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TOBACCO REGION REVITALIZATION COMMISSION

701 East Franklin Street, Suite 501
Richmond, Virginia 23219

Executive Committee Meeting

Tuesday, September 22, 2015
4:30 o'clock p.m.

Wytheville Meeting Center
Wytheville, Virginia

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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.
6 Ms. Mary Rae Carter
7 Special Advisor for Rural Partnerships
8 The Honorable Daniel W. Marshall, III
9 Mr. Donald W. Merricks
10 The Honorable James W. Morefield
11 The Honorable Edward Owens
12 The Honorable Thomas C. Wright, Jr.

13

14 COMMISSION STAFF:

15 Mr. Evan Feinman, Executive Director
16 Mr. Ned Stephenson, Deputy Executive Director
17 Mr. Timothy S. Pfohl, Grants Program Administration Director
18 Ms. Sarah K. Capps, Grants Program Administrator -
19 Southside Virginia
20 Ms. Sara G. Williams, Grants Program Administrator -
21 Southwest Virginia
22 Ms. Carolyn Bringman, Performance Data Analyst
23 Ms. Stephanie S. Kim, Director of Finance
24 Ms. Stacey Richardson, Executive Assistant

25

1 COUNSEL FOR THE COMMISSION:
2 Ms. Elizabeth B. Myers, Assistant Attorney General
3 Richmond, Virginia 23219
4 Ms. Kristina Stoney, Senior Assistant Attorney General
5 Office of the Attorney General
6 Richmond, Virginia 23219
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1 September 22, 2015

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DELEGATE KILGORE: Welcome to today's meeting,
4 I'm going to ask Evan to call the roll.

5

MR. FEINMAN: Delegate Byron.

6

DELEGATE BYRON: Here.

7

MR. FEINMAN: Senator Carrico.

8

SENATOR CARRICO: Here.

9

MR. FEINMAN: Ms. Carter for Mr. Jones.

10

MS. CARTER: Here.

11

MR. FEINMAN: Delegate Kilgore.

12

DELEGATE KILGORE: Here.

13

MR. FEINMAN: Delegate Marshall.

14

DELEGATE MARSHALL: Here.

15

MR. FEINMAN: Mr. Merricks.

16

MR. MERRICKS: Here.

17

MR. FEINMAN: Delegate Morefield.

18

DELEGATE MOREFIELD: Here.

19

MR. FEINMAN: Mr. Owens.

20

MR. OWENS: Here.

21

MR. FEINMAN: Senator Ruff.

22

SENATOR RUFF: Here.

23

MR. FEINMAN: Delegate Wright.

24

DELEGATE WRIGHT: Here.

25

MR. FEINMAN: You have a quorum, Mr. Chairman.

1 DELEGATE KILGORE: Do I have a motion to approve
2 the minutes of May 20, 2015?

3 MR. OWENS: So moved.

4 DELEGATE MARSHALL: Second.

5 DELEGATE KILGORE: All those in favor of the
6 minutes, say aye. (Ayes). Opposed? (No response).

7 The agenda is on page 67 in your books. You've also
8 got the replacement pages, and you've got the itinerary and the
9 economic development agenda. There's a replacement page
10 under there that replaces page 67. Also, in front of you is a W-9
11 form that needs to be filled out. If you'll fill that out before you
12 leave tomorrow.

13 We're also pleased to have Ms. Kristina Stoney with us
14 from the Attorney General's Office, and we appreciate your being
15 here today giving us some sound legal advice.

16 MS. STONEY: Thank you.

17 DELEGATE KILGORE: Sound legal advice is the only
18 way.

19 MS. STONEY: That's right.

20 DELEGATE KILGORE: All right. Now, the next order
21 of business is the LMU application.

22 MR. FEINMAN: Mr. Chairman, I think ultimately we
23 came to something of a resolution in the Special Projects
24 Committee on the most recent ask regarding LMU, but given that
25 we have a long-term prior relationship and I'd like to keep a

1 relationship with these folks, but we thought it would be good
2 today and they wanted to, to address the Executive Committee
3 because it's largely in an education sense to describe what our
4 resources have done and what the plans are going on in the
5 future.

6 DELEGATE KILGORE: Pete or Jason?

7 MR. DeBUSK: Thank you, my name is Pete DeBusk,
8 Chairman of the Board of LMU, and I'd like to go back and
9 describe a little bit to you about the events of what's happened.
10 Of course, we waited until we got the letter of reasonable
11 assurance from the American Veterinary Medical Association to
12 move forward. And we move forward with the idea of putting the
13 Large Animal portion of the school in Lee County, Virginia. Being
14 from Lee County, of course, and being with the Tobacco
15 Commission and what have you, we talked about the possibilities
16 of putting the Small Animal facility, which is a 43,000 square foot
17 facility down, as well, in Lee County.

18 Early on what we were faced with was the expedience
19 that we needed to build a building. In dealing with this the last
20 couple of years, as you see, we needed to get it done, we're not
21 going to drag it out and we couldn't drag it out because we had
22 timelines to meet. We built almost 100,000 square feet in two
23 years. We built the buildings, and everything worked, and we
24 now have 200 students enrolled in Lee County, Virginia. It's
25 created some problems, but these are good problems. The

1 Verizon cell phone doesn't work very well. For the internet,
2 we've got to have broadband, there's not enough houses, we've
3 run into that problem.

4 The sewage situation, the U.S. Army Corps of
5 Engineers, they came through and gave us an \$8 million grant,
6 Southwest Virginia. Since that time, the Army Corps of
7 Engineers has come back, ready to run what we'd like to put in
8 Lee County, and that's hard to get enough volume, so we're
9 working with the State of Tennessee, and we're trying to work
10 the sewage from Lincoln Memorial University right there on the
11 line, and the City of Harrogate, and bring it right in, and bring it
12 into the State of Virginia and process it, and that'll give us a
13 revenue stream, we need a revenue stream to support that
14 system.

