

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

3 701 East Franklin Street, Suite 501
4 Richmond, Virginia 23219
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9 Research and Development Committee Meeting
10 Wednesday, July 28, 2010
11 5:00 p.m.
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13 Hemlock Haven Conference Center
14 2854 Park Boulevard
15 Marion, Virginia 24354
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1 **APPEARANCES**

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3 The Honorable Kathy J. Byron, Chairman

4 Ms. Linda P. DiYorio

5 The Honorable Daniel W. Marshall, III

6 The Honorable Philip P. Puckett

7 The Honorable Frank M. Ruff

8 Ms. Cindy M. Thomas

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11 **COMMISSION STAFF**

12 Mr. Neal Noyes, Executive Director

13 Mr. Ned Stephenson, Deputy Executive Director

14 Mr. Timothy J. Pfohl, Grants Program Administration Manager

15 Ms. Stephanie Kim, Director of Finance

16 Ms. Sara Williams, Grants Coordinator, Southwest Virginia

17 Ms. Sarah Capps, Grants Coordinator, Southside Virginia

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20 **COUNSEL FOR THE COMMISSION**

21 Mr. Francis N. Ferguson, Esquire, Counsel for the Commission

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1 July 28, 2010

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DELEGATE BYRON: The Research and Development Committee meeting will come to order. I want to welcome everyone to our meeting. I know we have some new members and some that have been on the Commission before. We have a lot of issues on our agenda today, some changes as I said, in the Committee membership. I'll ask Neal to call the roll.

11

MR. NOYES: Mr. Bernard?

12

DELEGATE BERNARD: (No response).

13

MR. NOYES: Delegate Byron?

14

DELEGATE BYRON: Here.

15

MR. NOYES: Mr. Hamlet?

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MR. HAMLET: (No response)

17

MR. NOYES: Ms. DiYorio?

18

MS. DIYORIO: Here.

19

MR. NOYES: Delegate Marshall?

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DELEGATE MARSHALL: Here.

21

MR. NOYES: Mr. Owens isn't here. His

22

mother-in-law passed away so he's attending her funeral of course. Senator Puckett?

23

24

SENATOR PUCKETT: Here.

25

MR. NOYES: Senator Ruff?

1 MR. RUFF: Here.

2 MR. NOYES: Ms. Thomas?

3 MS. THOMPSON: Here.

4 MR. NOYES: Senator Wampler?

5 SENATOR WAMPLER: (No response)

6 MR. NOYES: You have a quorum Madam
7 Chairman.

8 DELEGATE BYRON: All right, thank you Neal.
9 I hope you all got information recently and had time to read
10 the minutes. Are there any changes or is there a motion to
11 adopt the minutes? There's a motion to adopt the minutes
12 and a second, all those in favor say aye. (Ayes). Opposed. (No
13 response). Thank you, the minutes are approved. Before we
14 get started, let's have everyone on the committee go around
15 the table and introduce themselves.

16
17 NOTE: At this point, all Committee members
18 introduce themselves.

19
20 DELEGATE BYRON: All right, I'll call on Jerry
21 Giles with the Economic Development Partnership.

22 MR. GILES: Good afternoon everyone and
23 members of the public. I apologize because some of you will
24 see my back or my side. I'll try to make sure everyone can
25 hear me. We completed round two of the process of vetting

1 \$100 million of R&D funds. I'll run through these slides
2 rather quickly. We had four applications which the Committee
3 asked us to put through round two of the vetting process.
4 Those applications are listed at the top of the slide. I'll come
5 back in a couple of moments and make some comments in
6 terms of round numbers. I hope you can read the slide from
7 where you are.

8 I chose to use the same line up we did on
9 round number one. If you can't read the slide from where you
10 are, I guess we will have to try to turn it to make it easier for
11 the audience and the R&D Committee to view this. I might say
12 that those who serve on the review panel have outstanding
13 credentials. Some are affiliated with various universities and
14 two non-academic members on the review panel and some
15 associate with an international engineering firm. As far as the
16 scoring system, we used a four point scoring system and four
17 basically is intended to exceed expectations of the subject
18 matter; three it meets specifications and two it falls short of
19 expectations in some aspects which is not all but some areas.
20 There were 10 elements and I can identify those if you need to.
21 Then we have the average scientific score at the bottom of the
22 slide and we also have a non-disclosure agreement. I'm not at
23 liberty to disclose who these scores belong to. I will say that in
24 the opinion of the review panel the quality of the applications
25 were better I think in part because we in the second round

1 used the process that we used last time and people started to
2 understand the same process and they responded with a great
3 deal more focus. We also offered some additional comments in
4 terms of overall focus. As I said before, I apologize if you can't
5 see the slide but I'll do the best I can.

6 Now, as I said a moment ago, there are 10
7 scoring elements, 5 scientific and 5 commercial elements.
8 Nothing magic about how it happened to turn out to be 5 and
9 5 that way, it just turned out that way. I don't know if you
10 want me to read these to you per se but one of the findings we
11 had from round one, all of the applications in round one
12 tended to be more fickle with respect to defining milestones
13 and defining clarity with a complete evolutionary timeline.
14 That was corrected in a very large measure.

15 There were basically two comments out of the
16 round two process from the review team leader. Many people
17 used the term transformative including myself. What we're
18 basically suggesting in this process, if you claim your
19 application or your technology or your science or product is
20 truly going to be transformative, it's going to change things or
21 whatever label you want to use, you need to defend how that's
22 going to be the case and why, not just kind of a statement and
23 have the reviewer trying to figure that out. You have to defend
24 what you've got.

