaced.

12 DELEGATE KILGORE: You heard a motion and second.  
13 All those in favor, say aye. (Ayes). Opposed? (No response).

14 Now, we have another from Danville. Web Parts, LLC.

15 UNIDENTIFIED: We are in the process as I speak of  
16 repossessing a building that the city holds a deed of trust on, and  
17 we want to get that building back in our possession before Web  
18 Parts files bankruptcy, and we are going to push them hard  
19 enough that I strongly suspect they will file bankruptcy. I don't  
20 want and I don't think it's in our best interest or the best interest  
21 of the Tobacco Commission because we'll have to deal with  
22 bankruptcy trustees on repossessing real estate in downtown  
23 Danville. I strongly suspect that before this one is settled, the  
24 CEO of Web Parts will be personally prosecuted, and we are  
25 prepared to go that far.

1           The thing has a little bit more time to run, the  
2 contract does, and it obviously is not going to develop. I think  
3 this one is going south, no question about it. We understand our  
4 commitment, and we are simply asking that we have adequate  
5 time to recover as much as we can before we start dealing with  
6 bankruptcy trustees.

7           DELEGATE KILGORE: Any questions?

8           DELEGATE MARSHALL: I see the contract end date is  
9 March of 2015, but we've still got a year away.

10          MR. STEPHENSON: It's a technical default for failure  
11 to meet 25 percent of the obligation at this point. The purpose of  
12 that mid-point technical default is to limit a problem situation  
13 without waiting before it gets away.

14          MR. WRIGHT: The city and I have been in close  
15 contact with one another, and he's been very helpful.

16          DELEGATE MARSHALL: Our next meeting is in May,  
17 will we know more?

18          MR. WRIGHT: The foregoing process, and then we'll  
19 know by May.

20          DELEGATE MERRICKS: Before closing process, you  
21 say it's been notified as what?

22          MR. WRIGHT: The deed being transferred Web Parts  
23 to the city, IDA. We should have a first deed of trust on that  
24 property.

25          MS. CARTER: Linwood, where is this company based,

1 I'm not familiar with that.

2 MR. WRIGHT: Mary, I wish I could answer that. I  
3 believe they're a software development company and a website  
4 developer. Beyond that, it's past my ability to understand what  
5 they do.

6 MS. CARTER: Is this a Chinese company?

7 MR. WRIGHT: No. The person that set this up was  
8 the former or original VP, vice president, of Wells Fargo on the  
9 West Coast.

10 DELEGATE KILGORE: Any further questions.

11 DELEGATE MARSHALL: I make a motion that we table  
12 this until our May meeting and ask the city to report back at that  
13 time on the status of this.

14 SENATOR RUFF: I've got a motion and a second we  
15 carry this over until the May meeting. Any further discussion?  
16 All those in favor, say aye. (Ayes). Opposed? (No response).

17 MR. STEPHENSON: Members of the Committee, I  
18 have one slide with some statistics on these defaults that I want  
19 to present to you, because I want to ask you to consider a policy  
20 decision relative to these TROF contracts. You have written 136  
21 of these TROF contracts. Fifty-seven of them have reached  
22 conclusion, and that means they have got the end of their  
23 maturing date and whatever resolution you worked out with the  
24 county. Of the 57 that have reached a conclusion, 29 of them or  
25 more than half are in default. I bring this to your attention

1 because there are another 80-some in the pipeline, and if the  
2 history predicts the future, we've got 40 more of those coming  
3 up under similar circumstances as of today.

4 The point is I'm asking you to consider where does the  
5 risk of loss probably belong? Should the Commission bear the  
6 risk of loss, should the locality bear that risk, or should that risk  
7 be laid off to some other party? The reason I bring that to your  
8 attention today because when these contracts default, lots of  
9 them do, it's very burdensome and almost punitive on some of  
10 these localities who we serve to come up with the money to pay  
11 these things because they're not going to get it as these LLCs  
12 and other entities. They sometimes get a little bit, but they don't  
13 get much.

14 So the burden as it presently stands falls onto the  
15 locality and puts the position in the awkward position of having  
16 to move against the localities who we serve, and I'm not sure  
17 that's the position you want to be.

18 Now, I have a remedy --

19 DELEGATE KILGORE: I would agree with you, but the  
20 reason it was set up like that is we didn't have the time or we  
21 didn't have a lot of information as to what or who the employer is  
22 or how many jobs and investment that we had and we relied on  
23 the local economic development people to investigate and  
24 research that.

25 DELEGATE MARSHALL: I thought currently that under

1 TROF the localities are responsible. We go back to the locality,  
2 you don't go back to the company because our agreement is with  
3 the locality and not the company.

4 MR. STEPHENSON: Correct.

5 DELEGATE MARSHALL: So it falls to the locality and  
6 their responsibility to refund to us if that happens.

7 MR. STEPHENSON: That's correct.

8 DELEGATE MARSHALL: Could we request a  
9 performance bond --

10 MR. STEPHENSON: -- Let me give you a little bit of  
11 history on these contracts of the counties or the EDA. We're not  
12 responsible to you on these contracts. If they default, everyone  
13 says tough love, the Commission is just out of the money, let's  
14 do another one. That's the way it is.

15 We executed this, what we loosely refer to as county  
16 liability clause, to place the burden of responsibility onto the  
17 localities, to sort out whether this was a worthwhile risk, because  
18 if it was not, then they are going to have to pay by default, and  
19 that would induce the counties to cover these risks, and it has in  
20 some cases, but in many cases, the localities don't have the skill  
21 sets in place to do this. It's not whether they're good at it, it  
22 falls between the cracks, and they find themselves in this  
23 position and at every meeting with these default contracts where  
24 the localities are not really sure who these companies are and  
25 where they are and why they've gone.

1 DELEGATE MARSHALL: Now, you talk about TROF,  
2 but would that also apply to Southside and Southwest Economic  
3 Development projects and special projects, or even the Education  
4 Committee?

5 MR. STEPHENSON: It could be extended to that, that  
6 might be a discussion for another day, that would complicate  
7 things. But what I'm presenting to you today, a possible cure  
8 just for the Commission, but also a cure for the localities, so  
9 they're not caught with having to pay these things.