15 We've been doing a lot of horse trading to try to make
16 this whole thing work out, and we've done that pretty well. And
17 that's quite a challenge for any project that's been around about
18 how we put this together and we've stood by our word, and
19 we've done this.

20 Dr. Johnson has some books to pass around. At this
21 point, the specifics of it, I'm going to turn over to Dr. Johnson.

22 DR. JOHNSON: Thank you, Pete, Mr. Chairman and
23 members of the Commission. First of all, I want to say thank
24 you for all of the support you have offered us for the school in
25 Southwestern Virginia. I think it's probably most helpful to make

1 sure we're all on the same page as far as the overall project and
2 the figures associated with it. There are some pages in front of
3 your places there that were passed out by staff. In the first
4 page, it shows how our construction progressed and pictures of
5 the Small Animal skills. On the second page, if I can draw your
6 attention to that, it's the overall project.

7 Overall, it's a \$23.9 million project, which LMU
8 provided \$14 million. We're standing before you today asking for
9 \$5.6 million. If the Tobacco Commission chooses to help us with
10 this, you'll have a total of \$9.1, which puts LMU as putting in 154
11 percent match.

12 I think the thing that's been the most exciting but also
13 the most challenging about the project is the speed at which it
14 has moved. Mr. DeBusk spoke to that, the fact that this moved
15 very, very fast. Two years, seven buildings, 100,000 square foot
16 facility, with 200 students, and 20 Master students that we
17 weren't even anticipating. We made the conscious decision to
18 pull facilities out of what would have been Tennessee and built
19 them in Virginia.

20 Really, and maybe I shouldn't say this, and maybe
21 this is for selfish reasons, but Mr. DeBusk's home was in Lee
22 County originally. That's where he has grown up and spent his
23 whole life. And so we chose to build there.

24 By virtue and design, this is an educational project.
25 However, it's really serving the area so much more than we

1 thought. As you know and as you gathered from our
2 conversations, some examples is the \$8 million sewer project,
3 which is over 20 miles of sewers to come down through there.
4 We've had over 200 tours over the past year there. We wanted
5 the agricultural industries to be well aware of where we're
6 located. And we've had some meetings there for folks from
7 Appalachia.

8 And let me tell you this. At this Alliance meeting, 230
9 producers showed up. I had to clear out the Equine Center,
10 move all the stock out of there, and put out tables. And people
11 just kept coming. A new research center just popped up. We've
12 got a conference coming up October 14th and 15th. We'll have
13 deans from all the other colleges across the U.S. there. We've
14 also got a Lee County farm and family day coming up.

15 I guess what picture I'm trying to paint for you is
16 really what we're seeing is that over 466 employees in the tri-
17 counties, and it's one of the main arteries for people moving into
18 Lee County.

19 SENATOR CARRICO: I've got a question, and I'll
20 comment after you finish.

21 DR. JOHNSON: That's pretty much it. But our two
22 goals standing before you today are to acknowledge the fact this
23 is a large project, it's a great match, we've had correspondence
24 the end of May, and it's described our situation, and we had to
25 keep building at that time in order to finish the Small Animal

1 clinical skills set for our second-year class for accreditation. So,
2 we had to keep going forward on this project. And we stand
3 before you today asking for some help for us with that \$5.6
4 million.

5 DELEGATE KILGORE: Senator Carrico.

6 SENATOR CARRICO: Mr. Chairman and members of
7 the Committee, trying to give you some background as to why
8 we're here. I think all of us on this Committee have heard about
9 LMU and how great the clinic is and moving. This is one of those
10 projects that pushed the Commission instead of the Commission
11 pushing them. Normally, we'd be here to get an extension
12 because the projects don't move as quickly as we want to see
13 them do.

14 LMU has pushed this project, and it's been before the
15 Southwest Committee, and they had this request. There was a
16 motion and it was voted on to put on the Executive Committee
17 for a reason and the fact that LMU has gotten loans to finish out
18 this project. In the bylaws, I think there's language that says the
19 Commission should not vote to pay for anything that's already
20 been paid out.

21 DELEGATE KILGORE: That's the policy.

22 SENATOR CARRICO: I'm sorry, policy, I should have
23 said. The policy of the Commission, it should not, and, of course,
24 those of us in the legislature know what may not means, it can
25 be if we choose to. I think our decision today and what we

1 thought in the Southwest Committee by putting it here to
2 determine if we view this as a project that we can appropriate
3 money and how much of that money we can find to put into this
4 project.

5 DELEGATE KILGORE: Secretary Jones would like to
6 call in. Can we stop here for a minute? We're going to discuss
7 it.

8 MR. FEINMAN: We're going to discuss it later. And in
9 our prior meeting we had or in our prior practice we had, that's
10 not always fully and completely expected that and related to the
11 conference call. And perhaps that might not be the best and the
12 Committee hasn't addressed it yet. It might not be the best idea
13 for this conference call.

14 DELEGATE KILGORE: All right. Sorry I interrupted
15 you, Bill.

16
17 NOTE: No conference call.

18
19 SENATOR CARRICO: I think probably this is the
20 discussion we need to be having. And everybody knows how
21 quickly they've been moving. I guess if I could just pose the
22 most important question to Jason or Pete about this project.
23 How much of that money has been borrowed, and how much of
24 the money borrowed has been spent?

25 DR. JOHNSON: We've spent \$5.6 million, and we're

1 asking for \$5 million more. And we did all this through a period
2 of three loans.