25 Another issue which we had in round one and

1 came back in round two, the new team leader and their
2 experts in looking at other applications would really like to see
3 much more rigorous and robust defense the size of the grant
4 request versus the jobs and investments to be created because
5 of the project and I'll just leave it at that. That's obviously an
6 issue for the members of the committee to deal with and be
7 aware of. That's kind of the observation that we made that
8 was throughout not only round one but also round two. So
9 with that Madam Chairman, unless you have questions or
10 comments.

11 DELEGATE BYRON: Any comments?

12 MR. GILES: A final comment we thought the
13 applications were very, very, very strong in this round and felt
14 good about the direction of the process. Thank you very
15 much.

16 DELEGATE BYRON: Thank you very much
17 Gerry for all the work that you have done. There's four grant
18 applications you see before you. I believe in the last round
19 page 33 in your book. Number 1991, 2047, 2050 and 2054.

20 SENATOR PUCKETT: Would you read those
21 one more time?

22 DELEGATE BYRON: Application number
23 1991, 2047, 2050 and 2054, City of Danville, Institute for
24 Advanced Learning and Research, City of Danville and Virginia
25 Tech. Any questions from the members of the committee?

1 This is the first time I think most of us have seen this.

2 MR. NOYES: In batch number one it was your
3 decision where we had an application that scored an aggregate
4 above 5 was recommended to the full commission for approval.
5 An aggregate above 5. Those three would move forward for
6 decisions by the full board.

7 DELEGATE MARSHALL: I'd make a motion
8 that we approve as Neal said aggregate above 5 for approval.

9 DELEGATE BYRON: Is there a second? All
10 right, we have a second. Does everyone understand that
11 motion?

12 SENATOR RUFF: The motion is that we
13 approve the request above the aggregate of 5.

14 DELEGATE BYRON: That would be grant
15 numbers 2047, 2050 and 2054.

16 DELEGATE MARSHALL: In a block.

17 SENATOR PUCKETT: I'll second it.

18 MR. STEPHENSON: Madam Chairman, in the
19 past we had asked the Committee to make such
20 recommendations subject to proper intellectual property
21 documentation satisfactory to the staff and counsel. I wish to
22 suggest that that be included in your motion.

23 DELEGATE MARSHALL: As an amendment,
24 yes.

25 DELEGATE BYRON: Everyone understand?

1 All in favor of approving those three in a block say aye. (Ayes).
2 Opposed. (No response).

3 DELEGATE MARSHALL: Madam Chairman,
4 I'd like to talk about 1991. Can we ask the applicant to speak
5 to that?

6 DELEGATE BYRON: Yes, Mr. Dell.

7 MR. DELL: My name is Dick Dell with the
8 Advanced Vehicle Research Center.

9 DELEGATE MARSHALL: Madam Chairman, I
10 saw this. I'm sure Mr. Dell has seen it.

11 MR. DELL: I've seen it.

12 DELEGATE BYRON: My understanding that
13 when we have the scoring process, this doesn't put them out
14 of the realm but they have an opportunity to work on their
15 project, is that correct?

16 MR. NOYES: That has been the practice in the
17 past, yes.

18 DELEGATE BYRON: And try to improve in the
19 area that did not score well and try to bring that score up if
20 the score wasn't recommended by the VEDP, the partnership.
21 Is there anything you want to add?

22 MR. DELL: The area I can comment on, I
23 think the rest is a good proposal. The questions that we were
24 asked by the review board we have our technical expert here if
25 there's any questions. There were questions on the

1 commercialization and we have a complete commercialization
2 report and I'll be delighted to share with the panel if you would
3 like.

4 DELEGATE MARSHALL: The timeline they can
5 go back and work on this and try to add some information and
6 then present it again and go through the same or similar
7 evaluation and bring it back at the next meeting?

8 DELEGATE BYRON: That's my
9 understanding.

10 MR. STEPHENSON: The next meeting would
11 be in October.

12 DELEGATE MARSHALL: If it's approved in
13 October then it will be approved at the January meeting by the
14 full board.

15 MR. STEPHENSON: If it is deferred back to
16 the committee again, that's possible that it could be approved
17 in October.

18 MR. DELL: Are there any questions?

19 MR. STEPHENSON: Madam Chairman, is the
20 Committee aware that this particular application has been
21 through the VEDP process twice?

22 DELEGATE BYRON: They may not but I
23 recognize it as being one that has gone through that and that
24 brings another question to mind as to how we're going to deal
25 with applications when they withdraw the applications and

1 come back with a new application. If we make a decision
2 whether or not, if we're in agreement with the panel, the
3 scoring or do we feel that or whether they go forward based on
4 the other merits. How long do we do this?

5 MR. NOYES: If I may, an applicant can come
6 in during each cycle by the deadline and it's up to the
7 Committee to decide whether to refer it to VEDP for a third
8 time or fourth time or something like that. That's how it
9 would operate under our current guidelines.

10 DELEGATE BYRON: After the second go
11 around, it goes back to VEDP and then come back to us?

12 MR. NOYES: It would come back to the staff
13 by the application deadline, I think we have a proposed
14 deadline of September 10th and that would be heard in
15 October but I don't know that you get approved in October and
16 might have to wait until the January meeting.

17 MR. STEPHENSON: I assume the Committee
18 can approve it at any moment.

19 MR. NOYES: The Committee can approve it
20 when VEDP says scoring wise but that would be the timeline.
21 What would make sense to me would be a September
22 application and a decision by the Committee to refer to VEDP
23 and not refer to the October meeting, the R &D Committee and
24 then a decision in January.

25 SENATOR PUCKETT: I think we've said in the

1 past that anyone can always come back but what I think the
2 process should be in this grant proposal and any other
3 proposal, if you can address issues, obviously you'll get a
4 chance to look at it. If you can address those, it really doesn't
5 mean you have to go through the whole process again but
6 there are certain aspects if the review panel has questions. If
7 you can answer that, you can submit that back. I think I said
8 in the past, no one's project is completely dead until you can't
9 answer the questions anymore. Once all the questions are
10 answered, then a decision can be made whether it has merit or
11 not. Hopefully you'll get a copy of what's out there and
12 respond to that and then as Neal and Ned indicated, come
13 back to the staff. Obviously what I have here, there's not
14 really a whole lot of an issue but obviously you do have the
15 answer the questions that are raised.