10 DELEGATE KILGORE: Here's what we're going to do  
11 then, Ned. I'm going to ask you to work with our attorney and  
12 try to come up with something to share that with the localities,  
13 and the EDA and get some feedback from them and see if we can  
14 do that and have that information by our next meeting, whether  
15 to come up with a performance bond or letter of credit, try to  
16 give us a couple of different choices, and we may decide to do  
17 one of those choices or may not do anything or may keep it like  
18 it is. Is that fair enough?

19 MR. STEPHENSON: Yes.

20 DELEGATE KILGORE: What do you have next?

21 MR. STEPHENSON: The next item on the agenda that  
22 showed up since the agenda was published, we have received a  
23 request from the City of Bristol, and before I present that  
24 request, I need to refresh your memory that this past May, I  
25 believe it was, the City of Bristol approached the Committee and

1 the Commission, and you approved in May a five-and-a-half  
2 million dollar TROF award, but it had some special conditions in it  
3 that basically made it a guarantee that certain legislative fixes  
4 occur this month. If those legislative fixes occur, as anticipated,  
5 you would be off the hook and not expose anymore, and if it did  
6 not occur as anticipated, you would have a five-and-a-million  
7 dollar obligation, the bond holders of the City of Bristol. That's  
8 what you did back in May, and that's in place, and the City has  
9 not executed an agreement that commitment was made.

10 Come now to the city in recent day and they're asking  
11 if the Commission would rescind that five-and-a-half-million  
12 dollar bond guarantee, we'll call it, and simply make a \$5 million  
13 TROF award of cash straight to the city, not unlike other TROF  
14 agreements where's there a job commitment and investment  
15 commitment. So the request before you is to rescind the five-  
16 and-a-half million guarantee and simply grant \$5 million to the  
17 city. The city representatives are here and they can tell you  
18 much more about this if you are ready to hear from them.

19 SENATOR RUFF: Before you do that, can you tell us  
20 how many times we have waded into the issue of financing  
21 retail?

22 MR. STEPHENSON: I may have to lean on Mr. Pfohl a  
23 little bit, but in my time with the Commission, the Commission  
24 has generally stayed away from funding retail development.

25 MR. TRIVETTE: Good afternoon, members of the

1 Commission. I appreciate you giving us this time. As Mr.  
2 Stephenson said, our request is fairly straightforward, and we'd  
3 like to convert a five-and-a-half million dollar guarantee to a  
4 standard TROF grant. The reason for this request is that the  
5 circumstances have changed substantially since our five-and-a-  
6 half-million dollar guarantee was approved. And particularly  
7 concerning the legislation, which we now expect to be approved  
8 and including the partnership with our county next door,  
9 Washington County, Virginia. We think we're in a good position  
10 to see those technical remedies occur in this next session of the  
11 General Assembly.

12           However, the need for this remains. We're asking for  
13 this conversion which will allow us to make the third and final  
14 payment of our current contract on the property. The reason  
15 we're requesting this avenue, a TROF grant, is because we really  
16 feel strongly that this is no different than any other economic  
17 development activity. I'll be glad to give you some study  
18 materials to show you what job creation and kind of investment  
19 this is for the city, as well as generating revenue and economic  
20 development for the Commonwealth and the City of Bristol.

21           When you talk about direct job creation, 2,031 jobs  
22 just for several phases of the project. It's a \$260 million project  
23 along with private partnership, and the developer providing \$160  
24 million, and the city will provide \$90 million. Part of the city's  
25 money, of course, is expended in some incentives and property

1 acquisition and private development, although the city's money,  
2 of course, is expended in property acquisition and in site  
3 development. In the city's mind, this property is not unlike an  
4 industrial development project that would occur in any other  
5 counties and cities. That includes Washington County and Wythe  
6 County and Smyth County.

7 As you well know, cities in Virginia are prohibited from  
8 annexation, so we struggle with industrial recruitment. We  
9 consider commercial development, retail development to be just  
10 as viable economic development as any other type. We think  
11 this is an excellent time and an excellent project for the  
12 Commission to consider.

13 The other thing we would like is the fact that the  
14 General Assembly has already declared this project to be more  
15 than simply a retail shopping center growth. It's the first of its  
16 kind in the Commonwealth, and a special session of the State  
17 Code first to be considered regional impact. The series of criteria  
18 that must be met in order to satisfy that definition stands. So we  
19 feel that this is an excellent project for the Commission, an  
20 excellent project for Commission funding, we're asking you to  
21 consider it.

22 SENATOR RUFF: Does that complete your  
23 presentation, Mr. Trivette?

24 MR. TRIVETTE: Yes, it does.

25 SENATOR RUFF: Any questions?

1 MR. PFOHL: There was a bill filed in this year's  
2 General Assembly session that would accomplish the conditions  
3 that were approved back in August.

4 MR. TRIVETTE: It's a joint bill filed on behalf of the  
5 City of Bristol and Washington County.

6 SENATOR RUFF: If there's no questions, I'd like to  
7 make a statement. Retail is great, but generally speaking, you  
8 can only spend dollars one time. If you open a business, it takes  
9 business away from somebody else, and that doesn't create new  
10 wealth. The reason we have been involved in industrial  
11 development and manufacturing is that that creates business.  
12 So I would be very much opposed to this.

13 If someone wants to make a motion, you can do it at  
14 this time; if not, we'll continue on.

15 SENATOR CARRICO: I would make a motion.

16 DELEGATE MARSHALL: Second. In the City of  
17 Danville, we built a place five or six years ago, and the sales tax  
18 for the City of Danville went up substantially, the food and sales  
19 tax went up quite substantially for the City of Danville, and  
20 people are not just shopping from Danville but Pittsylvania  
21 County people. So for rural Virginia, this could be a draw similar  
22 to what you see outside this building here when you drive up and  
23 down Broad Street.

24 SENATOR CARRICO: Mr. Chairman, I'd make a  
25 motion, and then I'd like to make a comment. And this going

1 forward with this piece of legislation. Unless this project goes  
2 forward, the State of Tennessee will take all that retail from  
3 Virginia, and it'll be in Tennessee and not in Virginia, and we'll  
4 receive zero.