3 DELEGATE KILGORE: You borrowed it and already
4 paid out \$5.6?

5 MR. DeBUSK: Yes, we paid out \$5.6 borrowed
6 money.

7 DELEGATE KILGORE: Tim, do you have that
8 information?

9 DR. JOHNSON: Just for clarification, there was some
10 information that came through the Commission members to
11 address Mary Rae Carter's questions, and that information did
12 come through. As far as the loans, do you have all those monies
13 and the details and they were passed to Senator Carrico as chair
14 of Southwest Economic Development, and he has those
15 documents in front of him. I do have some extra paper copies if
16 anyone needs any.

17 MS. CARTER: Mr. Chairman, I'm a little bit confused
18 what we are discussing here, because the motion that was made
19 to bring it over to the Executive Committee.

20 DELEGATE KILGORE: I think what Senator Carrico
21 was talking about is the policy we have where they've already
22 gone out and paid or borrowed the money and paid and is there
23 any room moving on the policy?

24 SENATOR CARRICO: Is there any room in the policy
25 for us because the project was paid for with dollars that were

1 borrowed to get these students in? Is there room within the
2 policy and the Executive Committee has made the decision to
3 allow us to pay down some of the costs?

4 MS. CARTER: Mr. Chairman, could we have the Staff
5 tell us exactly what the policy is?

6 DELEGATE KILGORE: That would be Ned.

7 MR. STEPHENSON: We just took a look at the general
8 funding guidelines, and ever since I've been at the Commission,
9 the Commission has refrained from making awards to reimburse
10 grantees for the things that they have already purchased. This is
11 a general funding guideline. It's a little strong to call it a policy,
12 and I don't know that the Commission has actually put that in
13 the policy of the Commission.

14 There is likewise a general funding guideline that
15 indicates that the Commission, the applicants could not apply for
16 monies for debt retirement. Again, these are general funding
17 guidelines that Staff uses to administer grants. They are not
18 edicts of policies of the Commission.

19 DELEGATE MARSHALL: The question is are we talking
20 about a blanket, the next guideline would do the same thing or
21 case by case.

22 SENATOR CARRICO: Well, I would suggest case-by-
23 case basis, but I don't know what the Committee's decision
24 would be.

25 DELEGATE KILGORE: I would say I don't know, but

1 case-by-case basis, get your Staff and Commission to look at it.

2 DELEGATE WRIGHT: The policy or guidelines of the
3 Tobacco Commission is such, the question is what would the
4 effect be if we don't go by the guidelines or policies that are in
5 place. What flexibility do we have not to go by the policies or the
6 guidelines that are in place?

7 MS. MYERS: I think it sets a dangerous precedent not
8 to follow your own policies, but I think I need to ask the nature
9 of the policy. Is it in the nature of a written policy, an unspoken
10 word?

11 DELEGATE KILGORE: I don't think it's written.

12 MR. PFOHL: The Strategic Plan adopted in 2012 by
13 the Commission and the last section entitled General Funding
14 Policies, and one of the bullets specifically states Commission
15 funds should not be used for activities initiated prior to the grant
16 approval. So, it is part of the adopted Strategic Plan.

17 MS. MYERS: The Commission's enabling statute does
18 allow it to establish a policy, but this policy needs to be followed,
19 and it could be amended, of course, but once established, they
20 need to be followed.

21 MS. CARTER: If you look at the policy or the
22 Guidelines when it comes to a grant or that type of thing, but I
23 don't believe there's any grants that are able to be reimbursed, I
24 don't think, after the work is done As a matter of fact, I think
25 they're cautioned not to do the work before they clear their

1 application.

2 SENATOR CARRICO: Mr. Chairman, I would remind
3 the Committee, and I understand what the adoption of the policy
4 was, but I know these grants were ongoing, and LMU was here
5 early on asking for a grant and to move forward with the project.
6 They built a Large Animal Clinic, and then moved on the Small
7 Animal Clinic. I think we have something like \$6 million or
8 something in there, already is invested in the project, and this is
9 a project that's been ongoing. As I said in the beginning, this is
10 one that pushed us to try to get things in and caught in a
11 situation where they had to get the students in and get them
12 ready to go before our meeting and the grant cycle is approved.

13 DELEGATE KILGORE: What is your suggestion? What
14 do we have to --

15 SENATOR RUFF: Can you repeat that?

16 DELEGATE KILGORE: What if we help them with some
17 debt retirement?

18 MR. DeBUSK: At this point, of course, if that's all we
19 can do.

20 DELEGATE KILGORE: Of course, the Executive
21 Committee doesn't have any money and we'd have to transfer
22 some money to recommend to the Full Commission to transfer
23 money to Southwest Special Projects to help retire the debt.

24 MR. FEINMAN: There might have to be an
25 amendment.

1 MR. MERRICKS: That was my question, we would still
2 have to deal with the policy, and as good as this project is, and I
3 realize how important this is to Lee County. We also have policy
4 and precedent, and I can just envision a whole lot of people
5 wanting to do the same thing with debt or not, so, yeah, we have
6 a whole lot of people to pay some of their debt. I've got a house
7 I'd like to get mine paid off, too. But I really do question the
8 precedent we would be setting. I do think we'd be on a slippery
9 slope.

10 DR. JOHNSON: I got that, and got it from the
11 beginning. The one thing I thought that might qualify it, and my
12 mom always told me I was special anyway. One thing that might
13 make it extra special was a project in perpetuum and the whole
14 project. So, when we did, if you look at the dates when the
15 loans were taken out and I submitted the out-of-cycle
16 addendum, correspondence, or plea for help, or whatever you
17 want to call it, and that was put through May 28th and formally
18 processed June 1st of this year. And I understand that part, and
19 that was one of the reasons we wanted to do the best and keep
20 the Commission informed, and we were outpacing anything to
21 keep up with.