16 MR. DELL: I have our technical experts here
17 and we've done significant research on this and if we have to
18 come back we will do that.

19 SENATOR PUCKETT: You have to address the
20 issues the Committee has raised.

21 MR. DELL: Well be glad to come back to the
22 full panel or anyone else.

23 DELEGATE BYRON: We appreciate that and
24 you still have to make a further amendment to the application
25 to the Tobacco Commission staff and then the staff will

1 determine and recommend to proceed forward. If we keep
2 going back to the partnership with the applications, we're
3 never going to get new ones. So with that guidance, we should
4 go through that one step now.

5 MR. NOYES: Unless this committee decides
6 today to refer it to answer those specific questions so it can be
7 decided in October and the application deadline is September
8 10th then it goes back in the cue to address the issues raised
9 here.

10 DELEGATE BYRON: Thank you.

11 MR. GILES: Just for clarification purposes I
12 think the statements that have already been made as far as
13 VEDP is concerned, we haven't always done that but all we do
14 is provide an objective scoring mechanism.

15 MR. NOYES: The committee that decided on
16 the aggregate 5 last time and there's no recommendation from
17 VEDP only the scores.

18 DELEGATE BYRON: Okay. All right, thank
19 you all and thank you Gerry for the fine job VEDP does. Now,
20 we've got quite a few of these; page 34, you all received your
21 recommendations from the staff.

22 MR. NOYES: You're talking about the
23 individual ones?

24 SENATOR PUCKETT: 2129 Halifax IDA.

25 DELEGATE BYRON: The amount in your book

1 needs to be corrected.

2 SENATOR PUCKETT: Halifax County has
3 asked that the appreciative of the amount that it would like for
4 this to go through the vetting process. That's my motion that
5 we send it to VEDP.

6 DELEGATE MARSHALL: Second.

7 DELEGATE BYRON: We have a motion and a
8 second. The recommendation from the staff was to
9 recommend approval.

10 MR. NOYES: To recommend approval of the
11 \$2.3 million with the balance of the project to come from
12 Halifax County's allocation, the economic development
13 allocation. The motion is to simply have this project go
14 through VEDP vetting process, no money involved.

15 DELEGATE BYRON: Any discussion?
16 Questions? Hearing none, all in favor say aye. (Ayes).
17 Opposed. (No response). That's carried. That will be referred
18 to VEDP.

19 MR. NOYES: With that decision made, staff
20 recommended 12 applications received by the deadline and 5
21 now are recommended to be forwarded to VEDP for vetting;
22 three have staff recommendations for direct dollar funding of
23 the project at this time. One project the staff recommendation
24 is to refer it to Southwest Economic Development Committee.
25 Senator Puckett chairs that committee and in talking to him

1 he is prepared to give that or it's referred to Southwest
2 Economic Development. That's a referral 2132.

3 DELEGATE BYRON: That could be in the
4 block.

5 MR. NOYES: That could be in the block with
6 the rest. If I may, I'll just move and go through in order. The
7 first one is the Bland County Economic Development Authority
8 seeking \$800,000. It's American Mine Research Incorporated.
9 All funds will be used within the footprint. They're looking to
10 enhance technology for mine safety equipment and combine
11 them into a single system. Funds would be used to support
12 new personnel and contractual expenses, matching funds
13 from American Mine Research are committed. Staff
14 recommends referral to VEDP for vetting.

15 The second project is Floyd County Economic
16 Development Authority seeking \$1,250,000 is requesting.
17 This is a start up company coming out of Virginia Tech. They
18 intend to develop a commercially viable suture product using
19 bacterial cellulose material. The budget was very shaky and
20 some of the funds were identified; marketing, sales, the project
21 seems like it would be of interest to the committee but it
22 requires significant work on budgeting issues. The staff
23 recommends no further action at this time.

24 Region 2000 Research Institute, \$5 million
25 requested and this is the second phase and follows from the

1 \$2.4 million award. The private sector partner is B&W and
2 they are putting in additional funds, \$7 million plus in
3 additional funds. This is for the integrated system test
4 program and build out its capabilities at CAER. There is not
5 research associated with this phase of the project. This is a
6 construction project. There's a broad research agenda once
7 construction is completed. For that reason, staff is
8 recommending an award of \$5 million following the \$2.4 from
9 the Research and Development Committee without VEDP
10 vetting.

11 SENATOR RUFF: Would you explain that a
12 little bit better. What determines whether it goes to VEDP?

13 MR. NOYES: If there's a pure research
14 problem and if matching funds are available consistent with
15 our guidelines, the staff can understand there may be
16 commercial applications for a project and ordinarily when you
17 would send it to VEDP for vetting. This is strictly a
18 construction project and it's not research that will be
19 associated this time with this \$5 million award or a match. In
20 this instance, we made an exception and said if there's not
21 research that's going to be done, let's get on with it.

22 SENATOR RUFF: Thank you.

23 DELEGATE MARSHALL: Madam Chairman, I
24 thought we based that \$500,000 maximum or \$5 million. So
25 we've already put in \$2.4 million in this project and now we're

1 putting in \$5 million so that's \$7 million.

2 MR. NOYES: The guidelines are not to exceed
3 or five hundred is the base, \$5 million is the cap in the fiscal
4 year, not more than three awards. This falls in a new fiscal
5 year and this follows the guideline and it is anticipated that
6 there will be a third request next fiscal year.