5 SENATOR RUFF: Just to follow up on that a little bit.  
6 Is that not what we tried to accomplish and what's wrong with  
7 following that procedure?

8 SENATOR CARRICO: I think we did accomplish it, the  
9 City of Bristol, but we ran into a little bit of a snafu with  
10 Washington County, which we have worked out in the past with  
11 the adjoining property that is developing, the City of Bristol not  
12 taking jobs away from Washington County and working together  
13 and trying to work this out. At the current time, the project is  
14 going on currently and Tennessee is taking the businesses from  
15 Virginia and moving them to Tennessee where we have no  
16 options other than to try to keep this where it is here in Virginia.

17 DELEGATE MARSHALL: I have a question. Tim, can  
18 you explain to Bill --

19 MR. PFOHL: The development of regional impact said  
20 that in effect that the sales taxes that are generated and other  
21 taxes, generated on the site can be collected and used to retire  
22 debt that was, it's in effect taxing and financing. To keep the  
23 sales tax revenue from that site to pay for the cost of  
24 development of that site, but it has information in there that says  
25 that the Commissioner of Revenue will start turning over the tax

1 revenues when the project is completed. This project is not just  
2 a one-phase project, it won't be completed for several years.  
3 The city is trying to cure that by saying that when Phase 1 is  
4 completed and the other tenants on that property that they can  
5 then start getting tax revenues from the Phase 1 businesses.

6 SENATOR CARRICO: If I can just add to that.  
7 Tennessee has a similar bill that allows a developer in Tennessee  
8 to do the same thing. We passed a bill that basically put us in  
9 the same competition with the bordering state, but the only  
10 problem that we had was that a city that lies within the realm of  
11 Washington County, and that development draws commercial  
12 businesses to those two locations. The developer in Tennessee is  
13 just across the state line. We're countering what Tennessee  
14 does, and if we do that, we're going to lose all our businesses to  
15 Tennessee.

16 DELEGATE MARSHALL: By our next meeting in May,  
17 we should know what happens to the bill. We'd know by the next  
18 meeting is what I'm saying if that bill is passed.

19 SENATOR CARRICO: My understanding the 5 million  
20 will not be needed until the bill passes

21 MR. TRIVETTE: No, that's not true. Five million will  
22 be needed. What the city would like to do, the city would like to  
23 use the 5 million to make a third payment in that contract, which  
24 is not due until August.

25 DELEGATE MARSHALL: So we could still take care of

1 it in May as opposed to now.

2 MR. TRIVETTE: Yes, however, the city will be asking  
3 the contractor to basically stand fast across that bridge, which  
4 they may not be willing to do.

5 DELEGATE MERRICKS: It's my understanding this is a  
6 regular TROF grant but would have stipulations as far as jobs and  
7 investment?

8 MR. STEPHENSON: I can speak to that, Mr.  
9 Chairman, if I may. The TROF program and TROF contracts are  
10 designed to make the employer of record party to the contract  
11 because it is that employer whose employment records we look  
12 at. In this case, the employer will be the 30, 40, or 50 retail  
13 establishment tenants in the shopping center who are not party  
14 to the contract whose employment records that I do not have  
15 access to. I'm telling you this to say that it's important, of  
16 course, that the Commission make the right decision about  
17 whether to make the grant or not. If you do choose to make it,  
18 it will not work under a TROF contract. I'm suggesting that you  
19 take the money over to the Southwest Committee and put it out  
20 under a standard grant agreement just like you do all of the  
21 similar developments. Simply because I don't want you to be  
22 misled that a TROF contract makes this well, and it does not.

23 MR. PFOHL: At that point, we will no longer have  
24 enforceable performance target and clawback provision. Before  
25 you head down that path, keep that in mind.

1 DELEGATE MERRICKS: The highways are paved with  
2 good intentions. My mind is a little fuzzy about how this is going  
3 to work.

4 MR. TRIVETTE: The city is prepared to make a  
5 commitment. When we make a promise, the city, of course, is  
6 the important factor and we have to stand for those  
7 commitments.

8 SENATOR RUFF: When I agreed to this, that was  
9 because we were going to get the money back. We're talking  
10 about giving this money away and not getting it back. I  
11 represent ten jurisdictions and most of those in the Tobacco  
12 Region, and most of them are going to be looking at this. Are  
13 you prepared for more retail shopping centers to give this any  
14 name they want and you have to say no and figure out what's  
15 the dividing line between this shopping center and that shopping  
16 center.

17 MR. TRIVETTE: Senator, I'd offer as a suggestion  
18 that, I would suggest that if another shopping center can provide  
19 2,000 jobs and \$260 million in taxable investment, then that  
20 should be considered.

21 SENATOR RUFF: We have a motion and a second.  
22 Any further discussion? Those in favor, say aye. (Ayes).  
23 Opposed? (No's).

24 DELEGATE WRIGHT: What was the motion?

25 MR. PFOHL: I believe the motion was to

1 accommodate the City of Bristol to, I believe the motion was by  
2 the City of Bristol to convert this TROF to a standard upfront  
3 TROF payment of \$5.5 million to the City of Bristol, and based on  
4 the city guaranteeing the jobs and investment performance is  
5 achieved.

6 DELEGATE MARSHALL: I have a substitute motion.  
7 The substitute motion is to table this until May.

8 SENATOR RUFF: Is there a second to the substitute  
9 motion? Any further discussion on that motion? All those in  
10 favor, say aye. (Ayes). Opposed? (No's).