22 The one thing that might have changed the whole
23 thing was that originally we had a big education grant when we
24 first started the school, and we were within about 20 days of
25 getting our letter of reasonable assurance, but it was up to the

1 Commission to actually examine this grant and decided they
2 wanted to fund it. We pulled that grant because we didn't have
3 our letter of accreditation yet. That was pulled, and then a few
4 days later, we got that set up a year behind our first grant, which
5 actually fell in September, 2013. So just for what it's worth.

6 DELEGATE MOREFIELD: Just to make a comment or
7 I'd make a recommendation that the Executive Committee
8 recommend to the Full Commission we support this project. An
9 earlier comment was made about the impact that such a project
10 would have on Lee County.

11 I think we have to go back and look at why was this
12 Commission formed and decisions we made and the impact that
13 will have 10, 15, 20 years in the future. Of course, we don't
14 want to set a precedent for others to follow, and this is why I
15 think setting a case-by-case basis is extremely important. When
16 you look at higher education in general, how competitive it is
17 becoming, and we look at the situation in Southwest Virginia.
18 The coal industry has been devastated and also the natural gas
19 industry. We have to seriously start looking nationwide now.

20 Now, we have an opportunity to make a difference not
21 only in Lee County, but what impact this project will have on the
22 region and how will this project affect Southwest Virginia. I think
23 we have an opportunity now to make a sound investment that
24 will pay off in the years to come.

25 DELEGATE MARSHALL: You have 200 or 220 students

1 now?

2 DR. JOHNSON: We have 200 Doctor of Veterinary
3 Medicine students and 20 Master's Veterinary Medicine students.

4 DELEGATE MARSHALL: Are they coming from Virginia
5 or all over the U.S.?

6 DR. JOHNSON: From all over the U.S.

7 DELEGATE MARSHALL: The tuition that the 220
8 students pay, and if you look at the cash, they service the debt
9 and the five point so many million, how does that work out?

10 MR. DeBUSK: No, veterinary medicine schools are
11 very expensive, the school human resource and putting it all
12 together, it's real expensive. When you get to the fourth year,
13 you hope to make a margin at that point.

14 DELEGATE MARSHALL: The costs to go to your school
15 compared to the one at Virginia Tech, are you comfortable with
16 the costs?

17 MR. DeBUSK: Absolutely not. Out-of-state students
18 go to Tech may be lower, but in-state, no, private universities.

19 DELEGATE KILGORE: It doesn't work out financially
20 until you have four years and you're full?

21 MR. DeBUSK: That's right.

22 SENATOR CARRICO: I'm going to make a motion that
23 we recommend our policy language on a case-by-case basis.

24 DELEGATE KILGORE: I believe that would be in the
25 Strategic Plan, not policy.

1 SENATOR CARRICO: I thought of everything and
2 included everything.

3 DELEGATE KILGORE: I think this would be.

4 MS. MYERS: Just to clarify. I'm not sure grant
5 procedures have actually been approved, so what you would be
6 amending would be your Strategic Plan.

7 SENATOR CARRICO: My recommendation and motion
8 would be that we change the language of the Strategic Plan to on
9 a case-by-case basis on whatever language is currently in effect.

10 MS. MYERS: What language are you trying to amend?

11 SENATOR CARRICO: Whatever language that Tim
12 read.

13 MR. PFOHL: The Strategic Plan for the Commission
14 was adopted May, 2012. The last section of that plan is entitled
15 General Funding policies, and about ten bullets down, the bullet
16 says Commission funds should not be used for private
17 administration, indirect project costs, or for activities initiated
18 prior to grant approval. I call your attention to the words "should
19 not".

20 DELEGATE KILGORE: I would say you make it specific
21 to this one project. I'm not trying to tell you how to make your
22 motion, this one project, and keep the Strategic Plan in place.

23 SENATOR CARRICO: I would agree, Mr. Chairman, we
24 should keep it specific to this one project. I'm still a little bit
25 confused as to why we couldn't anyway because it says "should

1 not", but it doesn't say we cannot.

2 SENATOR RUFF: Mr. Chairman, I'm a little concerned
3 on open-end. I'd rather see us suspend that portion of the
4 Strategic Plan and then as we write a new Strategic Plan --

5 DELEGATE KILGORE: -- We're in that process soon --

6 SENATOR RUFF: -- and then make a decision at that
7 point of what we'll do going forward. If we say we can suspend
8 our own on a case-by-case basis, then we have no policy and we
9 set a precedent, and that's bad policy.

10 SENATOR CARRICO: Mr. Chairman, I would --

11 SENATOR RUFF: Suspend that portion of the Strategic
12 Plan.

13 MS. MYERS: Just for this vote?

14 SENATOR RUFF: Until the new Strategic Plan is
15 created.

16 DELEGATE KILGORE: Which we'll be making, and I'll
17 be making an appointment to that, a committee pretty soon.

18 SENATOR CARRICO: Mr. Chairman, I'd like to ask one
19 more question before we take a vote on that.

20 DELEGATE KILGORE: We don't have a second yet.

21 SENATOR CARRICO: I'll second it.

22 DELEGATE KILGORE: Now, you can ask a question.

23 SENATOR CARRICO: I'm going to throw a monkey
24 wrench here, because it says we should not, does that mean we
25 cannot?

1 DELEGATE KILGORE: Liz?

2 MS. MYERS: The word should certainly is permissive,
3 but again it opens it up to, and if you're not going to follow your
4 own guidelines, then you essentially do not have them, you are
5 required by the Code that establishes this Commission to have
6 them. So while that may not be unlawful for you to -- it doesn't
7 say can't.

8 SENATOR CARRICO: If we relayed should not to what
9 the Code says and it says may and the Commonwealth Attorney
10 uses may and not proceed, are we not doing the same thing as
11 they do with the Code of Virginia?

