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Approved July 10, 2003



Southside Economic Development Committee
Thursday, June 12, 2003
4:00 p.m.

Hotel Roanoke and Conference Center
Roanoke, Virginia

APPEARANCES

Mr. Thomas W. Arthur, Chairman
Senator Frank M. Ruff, Vice-Chairman
Delegate Clarke N. Hogan
Delegate Thomas C. Wright, Jr.
Delegate Kathy J. Byron
The Honorable Michael J. Schewel, Secretary of Commerce and Trade
Gary D. Walker
Tucker C. Watkins
John T. Taylor
Mary Sue Terry (by phone)

Commission Staff

Carthan F. Currin, III
Mary Cabell Sherrod
Tim Pfohl
Britt Nelson
Libby Tribble

Attorney General's Office

Frank Ferguson

MR. ARTHUR: Good afternoon. Ms. Terry will be participating by telephone and adding her comments. I'd like to thank you all for your attendance, this meeting can be thirty minutes or two hours depending on how long and extensive a meeting it is, that's up to you all. Carthan, would you like to call roll?

MR. CURRIN: Mr. Bryant?

CRANE – SNEAD & ASSOCIATES, INC.

1 MR. BRYANT: (no response)
2 MR. CURRIN: Delegate Byron?
3 DELEGATE BYRON: Here.
4 MR. CURRIN: Mr. Hite?
5 MR. HITE: (no response)
6 MR. CURRIN: Delegate Hogan?
7 DELEGATE HOGAN: Here.
8 MR. CURRIN: Secretary Schewel?
9 SECRETARY SCHEWEL: Here.
10 MR. CURRIN: Mr. Taylor?
11 MR. TAYLOR: Here.
12 MR. CURRIN: Ms. Terry?
13 MS. TERRY: Here.
14 MR. CURRIN: Mr. Walker?
15 MR. WALKER: Here.
16 MR. CURRIN: Mr. Watkins?
17 MR. WATKINS: Here.
18 MR. CURRIN: Vice Chairman Ruff?
19 SENATOR RUFF: Here.
20 MR. CURRIN: Mr. Chairman?
21 MR. ARTHUR: Here. We have a quorum.
22 DELEGATE HOGAN: Mr. Chairman, Mr. Hite called and told me he had
23 the stomach flu and he was sorry he couldn't be here.
24 MR. ARTHUR: I hope he gets better. All of you received a copy of the
25 minutes and it was emailed to most of us I think. Are there any corrections or deletions?
26 SENATOR RUFF: I move that we accept the minutes as presented.
27 MR. ARTHUR: Senator Ruff has moved that we accept the minutes as
28 presented, is there a second?
29 MR. WALKER: Second.
30 MR. ARTHUR: A motion has been made and seconded, any discussion? If
31 not, all in favor signify by saying aye. (Ayes) Opposed (no response) the minutes are
32 approved.
33 We have essentially two items on the agenda today and some of the people here
34 today have to get back to their areas tonight for a meeting so, I'm going to move right into
35 number one and that may take the longest time. We have a request from Charlotte County
36 and Mr. Clark is here representing Charlotte County. Essentially they're requesting us to
37 loan Charlotte County \$1 million dollars out of the \$2 million dollars that we have set aside
38 and it definitely will be a loan. It will be used to pay off debt service on a shell building that
39 they've got that they're putting a tenant in. Mr. Clark, you may proceed.
40 MR. CLARK: Thank you Mr. Chairman. Members of the Commission, I
41 have with me Lee Cobb who is the Executive Director of the Virginia Heartlands Regional
42 Partnership who brings to us today many, many years of expertise in the area of economic
43 development and will assist me in answering any questions you may have.
44 You should have this document today and I hope you do. If you do and for the
45 benefit of Ms. Terry I will read from this information. This information that I'm presenting
46 to you has not been released as of this date publicly but I felt in order to establish in your
47 mind a reasonable amount of confidence in what we're doing that we would share with you
48 some information about the company that will have joined us in our community of Charlotte

1 County. I also want to tell you members of the Commission that probably you may have
2 forgotten. The Charlotte County property is contiguous to the Virginia Heartland Regional
3 Industrial Business Center that you are helping to fund and it is currently under
4 construction. This shell building is part of that as well as the Charlotte County Industrial
5 Park. Once this company is located there it will give us a presence of a new employer from
6 a media perspective being in the Virginia Heartland's Regional Business Center. I would
7 point out it adjoins the property occupied by the Regional Distribution Center for the United
8 Parcel Service. This company will bring initially with plenty of room to grow and \$4,000
9 dollars of revenue to the UPS center immediately. That will help the freight going out and
10 will help us grow that UPS center. Right now it serves a large geographical area of Virginia
11 but most of its distribution of incoming packages. This is something that UPS has asked us
12 to try to do. So this is going to have an impact on business in our area.