11 A roll call vote.

12 MR. PFOHL: Delegate Byron.

13 SENATOR CARRICO: She's not in the room.

14 MR. PFOHL: Senator Carrico.

15 SENATOR CARRICO: No.

16 MR. PFOHL: Deputy Secretary Carter.

17 DEPUTY SECRETARY CARTER: No.

18 MR. PFOHL: Delegate Kilgore.

19 DELEGATE KILGORE: Pass.

20 MR. PFOHL: Abstained.

21 Delegate Marshall?

22 DELEGATE MARSHALL: Yes.

23 MR. PFOHL: Delegate Merricks.

24 DELEGATE MERRICKS: No.

25 MR. PFOHL: Dr. Redwine.

1 DR. REDWINE: Yes.

2 MR. PFOHL: Senator Ruff.

3 SENATOR RUFF: No.

4 MR. PFOHL: Ms. Thomas.

5 MS. THOMAS: No.

6 MR. PFOHL: Delegate Wright.

7 DELEGATE WRIGHT: No.

8 MR. PFOHL: The no's have it, five to three.

9 UNIDENTIFIED: May I offer an alternative?

10 MR. PFOHL: To vote to table, to vote to table until  
11 May was lost by five to three.

12 MR. TRIVETTE: I would suggest that an alternative as  
13 Mr. Stephenson said, I would suggest that an alternative would  
14 be, and as Mr. Stephenson said, it pays out on one very specific  
15 condition, that is the interpretation of the definition of the  
16 statute. We can accomplish the same goal by amending the  
17 current guarantee to apply in a broader spectrum. This project  
18 has always been and we can accomplish the same goal by  
19 amending the current guarantee, acquire the property. This  
20 project has always been or the city selling revenue bonds to  
21 finance our share of the costs, \$90 million, which is a big number  
22 for a city our size. That progress of selling revenue bonds has  
23 been delayed at no fault of the city.

24 If the Commission would be willing to extend a  
25 guarantee to the \$5 million number, payout by August, then that

1 would --

2 SENATOR RUFF: Tim, has this been considered by the  
3 staff?

4 MR. PFOHL: No, sir.

5 MR. STEPHENSON: No, the staff has not done any  
6 research beyond detailing the May, 2013 commitment into a  
7 term sheet, which the parties have not yet agreed to and we've  
8 suspended it until some of these events transpire.

9 SENATOR RUFF: Is there a motion to do that?

10 DELEGATE MARSHALL: What would be the motion?

11 MR. STEPHENSON: I understood the suggestion, is  
12 that what we need clarification on? As I understand the city's  
13 suggestion was that we expand the current guarantee, which is  
14 five-and-a-half million dollars, to say that the Commission  
15 disburse \$5 million to the city, in the event the bonds are not  
16 sold by the city by the end of August of this year. Is that  
17 correct?

18 MR. TRIVETTE: Yes.

19 SENATOR RUFF: Ned, what are the terms in the bond  
20 sheet when it has to be sold?

21 MR. STEPHENSON: Senator, I'll have to give that to  
22 you.

23 UNIDENTIFIED: I believe it's 12-31-2014.

24 DELEGATE MARSHALL: Ned, would you say that  
25 again.

1 MR. STEPHENSON: The existing commitment is a  
2 \$5.5 million guarantee to the bondholders against the possibility  
3 that the legislation does not occur as anticipated. If that occurs,  
4 the Commission is off the hook. The proposal before you from  
5 Mr. Trivette is that you rescind that commitment and simply  
6 guarantee a \$5 million payment to the city in the event it does  
7 not successfully sell the bonds by the end of August of this year.  
8 If the bond sale doesn't happen, you write a check.

9 DELEGATE MARSHALL: What is the incentive for  
10 Bristol to sell bonds? If they sell the bonds, they owe the  
11 money back. If they don't sell the bonds, we're going to give  
12 them \$5 million. Five million dollars, they don't have any debt.

13 MR. TRIVETTE: That's not true. We will have --

14 DELEGATE MARSHALL: I'm not worried about you,  
15 I'm worried about the Commission. That's the problem.

16 MR. TRIVETTE: We're certainly going to try to do  
17 that. Well, if we sell the bonds before August, then the  
18 Commission would not pay. If we don't sell by August, then the  
19 Commission would pay, which would allow us to complete the  
20 site work for the project in anticipation of selling the bonds later  
21 or at a later date.

22 MR. PFOHL: If the legislative change is made, when  
23 would that go into effect?

24 MR. TRIVETTE: July 1<sup>st</sup>.

25 MR. PFOHL: Would you be able to turn around and do

1 a bond sale in 30 days? We think or our current thinking is that  
2 we'll be able to see toward a bond sale immediately following the  
3 owner's signature.

4 DELEGATE MARSHALL: So you will know by April or  
5 May.

6 MR. TRIVETTE: Ready to sell, yes.

7 DELEGATE WRIGHT: Mr. Chairman, I'd like for you to  
8 state your opinion on this current proposal as compared to the  
9 opinion on the proposal made a little while ago and as far as the  
10 TROF contract that we've done before.

11 MR. STEPHENSON: Delegate Wright, it's my view that  
12 the standard TROF contract we used for these TROF transactions  
13 are required that we verify to the Virginia Employment  
14 Commission the employees of the entity who was party to the  
15 contract. The employer in this case will not be a party to the  
16 contract, so I cannot verify anything with the Virginia  
17 Employment Commission, simply will not work, so I'm not  
18 suggesting that you not make this, I'm simply suggesting that if  
19 you made it under a standard grant agreement, because if you  
20 do it under a TROF agreement, staff cannot verify and cannot  
21 enforce the terms of this agreement.

22 DELEGATE WRIGHT: Thank you. It's my  
23 understanding and going to be sure that I was clear on that. The  
24 thing has really changed from the original motion that was made  
25 as far as responsibility in this type of transaction.

1 MR. STEPHENSON: And I mentioned this, but the  
2 TROF contract also requires capital investment of record and the  
3 name of the company who is party to the contract. That entity  
4 under this proposal will not have any capital investment of record  
5 in its name. There's not any capital of record, so you don't have  
6 anyone to go against. The city said it will stand behind it, I'm  
7 sure it will, but we can't tell because we don't know, it's not  
8 discoverable. I'm simply saying that it can be done under a  
9 standard grant agreement through the Southwest Economic  
10 Development if that's what you want to do.

11 SENATOR RUFF: Any further discussion on the  
12 motion? If there is none, I believe we finished the discussion,  
13 and thank you all for coming.