7 DELEGATE MARSHALL: So it could be a \$5
8 million max per year?

9 MR. NOYES: Correct. The max could be \$15
10 million and the minimum support would be \$500,000.

11 2127 CAER requesting \$508,561 for wireless
12 technology and multiple sites within the Tobacco Commission
13 footprint. The private company is Innovative Wireless
14 Technologies. The match is present, a clear research project.
15 The problem is to develop control algorithms that optimize
16 energy consumption and drive a return on investment. This
17 drives a ROI return on investment. It's referred to VEDP for
18 vetting.

19 The third project from CAER is a private sector
20 partner who is Areva \$935,641 request. What they're doing
21 with this project that is different than the RFP program is
22 developing a main control nuclear power plant, a nuclear
23 power plant made in control room simulator in the center for
24 Advanced Engineering and Research Facility in Bedford
25 County. Areva is in the process of procuring an engineering

1 simulator which I think is about \$2.5 million which
2 constitutes the match would go into the CAER. Like the ISP
3 program earlier, this would be used for research to support
4 the nuclear regulatory commission's requirements as new
5 reactors are developed, commercial employment in the United
6 States. This is in the category where three of them this time
7 where there's little if any research proposed as part of the
8 grant. This is to build out the facility for subsequent research.
9 For that reason staff recommended an award of \$935,641
10 without VEDP vetting.

11 2130 Southwest Virginia Higher Education
12 Center Foundation Polywire Tough Composite Limited is a
13 private sector partner and the request is for \$521,500.
14 Polywire Tough Composites Limited is an Ohio based company
15 for research and development necessary for testing of a type 2
16 compressed natural gas tank and it's intended for use in a
17 wide variety of vehicles. The applicant makes the point that 7
18 Southwestern Virginia counties currently produce natural gas
19 that is exported from the Commonwealth and the potential
20 exists to establish fueling stations for CNG vehicles which will
21 then be less expensive to operate and maintain than diesel or
22 regular gas comparables. The foundation suggests it would
23 receive an exclusive world wide license for the patent rights.
24 The staff believes the Commission would be the appropriate
25 recipient of those rights. Most of the non-commission

1 financing associated with this request has not yet been secured.
2 It's in the works I'm told and the intended agreements and
3 applications for financing that to provide the required match
4 has not been finalized. This is believed by staff to be real
5 deficiencies but they're making progress in this so the staff
6 recommends VEDP for vetting. If these things are not
7 accomplished by the time the committee meets and decides on
8 a recommendation, then it will be very difficult for the staff to
9 recommend that it go forward. For now, we've got time to get
10 these things done and then progress can be made.

11 2131 Southwest Virginia Higher Education
12 Center Foundation Opta Fuel US. We saw this project in the
13 last round and we didn't forward it to VEDP for vetting. This
14 is the one that is going to convert Lignocellulosic biomass to
15 cellulose ethanol Ligna and other high value biochemicals and
16 biomaterials. The match is from Opta Fuel US Incorporated
17 which is a subsidiary and French owned company. There's a
18 lot of talk in the application about the potential of this going to
19 the commercialization stage. I point out to the committee that
20 the non-commissioned portion of these funds would be spent
21 outside the footprint outside of the country. I believe I will
22 forward it to the committee members a letter of explanation
23 from the French parent company explaining why that was
24 necessary. It's up to the committee. The staff is going to
25 recommend that this one be referred to VEDP for vetting. You

1 have to decide what you want to do and the fact that you got
2 matching funds being spent outside the footprint. Any
3 questions?

4 Wise County Industrial Development
5 Authority, this is the project that going to Southwest
6 Economic Development and it has a TROF for your
7 consideration, it's really a straightforward business deal in the
8 judgment of the staff, 25 Metals is the name of the private
9 sector partner and they're requesting \$2,500,000. They're
10 going to produce 10,000 tons of coal fly ash into strategic
11 valuable elements. The first phase of this project is a
12 comprehensive feasibility study and would involve hiring
13 approximately 40 individuals, most of whom would be located
14 in the Appalachia America Energy Research Center;
15 \$3,500,000 is budgeted for a single year for 40 individuals
16 personnel costs. The staff's recommendation is that this
17 applicant explore contacting with private sector business
18 research firms for the phase I feasibility component of this
19 initiative and that R&D wait for the phase II application that
20 would involve construction of the actual pilot facility and
21 capable of producing research outcomes that have commercial
22 potential. The staff recommends no further action at this
23 time. The project is an interesting one but it's not the purpose
24 of this committee to support the initial feasibility study. In
25 our discussions going back over a year, something that gets

1 done before this committee is or that funding is requested.
2 2134 Wise County IDA Authority. There is a
3 joint venture company yet to be formed or I should say yet to
4 be formed and unless and until the application is submitted,
5 I'm not aware that that's happened. Phase I costs associated
6 with developing and prototyping a pump regenerative fuel cell.
7 The joint venture company is from Illinois and TGI
8 International which is the business managing entity of the
9 Avrc Center located in Danville. In addition to requesting
10 personnel costs totaling almost \$1.5 million a year long phase
11 I, the applicant is budgeting for contractual services to include
12 the cost of technology transfer license to the new joint venture
13 company. This again would seem to be something that should
14 have been accomplished at the point when we're asked to
15 consider. We're also being asked to pay funding on a cost year
16 basis to lease space in the building that's being constructed
17 with Commission funds. The source of matching funds are yet
18 to be determined. Staff would like to work with the applicant
19 to refine the budget request and confirm availability and any
20 conditions related to non-commission financing. At this point
21 staff recommends no further action.