13 Care Rehab and Orthopaedic Products, Inc. produces and sells FDA regulated
14 medical devices for the orthopaedic and physical medicine markets. Care Rehab prides
15 itself as the premier provider of these specialty devices, with the strategic product benefits
16 of automatic safety, ease of patient use and cost efficiency. Based in McLean, Virginia,
17 Care Rehab has been in business for 13 years and incorporated for 9 years. Our worldwide
18 target market includes medical distributors, hospitals, physicians, clinicians, physical
19 therapists and individual patients. All of our products require FDA approval and a
20 physician's prescription for use by the patient. Care Rehab has numerous trademarks,
21 patents pending and FDA approvals for all of its products. Because of the regulatory
22 environment, there are enormous barriers to entry into this market. But it is a stable market
23 because of the nature of the products.

24 Care Rehab and Orthopaedic Products, Inc. has current sales in excess of \$6 million
25 a year, not including new manufacturing devices. Projections furnished show a 10% annual
26 increase in market share over the next three years. This, coupled with the introduction of
27 new products will enable Care Rehab to stay profitable in the early stages of expansion.
28 Financials indicate that Care Rehab operates in the black.

29 McGuire Woods and Battle has been handling all of that for them and we've seen the
30 products and we're very curious about it and could cause us to grow at a very rapid rate.

31 Care Rehab is incorporated in Virginia. In addition, ComforTrac has recently
32 incorporated in Virginia as a conduit for the wholesale sales of traction devices.

33 The president of the company is Christian Hunt, who has a BS in Finance from
34 Villanova University and a postgraduate certificate from Osaka International University.
35 He has successfully managed Care Rehab from its beginning. Currently, there are 52
36 employees and full-time contractors who work for Care Rehab, 24 which are located in the
37 state of Virginia.

38 John Spadavecchia has over 25 years experience in engineering and manufacturing
39 in the plastics industry and is a resident of Charlotte County. Mr. Spadavecchia will be
40 responsible for the Charlotte County facility's general management, manufacturing,
41 regulatory control, assembling and packaging needs.

42 Others will be hired in the following areas: procurement and accounting, regulatory
43 affairs, processing, assembling, manufacturing, administrative assistance, marketing,
44 distribution, maintenance, etc. As the company grows, additional professionals will be
45 hired as the need becomes significant and justifiable. Our expected employment for the first
46 three years at the Charlotte County facility will be in year one 10, year two 23, year three 52
47 and year four 63 employees. We are told these are conservative estimates.

1 Charlotte County is requesting a sum sufficient to retire the indebtedness on the real
2 estate known as the Charlotte County Shell Building to be repaid from future allocations. I
3 want to make it clear now that we intend for Charlotte County's allocation for the next year
4 and coming years to be fully applied for this and won't apply for anything else until this
5 debt is paid. This will allow the execution of a lease purchase agreement between the
6 Charlotte County Industrial Development Authority and Care Rehab. This lease agreement
7 will allow the IDA to control the property and to protect its position. The buyout provisions
8 allow for the IDA to recoup its initial investment. The amount requested from the
9 Commission is as follows: Payoff as of July 1, 2003. To pay Dewberry & Davis for
10 Engineering and Site Development \$56,350.00, Virginia Retirement System \$856,580.91,
11 it's a little misleading because that doesn't all go to them, not all principal. BB&T
12 \$56,507.07 and Legal's and Contingencies \$30,562.02, we've got a water hookup and it's
13 \$21 thousand that's going to come out of that amount in preparation of leasing documents
14 and so forth.

15 That's the company overview and that's what we need to do. The agreement we had,
16 we had our attorneys draw the lease and it's been approved by both parties. There is a
17 performance agreement which has been executed by and agreed to by the company. We
18 have verbal approval for GOF funds for the project. I'm reasonably sure it's been
19 scrutinized by those people.