14 DELEGATE KILGORE: The next one is Bland County,  
15 and their request exceeds the policy, and this is something we  
16 worked on with the VDP of the Governor's Office, is that correct?

17 MR. STEPHENSON: That's correct. Bland County is  
18 interested in an important process and that's referred to as  
19 Project Bridge, and they've been in negotiations with this  
20 company, and they've indicated to us that they wish to have a  
21 TROF award that is largely in what your policy provides. You  
22 certainly can do that, but it would be at the suggestion of the  
23 TROF Committee and then to the Full Commission, and I've  
24 talked to some of the members at the table today, and I put it  
25 before you.

1           The request coming from Bland County for this  
2 particular transaction is for \$600,000, and the formula supports  
3 an award of 255. This is something that I think Liz Povar, I know  
4 the Governor's Opportunity Fund, you'd have to increase it over  
5 and above. Can you tell us what we need to know?

6           MS. POVAR: We're in some negotiations. We've sent  
7 them a preliminary proposal from Bland County to the Tobacco  
8 Commission, and that would give them an opportunity to secure  
9 the deal. That came back and it was indicated that the company  
10 would have to re-evaluate certain functions, which would reduce  
11 the threshold job numbers and then come back to the TROF  
12 Committee to work here and asking you to reconsider the  
13 amount. It may be slightly lower than originally thought, maybe  
14 a lower amount to be arrived at. The GOF is stretched beyond a  
15 threshold.

16           DELEGATE KILGORE: What number are you looking  
17 to us for?

18           MS. POVAR: We're looking at 25 new jobs to be  
19 created, average salary about 38,000 a year. Forty-one new  
20 jobs.

21           And if we could get 50 jobs as an alternative, we'd like  
22 that flexibility to be able to do that, and maybe get back up to  
23 the original number.

24           DELEGATE KILGORE: I don't have the problem with  
25 610 if you have 50 jobs. If you'd only got 25, wouldn't that be

1 closer to 400?

2 UNIDENTIFIED: The 362 jobs, but also ten percent of  
3 our workforce, and this is a problem with us. And if we had  
4 6,800 people, but 350 plus, that's a huge impact to us. This is a  
5 big project for Bland County. But I think the county has gone to  
6 its limits here.

7 DELEGATE KILGORE: What are you asking for as far  
8 as the jobs?

9 UNIDENTIFIED: I'd like to ask for 600,000.

10 DELEGATE KILGORE: But that doesn't fit into --

11 UNIDENTIFIED: -- A million six right now, 500,000  
12 would really help us.

13 DELEGATE KILGORE: So the motion would be if we  
14 approve this 500,000 from TROF, if there's 25 jobs, 610 if it's 50  
15 jobs.

16 UNIDENTIFIED: Yes.

17 MS. POVAR: And with the Governor's Opportunity  
18 Fund, we drop that and we recommended 700 for 25.

19 SENATOR RUFF: Is there a cap on the investment  
20 part of this?

21 MR. POVAR: Twenty-nine million. There's one other  
22 caveat. The county would require and have that available to two  
23 other companies in the area.

24 SENATOR RUFF: Mr. Chairman, I move that we  
25 approve 500,000 for the 25 jobs.

1 DELEGATE WRIGHT: Second.

2 DELEGATE KILGORE: This still has to come to us. Is  
3 this for the TROF people, Ned?

4 MR. STEPHENSON: If it's outside the guidelines, it  
5 has to go to the Full Commission, it doesn't really matter about  
6 the TROF panel, the policy says he has to go.

7 DELEGATE KILGORE: It's the 500 and then the 600.  
8 It's 25.

9 All right, we've got a motion and a second. All those  
10 in favor, say aye. (Ayes). Opposed? (No response).

11 MR. STEPHENSON: Mr. Chairman, earlier, the  
12 Commission made a grant to Dinwiddie County that you  
13 approved. The purpose of that grant was to purchase some real  
14 estate and spend \$75,000 of the grant to improve that piece of  
15 real estate. And Dinwiddie approved that grant that was not  
16 disbursed. Dinwiddie bought the real estate using their own  
17 money and recently sold it and got their money back, but didn't  
18 do the improvement that was contemplated in the original grant  
19 application.

20 We're now faced with the idea that Dinwiddie still  
21 needs to make those improvements that were originally planned,  
22 but we'd be spending that grant money onto private property  
23 now owned by somebody else. The solution that the county asks  
24 that the staff recommend is that the \$75,000 in Southside, that  
25 was yours for improvement on this grant, that that amount be

1 added to the TROF grant that was made to this company and  
2 used for purposes of making those improvements and subject to  
3 the clawback requirements that the company has agreed to.

4 The company and county have given its indication that  
5 that is acceptable to them, to get these improvements done. So  
6 I'm inviting a motion to transfer the \$75,000 from Southside into  
7 the TROF contract, in addition to the 160 that is already  
8 approved.

9 DELEGATE MARSHALL: So moved.

10 DELEGATE KILGORE: It's been moved and seconded.  
11 All those in favor, say aye. (Ayes.) Opposed? (No response).

12 What's next?

13 MR. STEPHENSON: Earlier, the Southwest Committee  
14 approved an award of 300,000 in the Southwest fund to be  
15 essentially added to a TROF grant for Secure Mountain of  
16 \$160,000, bringing the total of 460 for Secure Mountain. That  
17 was done in the Southwest meeting. I believe I'm correct in  
18 saying that we do not yet have the TROF application, the 160 in  
19 house and approved and it's yet to come in, and that's within the  
20 Executive Director's authority to approve. I think we can do that  
21 with the consent of the Commission. I must add that because of  
22 what's come through the Committee today and the last few days  
23 that if you approve that, the TROF fund is going to be slightly  
24 overdrawn, which is not a problem, but not doing any more deals  
25 until you replenish the fund.

1           The piece that overdraws it is the five million plus  
2           commitment to the City of Bristol, which won't go away until that  
3           legislation occurs, and then that five and a half million could  
4           potentially come back.