12 MS. MYERS: I'm not certain I understand your
13 question.

14 SENATOR CARRICO: There's shall not in the Code,
15 may not in the Code, may not, so if the Commonwealth Attorney
16 chooses under the may not to proceed with something, and if we
17 choose to not use or to allow what the Code says, should not, are
18 we not doing the same thing as the Code of Virginia is allowing to
19 be done? Can't speak to how Commonwealth Attorneys do their
20 duty, but I would just reiterate the fact that the statute or
21 precedent of not following your own policy opens up the
22 floodgates and the challenges perhaps in interpretation of your
23 own policy.

24 MR. PFOHL: I feel obligated to point out a couple of
25 implications of suspending the general funding policy. Certainly

1 the Code says the Commission shall determine the recipients of
2 the funds. The first item I would mention is that in the history of
3 the Commission we received over 3,000 grant applications and
4 applying policies on a case-by-case basis, would end up with us
5 having hundreds of thousands of policies.

6 Secondly, we have two upcoming grant cycles,
7 Southside Economic Development and Agribusiness, and my
8 concern is that suspending the general funding policies leaves
9 those two programs with no funding policies.

10 DELEGATE KILGORE: How would you address it?

11 MR. PFOHL: The individual treatment of this case
12 should not pass mustard.

13 UNIDENTIFIED: I withdraw my motion.

14 DELEGATE KILGORE: That motion has been
15 withdrawn.

16 MR. OWENS: Mr. Chairman, the reimbursement policy
17 in place, isn't that because when we do make a grant that we do,
18 or during that grant cycle, during the administration of that
19 grant, those are submitted to the Staff to make sure that they
20 are approvable, none of that was done here, is that right? Were
21 the expenditures approved? If that's so, how can you possibly do
22 it after?

23 DELEGATE KILGORE: Well, as Jason said, they had to
24 have this for the students. Where are we?

25 SENATOR CARRICO: We're back to square one.

1 DELEGATE KILGORE: Case-by-case.

2 SENATOR CARRICO: So the motion should be in the
3 case of Grant Number 3066, LMU, or Grant Number 3072, that
4 we move forward with funding.

5 MR. FEINMAN: Mr. Chairman, if I may, as I
6 understood the advice of counsel, should not is effectively the
7 equivalent of may not. And we do not, therefore, need a motion.
8 We can leave the policy in place as it's written, and the individual
9 committees can make recommendations, and the individual
10 committees can act on that particular question as they will. So, I
11 don't know that we actually need a --

12 DELEGATE KILGORE: -- I think you're right. You can
13 make your motion.

14 DELEGATE WRIGHT: Mr. Chairman, I'm confused.

15 DELEGATE KILGORE: As we all are.

16 DELEGATE WRIGHT: I'm confused because we just
17 had our attorney advise us that we're violating our policy to do
18 this, and then we've got the Executive Director statement.

19 DELEGATE KILGORE: Can you repeat that.

20 MS. MYERS: To be as distinct as possible, I don't
21 know that this is an unlawful action by the Commission or the
22 Committee, but it can have the same sort of criticism, you're
23 violating your own policy.

24 MR. MERRICKS: Mr. Chairman, would the motion be
25 referred back to Special Projects?

1 DELEGATE KILGORE: The motion would be to refer it
2 back to Southwest where it came from.

3 MR. MERRICKS: The policy should, it goes back to
4 that Committee, we wouldn't have to take action.

5 MS. CARTER: Mr. Chairman, if we look at what the
6 motion was in the minutes, it was to bring it to the Executive
7 Committee to discuss the policy and debt forgiveness.

8 DELEGATE KILGORE: Right. With the motion, it
9 would be an order to refer it back to Southwest who will meet in
10 the morning at 8:00 o'clock.

11 SENATOR CARRICO: I would make that motion.

12 MR. OWENS: Second.

13 DELEGATE KILGORE: You all heard the motion. All
14 those in favor of that motion, say aye. (Ayes). Opposed? (Ms.
15 Carter - No).

16 It'll be referred back to Southwest.

17 MS. KIM: This will be very brief on pages 68 and 69
18 in your booklets and the financial summary as of July 31st. I
19 wanted to give you an update for year end. The endowment
20 balance as of June 30th, \$271.3 million, which has accumulated
21 since March 1st. Our fund balance in the ticker fund is \$249
22 million. A hundred and ninety-seven million of that remains
23 invested in treasury until it defers and transferred to the general
24 account.

25 As you recall for fiscal year 2015, which ended June

1 30th, the Commission approved a 15-percent corpus invasion
2 over two corpus invasion approval, and that was used to fund
3 two fiscal years. It funded the FY-15 budget, as well as the
4 current year. The next corpus invasion approval will be in May of
5 2016 to fund the proposed FY-2017 budget. As of August 31st,
6 total cash investments, which is \$513 million. Any questions?

7 DELEGATE KILGORE: What was the last figure?

8 MS. KIM: Five hundred and thirteen million until we
9 have invested in the endowment and the fund.

10 There is one housekeeping budget transfer that we
11 need to take care of, which is transferring \$500,000 from the
12 Tobacco Region Opportunity fund to Special Projects to reverse
13 the January, 2014 transfer funds that were never disbursed for a
14 project that went elsewhere. Returning the funds from where
15 they came from. Any questions?

16 DELEGATE MARSHALL: How much to Special
17 Projects?

18 MS. KIM: Five hundred thousand from TROF back to
19 Special Projects.

20 SENATOR RUFF: I so move.

21 MR. OWENS: Second.

22 DELEGATE KILGORE: We have a motion from TROF to
23 Special Projects, \$500,000. All those in favor, say aye. (Ayes).
24 Opposed? (No response).