20 We also have hopes that in the future there will be some federal money for this
21 project although it's not necessary to funding as it exists right now under the structure we've
22 done. We've done a 10-year financial analysis, a cost analysis, which includes starting the
23 straight-line depreciation on the building to analyze the position immediately. If you
24 analyze the position and the IDA at various buyout points in the contract the company has
25 options to purchase at three points. The three-year, five-year and ten year. We're giving
26 them an opportunity to have a reduced rental for the first two years and allow them to
27 relieve your cash flow problems and allow them to hopefully be profitable. Almost from
28 the beginning their distribution and warehouse costs them a lot of money. They saved some
29 money by moving that to southside.

30 Now, having said that I do have with me this whole cost and analysis if it's necessary
31 and if you want to see it, I'll be glad to go over it with you. What happens is it brings back
32 to the IDA where the option is exercised. It brings back to the IDA from \$700,000 to \$1
33 million dollars or \$1.3 million that can be reinvested in future business in the area. None of
34 the million dollars we're requesting of you today is going to the client or the company in
35 cash. There is no cash going to the client. All of the money that we're using is being used
36 to outfit the building, the sprinkler system, parking lots and all that type of thing. We retain
37 ownership of the real estate until such time as they exercise their options under this lease.
38 Consequently the county has to protect this investment which you're being asked to help us
39 with. We see this initially as taking charge of our allocation and reinvesting it in our
40 community. The Charlotte County Board of Supervisors is giving the money to Charlotte
41 County IDA to make this deal work. You will have this money returned to the Commission
42 from our allocation within three years and hopefully sooner. It's hard to predict exactly
43 what that amount will be. We fully pledge that we will contract with you if necessary Mr.
44 Chairman and members of the Committee, to guarantee that that money will be returned to
45 you in that fashion.

46 At this point I'm going to stop talking and Lee and I will entertain any questions that
47 you may have.

1 MR. ARTHUR: Are there any questions from the Committee? Ms. Terry,
2 the information on this deal on our agenda is on the way to you as we speak.

3 MS. TERRY: Thank you.

4 MR. ARTHUR: Yes, ma'am.

5 MS. TERRY: Are we going to hear from the staff and get the staff's report?

6 MR. ARTHUR: This has really not been a staff function Ms. Terry.

7 MS. TERRY: Is it routine that we review these proposals that come before
8 the Committee without the staff review and a recommendation? MR. ARTHUR:
9 This particular request is not one that's in the normal procedure of things. If it's an
10 economic development request then yes, it goes through the staff for review. This being a
11 request for a loan and this money belonging to everyone, all the counties in southside with
12 all areas represented here we felt we could vote on this issue.

13 MS. TERRY: I thought the staff was there to, is our counsel there?

14 MR. ARTHUR: Yes, he is. Frank.

15 MR. FERGUSON: Yes.

16 MS. TERRY: Is the Tobacco Commission subject to the Administrative
17 Process Act?

18 MR. FERGUSON: Yes, ma'am.

19 MS. TERRY: Can you tell me or provide the rules and regulations that relate
20 to the Economic Development Grant to the region and tell me if there is explicit authority in
21 the rules and regulations to make loans of this type?

22 MR. FERGUSON: Let me think for a moment to make sure I understand
23 what you're asking me. As far as the APA is concerned this is not the subject of the
24 regulatory process at all.

25 MS. TERRY: But the Commission has its own regulations?

26 MR. FERGUSON: The Commission has guidelines not through the APA
27 process. As far as I'm aware and frankly I don't have it in front of me but as far as I'm
28 aware it would not run afoul of the guidelines to approve this at this meeting.

29 MS. TERRY: I'm sorry, I didn't get that Frank.

30 MR. FERGUSON: I'm saying it would not run afoul of the guidelines to
31 approve this at this meeting?

32 MS. TERRY: Is there anything in the guidelines that would tell all localities
33 across southside and southwest that they can come forward and get a loan on this basis?
34 Have we done this before?

35 MR. FERGUSON: Yes, ma'am, we have. It does raise a question I had my
36 hand up to or not so much a question but to make an observation and clarification for
37 everyone present. This may help you if I may be permitted to make this comment Mr.
38 Chairman?

39 MR. ARTHUR: Yes.

40 MR. FERGUSON: As I understand Mr. Clark, this is a request for a loan and
41 it would be anticipated that the loan would be repaid through future allocations for Charlotte
42 County.