5           DELEGATE KILGORE: The Secure Mountain, that  
6           would be more than the 460, an additional 250 getting it started  
7           on that and open that other portal for the --

8           MR. STEPHENSON: A \$900,000 or \$935,000, and the  
9           Southwest Committee has provided 300 plus 160, which is the  
10          460, and the TROF is out of money with those approvals slightly  
11          overdrawn.

12          Stephanie reminds me there are some few dollars  
13          remaining that are unobligated by the Commission at this point.  
14          Those dollars could be transferred to where you need to.

15          DELEGATE KIILGORE: Secure Mountain is an  
16          additional two or three hundred. They can't get started on this,  
17          and also with the county there was some discussion earlier about  
18          the county getting some or an agreement to purchase the  
19          property.

20          MR. STEPHENSON: As we stand, Scott County is in  
21          line for approval tomorrow of 460 for Secure Mountain. There's a  
22          few dollars unobligated if you want to add those, and then we'll  
23          negotiate with Secure Mountain over the piece of real estate,  
24          perhaps the big money that they're hoping to get for that  
25          project.

1 DELEGATE KILGORE: How much are you talking  
2 about?

3 UNIDENTIFIED: Enough to do the job.

4 DELEGATE KILGORE: Mr. Forsman, does that go a  
5 long ways with helping you or getting the initial stage moving  
6 forward?

7 MR. FORSMAN: Yes, sir, and we'd be happy to work  
8 with the staff on the balance of that and have those discussions.

9 MR. STEPHENSON: I understand the conversation in  
10 Southwest to be that Southwest wants to supply 300, in addition  
11 to the TROF award of 160 for a total of 460.

12 DELEGATE KILGORE: That's fine.

13 MR. STEPHENSON: Do I understand you contemplate  
14 adding 250 on top of that?

15 DELEGATE KILGORE: I thought that's what we were  
16 going to do.

17 MR. STEPHENSON: We're at 460 absent further  
18 action.

19 MR. FORSMAN: It'll move us forward, but if we get  
20 the 250 now, we can make that part of our discussion.

21 MR. STEPHENSON: We're standing at 460, 300  
22 Southwest, 160 TROF.

23 DELEGATE KILGORE: This is a big opportunity for  
24 Scott County. Hoping we could add something to this to get  
25 them started in opening that up.

1 DELEGATE WRIGHT: Mr. Chairman, do you agree that  
2 the Tobacco Commission funds --

3 DELEGATE KILGORE: Let me ask Mr. Forsman a  
4 question.

5 MR. FORSMAN: I'll be brief, but I'll endeavor to  
6 answer your question.

7 DELEGATE WRIGHT: Can you explain this project?

8 DELEGATE KILGORE: I'll ask Mr. Forsman.

9 MR. FORSMAN: This project is located in Scott County  
10 north of, we've looked at the site we're going to develop, and  
11 6,000 tons of free cooling. Just to give you an idea, if you take  
12 this room, we've got 13 portals that are roughly five times the  
13 length of this room, this width, and roughly this height, and  
14 we'll have a series of structures along with the technology  
15 available.

16 As far as I know, there's no other comparable site in  
17 the eastern third of the United States in terms of the amount of  
18 available space in part because the investments made by the  
19 Tobacco Commission. The capabilities of the site is enormous  
20 and when you consider the power cycle and other things.

21 One of the things that we're seeing from a marketing  
22 standpoint, a lot of technology, including Northern Virginia in  
23 terms of outside technology. I know the board of supervisors  
24 have approved this. Just think of this as nobody can see you,  
25 300 feet of rock, so it's available and it's secure. I can go into

1 further detail if you wish.

2 SENATOR RUFF: Would all our phone calls be stored  
3 there?

4 DELEGATE KILGORE: If the Committee here would  
5 put another 250,000 with this other 161,000, would the County  
6 be willing to sign a TROF agreement for Secure Mountain?

7 MR. FORSMAN: That would have to go to the board of  
8 supervisors.

9 DELEGATE KILGORE: What do you think?

10 MR. FORSMAN: I don't know. I can't give you a yes  
11 or a no, it has to go before the board of supervisors.

12 SENATOR CARRICO: Southwest. Move it 460 Secure  
13 Mountain.

14 DELEGATE KILGORE: Here's what I think we ought to  
15 do. We're going to agree that you're going to get 460 and revisit  
16 in May and we'll move on this. I'm going to ask that you and  
17 Scott County work with our attorney and Ned and work on that  
18 and move forward.

19 MR. PFOHL: Very quickly, the bylaws that were  
20 adopted two years ago and every two years, and you may recall  
21 in September, the Commission approved a grant for the rural  
22 center of rural Virginia with their new executive director. They're  
23 going to conduct meetings with constituents of the Commission  
24 across the nine planning districts in the Tobacco Region, and  
25 that's the center for rural Virginia. They're going to start the

1 meetings, and those will be listening sessions, and starting in the  
2 spring, they'll be a source of input to form our strategic planning  
3 process.

4 In May, in the Executive Meeting, there can be an  
5 update on a timeline for getting those new strategic plans in  
6 place, and we'll update you on those listening sessions. You may  
7 recall the JLAR report in 2011 said when the staff or Commission  
8 updates its strategic plan, we in effect have some listening  
9 sessions. So the plan is now to do that and local educators will  
10 be invited to those sessions, and that'll help form our strategic  
11 plan.

12 DELEGATE WRIGHT: Mr. Chairman, did we vote on  
13 that last proposal?

14 DELEGATE KILGORE: We didn't have to, because we  
15 already -- All right, go ahead.

16 MR. PFOHL: There's a Farnborough Air Show that's  
17 conducted every other year, and there's also the Paris Air Show.  
18 Last year, the Commission provided \$30,000 towards, and the  
19 cost to us is somewhere about \$95,000 to \$100,000 for us to  
20 have a pavilion, a Virginia pavilion at the Paris Air Show. VEDP  
21 has approached us about another \$30,000 suite to show  
22 Virginia's presence at the Farnborough Air Show. I would ask  
23 your authorization to contribute \$30,000.

24 DELEGATE KILGORE: I think I can speak for Frank,  
25 but Virginia really needs to do this. I feel like we've gotten some

1 good leads there and we need to up our presence. I know  
2 Florida, and I think Alabama has been very big in this. What we  
3 really need to do is step it up.