25 DELEGATE MARSHALL: We're going to have a Special

1 Projects meeting next. Is the \$500,000 in our kitty right now, or
2 is it effective after the Full Commission meeting?

3 MS. KIM: The meeting.

4 MR. FEINMAN: It wouldn't be in your account until
5 the Full Commission approves the transfer and you could
6 theoretically make awards pending, make an award contingent
7 upon that.

8 DELEGATE KILGORE: All right, the loan fund, this is
9 something we've been talking about, and we wanted to address
10 it.

11 MR. FEINMAN: Yes, Mr. Chairman. We've been
12 looking at the best way to begin setting up a loan fund in keeping
13 with the authorization we got in our new statute in the passing of
14 a bill in the last session. We have two different committees
15 referred to this potential project, and we believe this will
16 generate some revenue, and that would go to VRA for accredit
17 analysis.

18 So what I would propose is that those awards amount
19 to a little under \$4 million depending on how those grants
20 develop. So what we would like to do is transfer \$5 million from
21 the current general fund to the newly created loan fund, and the
22 authorization to develop an MOU with VRA to create a standing
23 partnership. Effectively what we will be doing is taking a couple
24 of those projects and use those as guinea pigs and we can
25 develop how the loan fund would work, and we need some

1 capital in order to make those loans.

2 We would not at any point be putting the Commission
3 fund at risk, and we'd always make sure that there was a local
4 partner guaranteeing these loans in the same way we do with
5 TROF sort of very secure disbursements. Ned has actually
6 prepared a specific motion to lay this out.

7 MR. STEPHENSON: I have a motion, and it might be a
8 little bit complicated, so I'll go through it. The recommendation
9 that the Director is seeking for the Executive Director to be
10 authorized and directed to enter into a Memorandum of
11 Agreement with Virginia Resources Authority and the Virginia
12 Department of Treasury to establish a revolving loan fund
13 pursuant to Section 3.2-3113 of the Code, and to transfer up to
14 \$5 million in Fiscal Year '16 from the Commission's general
15 account to the revolving loan fund when and as the Commission
16 selects projects eligible for loans to be made from the fund.

17 If I may paraphrase, Mr. Chairman.

18 DELEGATE KILGORE: Please do.

19 MR. STEPHENSON: This authorizes the Director to
20 enter into an MOU to create the revolving loan fund and to make
21 the money transfer from your books to VRA's books at the point
22 in time at which you approve a loan to be made. The Code
23 provides that no loan shall be made until you approve it to be
24 made. You always hold the power to approve or reject the loan.
25 If you do approve a loan, the Executive Director is already

1 positioned with an MOU and transfer authority to fund the loan
2 you made.

3 DELEGATE GILGORE: You're talking about or when
4 you say you approve the loan, that would be the Full
5 Commission?

6 MR. STEPHENSON: That's correct.

7 DELEGATE MARSHALL: This is new territory for us, so
8 let's get down to the specifics of this. An application would be
9 made just like any other committee?

10 MR. STEPHENSON: Yes, sir. Delegate Marshall, yet to
11 be determined of the mechanics of how the loan application
12 would flow through the Commission and ultimately to the
13 Commission's table. If you approve this today, no loan can be
14 made until the entire Commission has seen it and voted on it on
15 the Commission table. We've got to work out the mechanics of
16 how to get there.

17 DELEGATE MARSHALL: So the mechanics, would a
18 particular committee hear these requests, would they come
19 directly to the Full Commission Executive Committee?

20 DELEGATE KILGORE: I'd say they'd come to the
21 Executive Committee first.

22 MR. STEPHENSON: There are several grants for which
23 committees have already referred those projects for
24 consideration for VRA loans. In other words, the Committee
25 thought they were not grant worthy, but perhaps they would be

1 appropriate for a loan and we have to work that out. This motion
2 begins the process of creating that MOU.

3 DELEGATE MARSHALL: One more question, Mr.
4 Chairman. The MOU, are we authorizing for the details to be
5 adopted, or do the details have to be brought back to the Full
6 Commission for adoption?

7 MR. STEPHENSON: This motion says you are
8 authorizing the Executive Director to enter into an MOU and it
9 does not say he is to bring it back to you before he signs off, you
10 may want that stipulation.

11 MR. FEINMAN: Mr. Chairman, let me address that,
12 Delegate Marshall's question. What we have envisioned is
13 effectively that the various committees of the Commission still
14 continue to play the vetting and approval goal they have, but if
15 we had the loan funding administered on our behalf by VRA, and
16 that's very much in their general course of business making loans
17 and loan administration and collection. This would almost be like
18 a service contract wherein we enter into an MOU and they agree
19 to manage these loans as we, the Commission, make them and
20 send them over to them.

21 DELEGATE KILGORE: Which committee?

22 MR. FEINMAN: I think there's a couple of ways to
23 structure it. My hope was that you get these initial pieces ironed
24 out and come to the Commission in January with
25 recommendation. To give you a preview of the two ways we

1 could really do it, and that would be to set up a new loan
2 committee. We could have each existing committee simply use
3 their own budget to determine when something should be a loan
4 or something should be a grant.

5 Additionally, what you could do is set up a loan
6 committee and you could have grant applications referred from
7 the committee to the loan committee with a portion of the
8 referring committee budget which would be how the loan could
9 be approved or without, which case whatever assets the loan
10 committee had could be or could not be.

11 DELEGATE KILGORE: Delegate Byron.

12 DELEGATE BYRON: This idea was presented just in
13 concept to the R&D Committee, to the R&D Subcommittee that
14 was looking at some different ways that we could possibly assist
15 some of the projects that we had out. I have to say at the time
16 of the concept we were still discussing a lot of details that had
17 not been resolved yet. Now is the right time to be working on
18 the budget and setting aside \$5 million, and I'm not sure I
19 understand why we have to make a decision on MOUs before we
20 know what the details are and why we can't just set aside the
21 money in a spot for the purpose of looking further into loans and
22 not doing an MOU until we know what we want to do.