22 An interesting project that has come up for
23 discussion including a meeting with the chairman and myself
24 with Enersol Technologies and they're requesting \$5 million.
25 All of the funds will be used in Northern Virginia. The project

1 involves creating syngas from municipal waste and that is
2 plasma-enhanced gasification system referred to as PEGS.
3 This has been tested using Department of Defense funds on a
4 very small scale. In past discussions, if the results of this
5 phase proceed are successful that the company would come to
6 us and build within the Tobacco Commission footprint and a
7 partner in this is Covanta Holding Corporation, New York
8 Stock Exchange Company, they would then build two plants
9 within the Tobacco Commission footprint and that would
10 employ up to 40 individuals and expected to cost about \$150
11 million each. In a letter from Covanta, they're saying that they
12 will source the materials that will be used in Northern Virginia
13 about half of the \$5 million, \$2.5 million from companies
14 located within the footprint that would be part of a supply
15 company Covanta would build out. A couple of dozen plants
16 over a 20 year period in Virginia as the business model. This
17 is a capital project outside the footprint and it's up to this
18 committee to decide whether or not you want to use our funds
19 outside the footprint in return for a promise to use suppliers
20 within the footprint and within a reasonable timeframe based
21 on an agreement with the company.

22 SENATOR PUCKETT: I got this letter; does
23 this include all the details?

24 MR. NOYES: That was originally what was
25 discussed about this project. At this point, if they don't do

1 anything in the footprint they'll pay back as I understand.
2 They're here tonight, we can ask. They'll pay back the balance
3 between what they spend in the footprint and the \$5 million.
4 My understanding based on a telephone call Friday is that
5 they, the reason they didn't come forward with a plan and this
6 may not be correct.

7 DELEGATE BYRON: I think there's a couple in
8 here that are going to require some discussion. Maybe we
9 should identify who those are and we can try to give them a
10 few minutes tonight. If everyone speaks we'll be here until
11 9:00 o'clock or later and we know that the reception is
12 scheduled. Why don't we go back through these and see
13 which ones we want to hear from. Now, the objection would
14 be if you want to hear more about the project, if you don't
15 agree with the staff recommendation.

16 DELEGATE MARSHALL: So if we have an
17 objection we can pull that out?

18 DELEGATE BYRON: Yes, especially if you
19 have a question. Number 2124, 2125, 2126, 2127, 2128,
20 2130, 2131.

21 DELEGATE MARSHALL: Objection.

22 DELEGATE BYRON: 2133, 2134, 2157. We're
23 pulling 2129 and 2157.

24 DELEGATE MARSHALL: Objection to 2131
25 and 2157.

1 DELEGATE BYRON: The other ones we're
2 voting to accept in a block. We're accepting the
3 recommendation if we vote in a block. Everyone understand
4 that? We've got a motion and a second. All in favor of
5 accepting the staff recommendations, voting in a block say
6 aye. (Ayes). Opposed. (No response). Now we have 2131.

7 MR. ROBINSON: Ed Robinson from Southwest
8 Virginia. I don't know if you have objections Delegate Marshall
9 but I'll be happy to address it. I can also speak to the letter
10 that was sent.

11 DELEGATE BYRON: Summarize briefly the
12 project.

13 MR. ROBINSON: The project is for converting,
14 it's a pilot project testing what has proved out already. Testing
15 it so we can bring it up to a full scale facility converting wood
16 not only to ethanol, taking the ethanol made from wood but
17 also to make it into material that used to make plastics and a
18 variety of other things currently from Petro Chemicals.
19 Instead of making ethanol from food, the technology exists to
20 take wood and convert it into material that is edible by
21 animals. The pilot plant for Southwest Virginia in Tazewell
22 County, we're committed to make a full scale facility in the
23 tobacco region or repay the grant so that's absolutely correct.
24 I would point out that the company, even though it's a French
25 parent company, we formed a Virginia subsidiary

1 approximately two years ago long before the R & D Committee
2 was formed and long before this process was begun. Virginia
3 Tech is a part owner of that and we have an agreement with
4 them and obligates them to build a facility. We're definitely
5 obligated to Virginia. The issue is that we've looked for things
6 here and it's not available at this time in a timely or
7 economical basis. They are available in Europe where there's
8 more knowledge about this type of technology.

9 DELEGATE BYRON: As I understand it, \$2.6
10 million if the project is not built in the tobacco region, those
11 monies would be repaid?

12 MR. ROBINSON: Yes, sir.

13 DELEGATE MARSHALL: If not, it's an interest
14 free loan.

15 MR. ROBINSON: It certainly would be
16 appropriate.

17 DELEGATE MARSHALL: How much are you
18 going to pay?

19 MR. ROBINSON: Subject to your discretion.

20 DELEGATE MARSHALL: Madam Chairman, I
21 think it's certainly, I think we might end up giving an interest
22 free loan. I don't think that's the business we're in. That's
23 one of my first objections.

24 MR. ROBINSON: I understand and the point
25 or reason for making that gesture or agreement to repay is

1 that we're serious about doing this here and we're not looking
2 forward to repaying \$2.6 million but we want to be successful
3 here.

4 DELEGATE MARSHALL: The research will be
5 done outside the footprint?

6 MR. ROBINSON: No, just the very beginning of
7 the research. It's some work that's highly specialized. There's
8 a company in Germany that does this kind of work. We talked
9 to UVA and they said they didn't have anyone capable of doing
10 this work. We talked to Virginia Tech and same thing. We've
11 looked in the United States and they're not available
12 economically. That's probably six months worth of work or
13 something like that but the pilot plant would be built in
14 Southwest Virginia where the real work is going to be done.

15 MR. NOYES: I believe I'm correct that all of
16 the Tobacco Commission funds requested here would be used
17 for the pilot plan?

18 MR. ROBINSON: Yes.

19 MR. NOYES: All the matches in Virginia.

20 DELEGATE BYRON: But I understand the
21 first 12 months you're going to be located in Southwest
22 Virginia at the R&D Center?

23 MR. ROBINSON: Yes, the company will
24 located there but the pilot plant itself will not.

25 DELEGATE BYRON: But you'll be in the

1 energy center?