4 DELEGATE BYRON: We can talk to --

5 DELEGATE KILGORE: -- But we really need to step it  
6 up.

7 DELEGATE BYRON: What does the 30,000 get us?

8 MR. PFOHL: It's an exhibit pavilion, the governor and  
9 legislators meet with the representatives from the aerospace  
10 industry and things like that. CCAM is helping with this, some of  
11 the companies there they have relations with.

12 DELEGATE KILGORE: I think the governor left out  
13 RGA. I think this is important because all the other states have  
14 the governors there.

15 SENATOR RUFF: Mr. Chairman, I know North Carolina  
16 and a number of other states have had a bigger and better  
17 presence than Virginia. Ours is a space of about four feet long,  
18 and that's embarrassing. You couldn't talk to a client there. We  
19 had Virginia companies walking up to and said they would be  
20 willing to invest in a better display. We've just got to do a better  
21 job, we've got to reach out to other companies and have an  
22 interest of being involved. And I think those other entities can  
23 help along with the Tobacco Commission.

24 MR. PFOHL: I think the dates are July 19<sup>th</sup> and 20<sup>th</sup>.  
25 The funding plan to come up with the 95,000 to provide a full

1 exhibit include some fundraising from private Virginia  
2 corporations. Virginia companies \$15,000, Economic  
3 Development, or other educational institutions, 20,000. It's a  
4 public private partnership.

5 DELEGATE KILGORE: Do I have a motion? All right.  
6 It's been moved and seconded. All those in favor to the 30,000  
7 for the air show, say aye. (Ayes). Opposed? (No response).

8 DELEGATE MARSHALL: We already had one  
9 gentleman speak in special projects, which included 155 new  
10 jobs paying 31,000 a year, 27.3 million of investment. That's in  
11 Henry County. If you're going to play ball, you have to play in  
12 the ball park.

13 All right, we've already passed that.

14 DELEGATE BYRON: -- Kids being paid to do that?

15 DELEGATE KILGORE: Yes.

16 DELEGATE BYRON: I wanted to make sure we were  
17 clear with that.

18 DELEGATE MARSHALL: If you look at Europe, it's all  
19 over the continent.

20 DELEGATE BYRON: I was just referring to that.

21 DELEGATE KILGORE: The Inspector General's report.

22 MR. PFOHL: The staff has been working with the  
23 Office of the Inspector General for nearly 12 months now  
24 providing information. And the original completion date, target  
25 for the IG was the end of October. And that was revised to the

1 end of December, and we submitted the third round of  
2 comments, and that was the second draft in late December. And  
3 we're awaiting publication of the Inspector General's report, and  
4 we'll get that out to every member of the Commission when we  
5 receive it.

6 MR. PFOHL: The outgoing and incoming  
7 administrations that we have continued support for the Deputy  
8 Secretary for Rural Development's position for a 120-day period.  
9 Stephanie calculated that based on the, and that 120-day level of  
10 funding equates to \$50,000 for four months of funding in that  
11 position. And that request has been put to us.

12 DELEGATE KILGORE: That's the question, what's the  
13 pleasure? I need a motion.

14 DELEGATE BYRON: I make a motion that we approve  
15 the funding for the next 90 days.

16 DELEGATE KILGORE: Make it specific.

17 DELEGATE BYRON: I make it for the person that's  
18 holding that position.

19 SENATOR RUFF: Would you accept a permanent  
20 amendment that it be for Mary Rae?

21 DELEGATE BYRON: Yes.

22 DELEGATE KILGORE: We have a motion and a  
23 second. Any more discussion? All those in favor of that motion,  
24 say aye. (Ayes). Opposed? (No response).

25 Next?

1 MS. KIM: The first item is transfer 500,000 from  
2 Special Projects to TROF to fund Grant Number 2838 to the  
3 Martinsville, Henry County, Project Bespoke to be combined with  
4 their TROF grant.

5 DELEGATE KILGORE: Keep going.

6 MS. KIM: The next one is to transfer 300,000 from  
7 Southwest Economic Development to TROF for Grant Number  
8 2756, Scott County Secure Mountain, to be combined with their  
9 TROF grant.

10 The next one is to transfer 75,000 from Southside  
11 Economic Development to TROF for Grant 2836, Dinwiddie  
12 County's Wagman.

13 The next one is transfer \$1,002,660 from Unobligated  
14 Funds in the General Account to the TROF Fund to fund approved  
15 grants and make funds available for future projects.

16 SENATOR RUFF: So moved.

17 DELEGATE KILGORE: We have a motion and a  
18 second. All in favor, say aye. (Ayes). Opposed? (No response).

19 All right, Kim.

20 MR. PFOHL: Delegate Marshall is conducting the  
21 megasite round in the fall, had a conversation with other staff  
22 about Commission funds being used to pay for stream and  
23 wetland mitigation costs, especially when a locality is developing  
24 an industrial site requiring to serve wetlands and streams when  
25 they're required to do some replacement of wetlands and

1 streams or purchase credits when they're privately-owned  
2 mitigation. Those credits get a little pricey.

3 It's not only small county industrial parks where there  
4 may be two or three acres, this can run up to a couple of  
5 hundred thousand dollars. We're causing some eyebrows to turn  
6 up. We're trying to create the megasites where you have 200-  
7 plus acres. The cost per stream and wetland mitigation can run  
8 into some high numbers. It's Delegate Marshall's request, and  
9 the staff met with the wetland profession people, DEQ, they have  
10 confirmed that while the restoration and mitigation costs have  
11 not changed significantly in the last ten years, and we've also  
12 heard that there has been some revisions and refinements to the  
13 definitions of the Federal rules and regulations and so forth. And  
14 that's raised some of the costs.

15 So, Delegate Marshall, and I don't want to take words  
16 out of your mouth, we're looking for some clarification on what to  
17 do. Whether it's appropriate for the Commission to use our  
18 funds as part of the project funds to develop to continue to  
19 purchase wetlands in mitigation and in many cases private  
20 banks.