23 DELEGATE KILGORE: I think, Delegate Byron, the
24 decision is going to come back to us. I don't think the Executive
25 Director is going to go out and say you get a \$2 million loan and

1 then come back to us to approve the whole loan as far as
2 percentage and that sort of thing.

3 DELEGATE BYRON: Mr. Chairman, what is the
4 purpose of having to lock in when VRA does these all the time
5 and has no problems getting money? What is the purpose of us
6 having an MOU at this time, the part I don't get?

7 MR. FEINMAN: Delegate Byron, we can't begin the
8 process to negotiate loans and figuring out terms and what
9 structure to take to the Commission in the absence of a loan fund
10 and a working operation agreement or operational agreement
11 with VRA. We don't know what their administrative fees are
12 going to be and depending on how the credit checks work and
13 how much they cost. It's very hard to then go out and say go
14 out and set up a loan program absent that knowledge and having
15 it set in stone.

16 What I want to do is how we can be better than the
17 market and still cover our costs, whatever those costs may be,
18 and then loan administration. So having an MOU with VRA gives
19 us the ability to know what those administrative and overhead
20 costs are going to be, so then we can come to the Commission
21 and say here's what we want to do.

22 DELEGATE BYRON: I still think you have to have
23 details of what you want to do to go into an MOU in the first
24 place. If we can approve it dependent on approving the MOU
25 and giving time then, I would be fine with that. I just think

1 there's too many unresolved details that we're giving authority to
2 when we don't know what those details are yet.

3 MR. MERRICKS: Mr. Chairman, VRA will be
4 administering the loan and if VRA is going to be administering
5 the loan and they're going to make payments to the VRA, so
6 they're going to charge a fee. In the MOU, that's going to be
7 spelled out. Would you want to go to them and go ahead and
8 work that out and then bring that MOU back for approval based
9 on all of those fees? Is that not the way it would be done?

10 Then, secondly, you're talking about lending. This is a
11 whole different ballgame than what we've been used to when you
12 look at cash flows and ability to pay, there's a whole lot of things
13 that have to be looked at. I would think we'd want to see the
14 MOU and then approve the MOU based on what they're going to
15 be expected to do.

16 MR. FEINMAN: Mr. Chairman, VRA has the ability to
17 perform credit ratings and they would be doing --

18 MR. MERRICKS: -- That's another thing, but if they
19 do what I'll call the operation side of it and if they do a credit
20 analysis, they'll charge for that, too. That needs to be in that
21 agreement, and, if not, you're going to have a lot of fees stacked
22 up that you didn't plan on.

23 MR. FEINMAN: Mr. Chairman, VRA has indicated
24 they'll be very reasonable in the fees they charge, particularly in
25 setting up the program. I would just emphasize that it has been

1 within the purview of the Executive Director to enter into service
2 contracts in support of the Commission's work before. And the
3 only difference here is rather than a fee certain for a service now,
4 it would be working out a percentage agreement for an
5 unspecified amount of money. It really would be very difficult to
6 make recommendations for policies on the loan fund in January
7 in the absence without having locked down what the costs would
8 be.

9 DELEGATE KILGORE: And the key and the saving
10 grace for the Commission, if I can use that word, is that we have
11 to approve the loan anyway.

12 SENATOR RUFF: Mr. Chairman, it seems like the
13 correct motion would be we would authorize the Executive
14 Director to go in and negotiate and then come back to the
15 Commission for approval.

16 MR. FEINMAN: Yes.

17 DELEGATE MARSHALL: Is that a motion?

18 SENATOR RUFF: Yes.

19 DELEGATE WRIGHT: Second.

20 MR. FEINMAN: Ned, do you have that language?

21 MR. STEPHENSON: Well, my thought is that if the
22 Executive Director is not empowered to enter into the MOU, he
23 can certainly sit at the table and negotiate all day long.

24 SENATOR RUFF: Mr. Chairman, that's true, but we're
25 not going to loan any money until after we approve it, it really

1 doesn't make any difference.

2 MR. STEPHENSON: My only point is, is that if you
3 wanted him to negotiate it, he can do that. You don't need a
4 motion for that.

5 DELEGATE KILGORE: If we don't move forward with
6 allowing the MOU to begin with, that authorizes the Executive
7 Director to do that, it'll be May before we get any money on the
8 street.

9 MR. FEINMAN: My hope initially is that we could get
10 this authorization in the budget of the Commission so that we
11 could after performing the MOU do a couple of trials and I could
12 make a report regarding those loans that had already been
13 approved by the Committee, and then potentially the Committee
14 reports would be approved, and then to the Full Commission.

15 In January, I could say here's the MOU that we have
16 and here are the things we've learned making some loans for the
17 Commission to approve and with the parameters of Commission
18 approval. And that would help us better structure the long-term
19 policies of the loans, the loan program.

20 I'm perfectly comfortable saying we can wait an
21 additional four months and say we'll enter into the MOU, won't
22 make loans this fall, and we'll get the MOU approved in January,
23 and do that over the course of the late winter and early spring,
24 and that would delay our ability to set up our revolving loan fund.

25 SENATOR RUFF: Mr. Chairman, I don't have any

1 problem with developing this, but my concern now is that we're
2 talking about approving tomorrow some loans without any
3 knowledge of, it may be okay, but it may cause some heartburn.

4 DELEGATE KILGORE: And Ned said we didn't need a
5 motion for this.

6 MR. STEPHENSON: If you're only instructing the
7 Director, for him to go write an MOU and bring it back to you, I
8 don't know that you need to do anything to ask him to do that.