2 MR. ROBINSON: The company's headquarters
3 will be there and the R&D will be done at the pilot plant. The
4 pilot plant won't begin on day one. The company itself will be
5 located at the Energy Center and the plant won't be ready
6 right away. Once the plant is ready the R&D will be done at
7 the plant. There could be some R&D done sooner but that's
8 where it's contemplated to be done.

9 MS. THOMAS: Would you receive money until
10 the work was done?

11 MR. ROBINSON: It would be subject to
12 however the Commission does things. I guess that would be
13 done on an invoice basis.

14 MR. NOYES: Yes.

15 DELEGATE BYRON: Any other questions?
16 Thank you. All right, 2157.

17 MR. RAMAMURTHI: My name is Jay
18 Ramamurthi. Enersoll is a small company and we designed
19 and built this technology system and we done all the research
20 for DOD and we are trying to get commercial space
21 particularly for a project like this that we proposed. Madam
22 chairman, when we started expanding the company we'd like
23 to have a space where we can get the engineering and do this
24 in the southern part of Virginia. This project comes in handy
25 for us to help build up our company and our engineering

1 talent and help in the commercialization phase of the project
2 and hoping we'll be able to take that to the next level and have
3 that capacity we need to build this plant, not only for them but
4 for other customers as well. We'd like to be able to have that
5 at that facility and be able to do it more affordably at a later
6 time in Virginia. We been here for the past 7 years and we are
7 a contractor and supplier to the Pentagon and they depend on
8 us for R&D too. We would like to grow the company and
9 expand it and not just the engineering but all phases. We
10 have a commitment and what we'd like to do on a commercial
11 basis is to move forward.

12 UNIDENTIFIED: Thank you for giving us the
13 opportunity to speak here. We at Enersoll are committed to
14 Virginia and are committed to Southside and Southwest
15 Virginia through the commitments we're making right now and
16 what we initially, our supply chain for this project, we
17 identified as \$2.5 to \$3 million and a variety of equipment and
18 special services are needed for this project. The overall project
19 size is in excess of \$15 million. Half of that after that and
20 we're asking the Commission for a \$5 million grant. We're a
21 co-sponsor working with Enersoll and working with other
22 entities in the Commonwealth and coming up with a balance
23 of \$2.5 million. Our approach is to utilize the infrastructure
24 that we have on the ground Covanta has on the ground
25 permanent and been in operation for decades. That gives us

1 the ability to jumpstart the project. We can save at least 33
2 percent of capital costs so we don't have to come back and ask
3 for more money over time. We have some existing facilities
4 that would support this to save cost and time and we can get
5 to the next stage which is where our next commitment comes
6 in relative to commercializing the project. Based upon the
7 research we did, we identified roughly 30 percent municipal
8 solid waste disposed in landfills in the Commonwealth is
9 making its way north, south, southwest. In our opinion since
10 the logistics infrastructure is already there, moving the
11 material here makes perfect sense for us to site commercial
12 projects in the footprint. So currently with the execution of
13 the project, Covanta will mobilize our resources, project
14 development, economic development, work with EPA and with
15 people you know in the Economic Development Commission
16 and the Economic Development Commission is on the ground
17 and chamber of commerce and local officials identify sites and
18 partners who will work with us and help build out the first two
19 projects. If we are not successful in developing the first two
20 projects, there are significant headwinds that we have
21 identified that could hold us back. Micro-level issues that are
22 related to energy markets within the state related to wage
23 pricing and disposal. We've had discussions with people on
24 the Governor's staff and we're making an effort to see how we
25 can move forward in lowering those road blocks. Assuming we

1 do have success in eliminating the road block and we have
2 success through the commercial demonstration project we
3 envision we will be successful in getting at least two
4 commercial projects off the ground concurrent with the
5 execution of this project. In the event we fail and we don't go
6 there, that's our commitment to try to make up the balance of
7 the funds to the footprint; \$5 million less \$2.5 or \$5 million
8 less \$3 million and based on the effort that Covanta and
9 Enersoll would make to come up with those funds to build this
10 in the footprint.

11 DELEGATE MARSHALL: Let me see if I
12 understand. You're asking for \$5 million and if you spend \$3
13 million within the footprint and the project is not successful
14 then you owe us \$2 million back?

15 UNIDENTIFIED: Correct.

16 DELEGATE MARSHALL: If you're not at the
17 table, you're still going to have to spend the \$3 million
18 somewhere. The type of project you would be buying, but why
19 should we underwrite the \$3 million or whatever you spend in
20 the region?

21 MR. RAMAMURTHI: If the Commission gives
22 us an advance, we will do the work in the footprint. From my
23 perspective, we don't see the resourcing funds just for the
24 project, I'm hoping to be here long term. It's not this \$3
25 million and going to come back it's going to be long term.

1 DELEGATE MARSHALL: Could you give us
2 some information on the type of products that you would buy
3 from the region?

4 MR. RAMAMURTHI: Primarily fabrication,
5 material handling equipment, equipment for contractors.
6 We've gone through the list and prepared, by company, more
7 than one. We've working with the DBA and we want to bring
8 people to the table from the region who do this for a living just
9 to give us a little background and move here and use that and
10 bring all this together.