21 DELEGATE MARSHALL: To a certain degree, that is  
22 new cost of doing business for an industrial park. No matter how  
23 big the park, there's going to be costs, it can be very substantial.  
24 These are not new regulations or I think it's new interpretations  
25 of the existing regulation. And sometimes we just don't

1 contemplate what the cost will be.

2 And there's one situation in Pittsylvania County and  
3 the area is not a whole lot bigger than this room, but it's a  
4 quarter million dollars for these stream credits. In this case,  
5 these can be counted as, or you have to do an RFP for this, and  
6 it's just like anything else. But the question before us is these  
7 costs aren't going to go away, whether it's the county or the city  
8 and they're going to be encouraged.

9 Tim, is anybody here from DEQ?

10 MR. PFOHL: No, not at this time. We had a short  
11 time to do that, but we've got some folks that have been with  
12 local developers, and, of course, it seems to be the cost of doing  
13 business when you're trying to create these big megasites  
14 apparently.

15 One of the things that crossed my mind is if that's  
16 something the Commission wanted to or might consider  
17 encouraging folks as far as cost sharing, which makes the locality  
18 applying for this, they would have to come up with money, and  
19 that would give them a pretty clear incentive to take the most  
20 cost-effective approach. That's something we can talk about  
21 later on down the road.

22 DELEGATE KILGORE: Well, the reason this is  
23 important, we need to recognize this is a fact of life, part of the  
24 development cost and part of the cost going forward, we'll have  
25 to address it. The way Tim's talking about, it's just going to have

1 to be done. You could be or talking about millions of dollars if  
2 you're not careful.

3 DELEGATE MARSHALL: The problem is you could be  
4 talking millions of dollars. And the localities don't have the  
5 money, then you've got to go the private route. It might not be  
6 the right thing to do, but you have to face it.

7 DELEGATE BYRON: I still don't understand when you  
8 say something like this, is this something you're suggesting, that  
9 we find out before we get into these situations?

10 DELEGATE KILGORE: What I'm saying is that maybe  
11 the situation is that you don't know until you get involved, but  
12 surely with all of these environmental studies and we're required  
13 to do all these things and really find out what's going to be  
14 required to build a mega park or an industrial site or whatever.  
15 We've just got to be knowledgeable about it and know what's  
16 coming down the road.

17 MR. BALLOU: It seems to me, Delegate Byron and  
18 Mr. Chairman, this is part of your overall project costs for  
19 particular projects. At appropriate times, it might need to be  
20 further developed and maybe a line item in your project budget  
21 and inquired with the staff during the application process.

22 Delegate Marshall realizes it is something that will be  
23 known to the Commission in terms of the overall funding of that  
24 project and part of the project costs or overall development of  
25 whatever project you may be contemplating.

1           DELEGATE BYRON: I don't know if you can really  
2 quantify that amount. A couple of years ago, DEQ was going to  
3 look at these type of projects and give us some information or  
4 give us some good direction. But if we move too fast in  
5 assuming the program is, but we've got to be very careful.  
6 Sometimes, it's more cost effective for them to take the program  
7 over and work with DEQ and the state before we can get into all  
8 of that. I think we need to look into sharing costs, especially  
9 when you get into mitigation. We've certainly got to be careful  
10 of how we spend our money and make sure we know all the  
11 details.

12           DELEGATE KILGORE: I think what I'd like to do is  
13 when we get together in May is get some folks together and look  
14 at what we're facing with this, and then next year or months and  
15 maybe can get a report on this or maybe our attorney can, but it  
16 sounds to me we're looking at costs, it's just going to be a cost  
17 moving forward in the project and we need to call on people that  
18 know this.

19           DELEGATE BYRON: The question, Mr. Chairman, is  
20 whether or not we can afford to be in the development business,  
21 is probably the question.

22           DELEGATE KILGORE: I don't think we can make that  
23 decision today.

24           DELEGATE BYRON: I'd bring it up to give us some  
25 food for thought.

1 DELEGATE MARSHALL: We've got projects out there  
2 now that are going to be at a standstill.

3 DELEGATE BYRON: That's why I say that's part of the  
4 review process and figuring we have multiple sites now. I can  
5 understand some frustration and we need to decide whether this  
6 is proper or not and how much money we're talking about. Just  
7 so we don't continue to put money out in that direction without  
8 knowing where the end is in sight.

9 DELEGATE KILGORE: I'll ask Tim to look into  
10 that.

11 MR. STEPHENSON: Mr. Chairman, one other  
12 housekeeping matter.

13 MS. KIM: We have to transfer \$50,000 from  
14 unobligated funds in the general account to administration to  
15 fund Deputy Secretary Mary Rae Carter's salary, fringe benefits,  
16 and expenses through May 9, 2014.

17 And the second item is to transfer \$249,980 from  
18 unobligated funds in the General Account to Reserve to cover a  
19 commitment made in May of 2012 to the Southwest Virginia  
20 Cultural Heritage Commission under Grant Number 2171. So,  
21 the grant will increase, the unobligated reserve, \$249,980  
22 transferring from unobligated funds.

23 DELEGATE KILGORE: All right. I've got a motion on  
24 what Stephanie just read. Do I have a second? I've got a  
25 motion and a second. All those in favor, say aye. (Ayes).

1     Opposed? (No response).  
2             Now, any public comment?

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**PROCEEDINGS CONCLUDED.**

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**CERTIFICATE OF THE COURT REPORTER**

I, Medford W. Howard, Registered Professional Reporter and Notary Public for the State of Virginia at Large, do hereby certify that I was the Court Reporter who took down and transcribed the proceedings of the **Virginia Tobacco Indemnification and Community Revitalization Commission, Executive Committee Meeting**, when held on Monday, January 6, 2014, at 5:00 o'clock p.m., at The Hilton Richmond Hotel and Spa in Short Pump, Richmond, Virginia.

I further certify this is a true and accurate transcript, to the best of my ability to hear and understand the proceedings.  
Given under my hand this 28<sup>th</sup> day of January, 2014.

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Medford W. Howard  
Registered Professional Reporter  
Notary Public for the State of Virginia at Large

MY COMMISSION EXPIRES: October 31, 2014.