43 MR. CLARK: All of our allocation will be committed to the repayment.

44 MR. FERGUSON: I understand. An issue that has arisen before and a
45 similar kind of proposed structure, is the guarantee of the loan I guess is one way to put it.
46 It is certainly possible that in any given year there'll be no allocation for Charlotte County,
47 there'll be no allocation to the TICR Commission at all to make that allocation. So, my
48 observation and my question then and this has been a point that I don't know, it appears to

1 have caught some prior borrowers by surprise. When we are directed by the Commission to
2 execute that loan we have required of the borrowers that there's going to be someone who's
3 going to be responsible for the loan should those future allocations not materialize. All of
4 us here expect that they will but there's certainly that possibility. I just want to make sure
5 that Mr. Clark understands and that members of the Commission understand that as
6 proposed if this loan comes to our office for execution and a sign off, we will have a
7 provision in that loan that says in this case the Charlotte County IDA will be responsible for
8 this loan should those allocations not be available to otherwise pay off that loan. It could be
9 that those terms could be set by the Commission and that's fine and we appreciate that but if
10 not we will set the standard terms and interest rates and things of that sort. I think we have a
11 somewhat standard loan form that we developed not only for this but loans in general. So, I
12 don't know if that helps you or not Ms. Terry but that's my observation at this point.

13 MS. TERRY: First of all, let me say I have great respect for how hard it is
14 for localities like Charlotte County to attract industry and it's not at all a reflection on not
15 caring about Charlotte County. It really has to do with our process and fairness to all
16 localities. Looking realistically at how this money has to be paid back. I realize the tax
17 base is small and I don't know how much the real estate rate would have to be raised.
18 Realistically speaking how would the county come up with \$700,000 dollars to pay back the
19 Commission or would the Commission be in a position of doing long-term financing? I'd
20 also like to know where else have we given loans to localities to be paid back? I realize in
21 the situation at the last meeting we allowed a county to dedicate future revenues. I haven't
22 been on the Commission long but I'm asking where have we done this before?

23 DELEGATE HOGAN: Mary Sue, this is Clarke and I think I can respond to
24 that. Maybe Gary Walker and probably Mr. Clark can speak to this. Does Charlotte County
25 stand behind this loan?

26 MR. WALKER: That's correct.

27 MS. TERRY: How are they going to come up with the money Clarke, to be
28 realistic. This county's got a very small tax base, how is that county going to come up with
29 the money?

30 DELEGATE HOGAN: Mr. Chairman, if you look at Charlotte County I
31 think they've got an adequate borrowing rate and they've borrowed money before for a
32 number of other things like building schools. I think a debt payment on a 15 year note is
33 something like \$150,000 dollars a year and well within the capabilities of Charlotte County
34 to repay this. No question that Charlotte County can repay this if the Commission did not
35 contribute allocations in the future.

36 MR. CLARK: Ms. Terry, if it will help you Charlotte County had taken a
37 lead several years ago to build a large new middle school and financed it to the tune of \$6
38 million dollars. The debt service on that is occurring each year and will be retiring in 2005.
39 In the event this should happen in what you're describing, that debt service money will be
40 freed up at that point because that school loan will be gone and could be applied to this.

41 MS. TERRY: Thank you. I'll just ask once more if anyone can tell me
42 another instance in which a loan has been made to a locality for business or are we plowing
43 new ground here?

44 MR. FERGUSON: Ms. Terry, the one that comes to mind first is the
45 Lenwisco loan --

46 MS. TERRY: -- I can't understand you.

1 MR. FERGUSON: I'll move closer to the microphone. The one that comes
2 to mind immediately is the Lenwisco loan that was made last year for development of some
3 fiber optic infrastructure. That was a loan to Lenwisco.

4 MS. TERRY: Is that southside or southwest?

5 MR. FERGUSON: Southwest.

6 MS. TERRY: They have their own rules and they take a different approach.
7 I'm talking about southside.

8 MR. CURRIN: VIR Halifax County the service authority for southside has
9 been done.

10 MR. WATKINS: If the Committee wanted to couldn't we give this as a grant
11 rather than a loan? If that's the problem give it as a grant and let Charlotte County be
12 required to put up repayment in three years. MS. TERRY: Can the Commission do
13 that? I'm just concerned about what our guidelines are and if we're setting a precedent and
14 whether we should be changing precedent in this context or whether this is some type of
15 rule-making procedures.