11 DELEGATE MARSHALL: What would you
12 consider an ideal site, what criteria would you use?

13 UNIDENTIFIED: Commercial plant, the ideal
14 site could take on any number of configurations. A typical size
15 facility could be anywhere from 5 to 20 acres depending upon
16 the site. Our target market is really looking at smaller site
17 plans that can handle the operation in small communities.
18 Probably 5 or 10 acre sites in that range. Flexibility afforded
19 us by Enersoll Technology that it produces a variety of energy
20 products. That gives us flexibility that we could produce
21 electricity. It's good to have sites close to electric transmission
22 lines but we couldn't produce any syngas. We could also be
23 looking at commercial and industrial, who currently by the
24 boilers use fossil fuels. This could involve fuel to fire the
25 boilers with perhaps electrical or electricity generations would

1 apply as well. Lacking either of those two the technology it
2 involves also has the ability to be a small refinery. We can
3 produce liquid fuels and chemicals and synthesis gas which is
4 something done routinely at the petro chemical facilities on a
5 much larger scale. We have the ability to work in a municipal
6 type of setting, a private setting and co-locate with landfills or
7 extend the life of landfills by only putting non-materials that
8 really has used up all of its energy content. There's a variety
9 of different sites and settings with commercial opportunities
10 that we can build out around a site.

11 SENATOR RUFF: Can you focus on smaller
12 rather than larger sites?

13 UNIDENTIFIED: The waste market is
14 fluctuating and its very competitive, Covanta currently
15 managing 20 million tons of garbage every year in the United
16 States through our facility. The flow of waste moves across
17 borders is highly regulated state to state. For us, the
18 economics of putting in a large plant and the economics
19 related to locking up significant waste volumes presents
20 hurdles. Our ability to have a product that is tailor made for
21 the smaller communities with smaller waste volumes gives us
22 greater flexibility in the larger market states that is currently
23 in demand for this type of service and this type of project. Our
24 focus is on communities from \$50,000 to \$250,000 range,
25 strictly municipal solid waste. There are those industrial and

1 commercial people that produce industrial waste that could be
2 used as base load. It really depends upon the location and it
3 depends upon the specific deal arrangement. We believe
4 there's more opportunities for us to re-invigorate energy by
5 focusing on smaller applications as opposed to larger.

6 DELEGATE MARSHALL: At 30,000 feet I think
7 this is a great project. I like the concept and I like what you're
8 trying to do and I hope you get 100 percent success with this
9 but the problem is that if you're not successful and you have
10 to make a repayment to the Commission. If you do that, I'll
11 vote yes but not now.

12 DELEGATE BYRON: There's a reason to do
13 research in other areas but the cost effectiveness of that and
14 you have a company that's backing it bringing resources back
15 to benefit Southside, yet it's not being done and it's a major
16 policy decision to make here. After spending an hour or so,
17 the information trying to make this more attractive with all the
18 research being done and the question is how do you control
19 that research in Southside. We can still send it to VEDP.

20 MR. NOYES: You could recommend that it
21 goes to VEDP for vetting but with what's going to be spent
22 outside the footprint.

23 DELEGATE BYRON: We have two applications
24 that are pulled out of the block, 2131 recommended for
25 referral to VEDP and 2157 recommended for funding.

1 SENATOR RUFF: I move that we refer it to
2 VEDP.

3 DELEGATE BYRON: There's a motion and the
4 motion is that both of these go to VEDP for vetting.

5 DELEGATE MARSHALL: Madam chairman,
6 hearing no second, then I move that 2131 go to the
7 partnership.

8 SENATOR PUCKETT: Second.

9 DELEGATE BYRON: We have a motion and a
10 second for 2131 to go to the partnership for vetting as
11 recommended by the staff. All in favor say aye. (Ayes).
12 Opposed. (No response). That leaves us with 2157.

13 SENATOR PUCKETT: I move that it be sent for
14 vetting.

15 SENATOR RUFF: Second.

16 DELEGATE BYRON: We have a motion and a
17 second that it be sent to VEDP for vetting. Any discussion?

18 MS. THOMAS: I'm concerned that we're
19 opening up something that, in Southwest and Southside
20 without a definite commitment. I'm concerned about that. If
21 we open up to go to or maybe further discussion we can decide
22 what we want to do.

23 DELEGATE BYRON: That's a valid concern.
24 We can make the decision now or let it go forward and make it
25 later. We have a motion and a second, any further

1 discussion? All in favor of sending it to the partnership for
2 further vetting say aye. (Ayes). Opposed. No. (2).

3 SENATOR PUCKETT: Would you call the roll?

4 MR. NOYES: This is 2157 to go forward for
5 vetting. Delegate Byron?

6 DELEGATE BYRON: Aye.

7 MR. NOYES: Ms. DiYorio?

8 MS. DIYORIO: No.

9 MR. NOYES: Delegate Marshall?

10 DELEGATE MARSHALL: No.

11 MR. NOYES: Senator Puckett?

12 SENATOR PUCKETT: Yes.

13 MR. NOYES: Senator Ruff?

14 SENATOR RUFF: Aye.

15 MR. NOYES: Ms. Thomas?

16 MS. THOMAS: No.

17 MR. NOYES: The motion fails.

18 DELEGATE BYRON: Now we're going to go to
19 intellectual property, Frank Ferguson.

20 MR. FERGUSON: Prior to our recent
21 unpleasantness, I provided the Commission staff a draft of the
22 intellectual property position based upon the comments and
23 information I received from the April meeting. In turn they
24 sent the proposed provisions out to the three grantees you
25 approved in April. I think it's safe to say that the predominant

1 negative reaction was to the ownership aspect of the
2 intellectual property that was proposed. Proposed 50/50
3 ownership and ultimately that might be the reason for
4 repayment later on. So we went back to the drawing board.
5 In the meantime Ned engaged certain standards to fill in the
6 gaps and they in turn created or made suggestions rather than
7 an ownership interest that the Commission hold a secured
8 interest in intellectual property that's generated with
9 Commission grant funds. I agreed with that and certain
10 standards go forward with what is proposed in the draft. The
11 draft I guess we received last week was extensive and probably
12 somewhat more comprehensive than one might envision.
13 Looking at the length of the agreement proposed and we
14 proposed a provision. So I had concerns going back and we
15 worked their draft at some length and while I retained a
16 security interest piece of it, it proposed it would be secured by
17 the IP itself as well as any assets that were purchased with
18 Commission generated funds, grant funds. I've discussed this
19 briefly with a couple other people who were grant recipients
20 approved back in April and I don't know if I've seen the third
21 one but they're here somewhere. What I suggest at this point
22 is we're not quite there yet. We need to, I think and I've
23 offered to sit down with them, with their attorney and with
24 staff to have a discussion individually or with a group of them
25 and try to work out the details. I think it's sort of gotten to the

1 point where trading grants back and forth is not time
2 consuming but not necessarily productive so that's my report.
3 I would again offer to speak with the three grant recipients
4 from April and maintain it at that level for now but get at least
5 a template in place and try to get that accomplished within the
6 next couple of weeks.