9 DELEGATE KILGORE: Do I have a motion that we
10 transfer \$5 million to the loan fund?

11 MR. STEPHENSON: Did you get a second? Did I
12 understand that this motion just made was to transfer \$5 million
13 to the loan fund?

14 DELEGATE KILGORE: Yes.

15 MR. STEPHENSON: I think that is much more than
16 the Director was asking for. That means you're going to write a
17 check to VRA, take the money off your books?

18 DELEGATE KILGORE: No, that we authorize on our
19 books saying \$5 million to be used for a loan fund whenever we
20 approve it, setting it aside on the books. That was my
21 understanding, not to give it to the VRA. Do I have a second?

22 DELEGATE MARSHALL: Second.

23 DELEGATE KILGORE: Any discussion on the motion?
24 All in favor, say aye. (Ayes). Opposed? (No response).

25 MR. FEINMAN: Mr. Chairman, we had initially thought

1 that this Committee might be the proper venue for creating
2 guidelines for the fund. However, that turned out to not be in
3 concert with the way our other committees work. So, what Staff
4 is requesting is that you, as the Chair, simply designate the
5 Special Projects Committee as the recipient and create guidelines
6 for the prospect.

7 DELEGATE KILGORE: I would ask that the Special
8 Projects Committee develop guidelines for use of a megasite
9 prospect and bringing grant recommendations to the
10 Commission.

11 DELEGATE MARSHALL: Yes.

12 MR. FEINMAN: Mr. Chairman, I believe we have the
13 requirement under statute to create a new Strategic Plan. There
14 are two steps, I believe, that are wise in the pursuit of that.
15 Staff requests that the Commission or that the Chairperson
16 nominate co-chairs to a new committee, a Strategic Planning
17 Committee, and tap the membership of that committee no
18 greater than five, what would be a workable sized committee.

19 Secondly, authorize and direct the Executive
20 Director to hold regional planning meetings with all the
21 committee stakeholders practicable, one in Southside and one in
22 Southwest, so we don't write our Strategic Plan in a vacuum, we
23 need to work with our partners to create a Strategic Plan that
24 serves the needs of our region.

25 DELEGATE KILGORE: I had previously talked to Ms.

1 Gould and asked if she would co-chair. Then I need three others.
2 All right, thank you for volunteering, Mary Rae, and two others.

3 All right, Ms. Myers. Liz, you wanted to, tell us what
4 we're doing wrong or possibly wrong.

5 MS. MYERS: There are three main issues I wanted to
6 give some guidance on.

7 DELEGATE KILGORE: Would you please turn to page
8 70.

9 MS. MYERS: One of those is one of the issues. And
10 they're fairly simple. I just wanted to make sure that you all are
11 aware that it could be a closed session agenda item, that's
12 certainly within your discretion to keep it open.

13 DELEGATE KILGORE: What do you suggest? Do I
14 have a motion that we go into closed session?

15 DELEGATE MARSHALL: I move the Committee go into
16 executive session in accordance with the provisions of the
17 Virginia Freedom of Information Act for the purpose of discussing
18 a legal matter.

19 SENATOR RUFF: Second.

20 DELEGATE KILGORE: We have a motion and a
21 second. All those in favor, say aye. (Ayes).

22

23 NOTE: The Committee goes into executive session;
24 whereupon, the Committee reconvenes.

25

1 DELEGATE MARSHALL: We're back in open session,
2 whereas, the Executive Committee of the Tobacco Commission
3 has convened a closed meeting in accordance with the Virginia
4 Freedom of Information Act, and, whereas, the Act requires
5 certification by the Committee that such closed meeting was in
6 accordance with Virginia law. Be it resolved that the Committee
7 hereby certifies that to the best of each member's knowledge,
8 that only public business matters lawfully exempted from open
9 meeting requirements under the Act and only such public
10 business matters as were identified in the motion, by which the
11 closed meeting was convened, were heard, discussed, or
12 considered by the Committee in that meeting. I so move.

13 SENATOR RUFF: Second.

14 DELEGATE KILGORE: We're back in session. I'll call
15 the roll.

16 Delegate Byron.

17 DELEGATE BYRON: Yes.

18 DELEGATE KILGORE: Senator Carrico.

19 SENATOR CARRICO: Yes.

20 DELEGATE KILGORE: Ms. Carter.

21 MS. CARTER: Yes.

22 DELEGATE KILGORE: Delegate Marshall.

23 DELEGATE MARSHALL: Yes.

24 DELEGATE KILGORE: Mr. Merricks.

25 MR. MERRICKS: Yes.

1 DELEGATE KILGORE: Mr. Morefield or Delegate
2 Morefield.

3 DELEGATE MOREFIELD: Yes.

4 DELEGATE KILGORE: Mr. Owens.

5 MR. OWENS: Yes.

6 DELEGATE KILGORE: Senator Ruff.

7 SENATOR RUFF: Yes.

8 DELEGATE KILGORE: Delegate Wright.

9 DELEGATE WRIGHT: Yes.

10

11 NOTE: Roll call is complete.

12

13 DELEGATE KILGORE: I believe that's all we have.

14 We're back in open session. All right, is there anything else?

15 For the R&D Committee, I'll appoint Delegate
16 Morefield, and we don't have a volunteer for Southside. I'll make
17 an appointment tomorrow and then turn it over to Special
18 Projects.

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21 **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 **Tobacco Region Revitalization Commission, Executive Committee Meeting**, when held on Tuesday, September 22, 2015, at the Wytheville Meeting Center, Wytheville, 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 _____ day of October, 2015.

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

MY COMMISSION EXPIRES: October 31, 2018.