7 DELEGATE BYRON: Any questions or
8 comments for Frank? Thank you very much Frank.

9 MR. NOYES: The next deadline for
10 applications is 10 September. The next meeting will be a day
11 before the next board meeting, October 27th. A couple of
12 housecleaning matters, travel vouchers will be at your places
13 and breakfast will be in this building in this room tomorrow
14 morning at 8:00 o'clock. The reception is at the hotel at 6:30.

15 DELEGATE BYRON: This is the public
16 comment time, would anyone like to speak?

17 MR. DICKER: Madam chairman and members
18 of the committee, my name is Frank Dicker and I've met most
19 of you one on one. My company was one of the recipients in
20 the first round of grants and I'd like to express my
21 appreciation for that and I'd like to reiterate a couple of brief
22 points. I'd like to point out that we have the first agreement
23 we believe is manageable to get to that point and then get
24 down to the negotiation. The first agreement, the way it was
25 worded it did have a heavy emphasis on returning the grant

1 but as commercialization occur, it basically required us to
2 repay the amount of grant and in return for that agreement,
3 we're very considerate of the fact that the negotiations was just
4 beginning. I don't believe that any of that unintended
5 consequences is not something that cannot be resolved. I
6 believe it's very easily resolved. Ultimately our goal as a
7 company based in Southwest Virginia bring jobs to our
8 community. We have the same goals as the Commission does
9 and we are more than willing to work within the guidelines
10 and we look forward to that opportunity. The thing I really
11 want to speak to today is the fact that in September of last
12 year when the pre-application was first received, first
13 submitted for the grant proposal and the grant process. In
14 November we submitted the first draft and we went through
15 the process of the Committee recommendations, the staff
16 recommendations in December and went through two VEDPs.
17 I distinctly recall in the meeting both the members and the
18 applicants were a little surprised at the 12 to 16 week process
19 and Gerry Giles very appropriately explained why and we went
20 through the process. Here we are having received a grant
21 application approved 90 days ago and aside from a personal
22 situation which we have reached, we're all human, I fear that
23 the process dragged out. We'd ask you to consider looking at
24 what it might take to compress that with a little bit more, not
25 only on behalf of us as a grant awardee or the other two in the

1 first round but also the first four that have been through today
2 and those in the future. We'd love the opportunity to work
3 with the Commission and anyone is welcomed to come down
4 and visit us. The processing and disbursing of funds for the
5 State of Virginia to an unknown entity. We still don't know
6 even after we have an agreement how long the disbursement
7 process is really going to take and when you actually start
8 receiving funds. We are a start up company and we have
9 secured funding. That funding is based on plans that we
10 receive money right now. We made adjustments to it but at
11 the same time we have people looking for money from us and
12 we don't have a commercial product support. We have out
13 debts and equities but we're working. The importance of what
14 I'm trying to describe is just what we're going through. I do
15 want to thank you all and I thank you for working with us.
16 We look forward to this in the future. If you have any
17 questions now or in the future, call me and I'll be more than
18 happy to accommodate you. Thank you very much.

19 DELEGATE BYRON: Is there anyone else?

20 MR. AUSTIN: Madam chairman and members
21 of the committee, my name is Larry Austin and I'm a Wall
22 Street lawyer by trade and I been an economic development
23 director and budget director for American Samoa and I've
24 worked on capital company legislation for political groups and
25 various capital companies to other capital company legislation

1 and the economic development corporation. I've worked in the
2 field for about 25 years and done about \$10 billion worth of
3 financing and let me not forget that I grew up a 100 miles from
4 here and have several dozen relatives working in this area. It's
5 very hard to start a new business and very difficult as
6 witnessed by the fact that because as you all know, 90 percent
7 of every new business dies within the first two years. It's
8 harder when you add restrictions to it and there are many
9 restrictions due to environmental regulations and geographic
10 locations and other restrictions imposed by various entities on
11 businesses today. In my estimation, any successful company
12 that gets from the start up phase to going public on the New
13 York Stock Exchange has to come back to the TROF many,
14 many times. There's no such thing as a one shot funding
15 process or you don't ever need to go back again. In order to
16 get second, third and fourth rounds of funding, you have to
17 have some flexibility about the intellectual property rights.
18 The decision to require or lock up those intellectual property
19 rights in the first round of funding is a decision to keep those
20 company's funds small. I've worked with companies 20 to 30
21 years from Boston to the Silicon Valley and I've seen many
22 that get rounds of funding \$50 to \$100 million level before
23 they go public and their intellectual property rights are very
24 much in play at that level of funding. I would urge that
25 whatever eventual design that you make to the intellectual

1 property rights offer an opportunity to renegotiate some
2 flexibility from deal to deal and from time to time as successive
3 rounds of funding come up. It is imperative that intellectual
4 property be as fluid and as flexible a resource as you go
5 through funding for start up. Thank you.

6 DELEGATE BYRON: That's all we have on our
7 agenda. If there's no one else that wishes to speak during this
8 public comment period then I'll entertain a motion to adjourn.
9 We are adjourned.

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11 PROCEEDINGS CONCLUDED

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