16 MR. WATKINS: Do you think it would be better to give them a grant then?

17 DELEGATE HOGAN: Mr. Chairman, in fact that is exactly what we're
18 going to do. We're going to give Charlotte County a \$1 million dollars with the
19 arrangement and understanding that they will not receive what allocation they would get for
20 the next three years. As that allocation comes through Charlotte County will have to repay
21 the Commission. In fact we are going to give them a grant so I don't think we're breaking
22 any policy or procedure that we've done in the past. Or you might say Charlotte County is
23 going to forego future allocations in exchange for this. I don't think we're breaking any
24 procedures in terms of passing out grants over the last few years that this has gone on.

25 MS. TERRY: What was the amount of the grant allocation?

26 MR. ARTHUR: \$865,000 is the grant allocation. That's been true over the
27 past several years.

28 MS. TERRY: So, you're saying they will not get \$800,000 next year.

29 MR. ARTHUR: That's correct.

30 MS. TERRY: So, if they continue and we're all hoping they would, then this
31 will be paid off the second year?

32 MR. ARTHUR: Yes.

33 DELEGATE BYRON: Mr. Chairman, borrowing these funds is one thing I
34 certainly understand with regard to concerns about the guidelines but I certainly think in
35 light of the tremendous responsibility we have for each locality to look at ways that we can
36 expand the existing businesses and this is a way to bring in new ones. You've got a
37 successful business here and a new one that is expanding here. I think guidelines are a good
38 starting base, it's hard to box ourselves in with guidelines on everything we're doing. Each
39 project is unique and we have to really weigh out the merits of each one and take a look at
40 what is fair to the communities.

41 MR. ARTHUR: We've got a piece of property here that's been sitting vacant
42 for three years and they've got a company that's operating in the black wanting to move into
43 it and bring in 50 jobs or something to that effect initially. We need to, if nothing else the
44 debt service on the building and get it off or put it on a loan and I think it's a good deal
45 myself. Anyone else?

46 SECRETARY SCHEWEL: Some of this has been explained to me before
47 but why are you paying off the VRS loan in the first place?

1 MR. CLARK: The provision we agreed to, the current deed of trust on the
2 property that was secured with VRS and in order for us to lease or purchase or sign this we
3 have to retire that debt. There's different financing. SECRETARY SCHEWEL: It
4 wouldn't surprise me if VRS said you've got to pay it off when you sell it but it's a little
5 surprising to me to have to pay off the lease when you're expected to lease it anyway.

6 MR. CLARK: All I can tell you Secretary Schewel is that we turned it over
7 to our attorneys in Richmond and their opinion was that in order for us to lease the property
8 we have to pay VRS. We did this at the direction of our counsel McGuire Woods.

9 SECRETARY SCHEWEL: Since I used to work for your counsel I hope
10 they're right.

11 MR. CLARK: I wasn't going to say that sir.

12 SECRETARY SCHEWEL: You already did. Our loan to you all would be a
13 non-interest bearing loan?

14 MR. CLARK: Yes.

15 SECRETARY SCHEWEL: It has a term of three years and if everything
16 goes according to expectations it will be paid off in the next fiscal year?

17 DELEGATE HOGAN: Mr. Chairman, a point of clarification. This year I
18 think the allocation will be about \$25 million, next year I believe is anticipated at \$10
19 million based on the numbers. So, I think it would be 40% of \$850,000 dollars is roughly
20 \$330,000 and on that basis we came up with three years. That's the situation we
21 anticipated.

22 SECRETARY SCHEWEL: The term of the lease is how long?

23 MR. CLARK: It's a multi-tiered lease. The maximum term of the lease is 10 years
24 and the rental escalates over that period. There are three periods of time within the lease
25 structure where the tenant can purchase the property.

26 SECRETARY SCHEWEL: Assuming they do as planned and they leave
27 before three years? Is the lease term less than three years, is there some arrangement for
28 them being there as far as the funding?

29 MR. CLARK: The first opportunity for them to buy the real estate is at the
30 end of year three.

31 SECRETARY SCHEWEL: If they buy it there's no problem for them to pay
32 it off one-way or the other.

33 MR. CLARK: The lease is designed as best I can determine, to encourage
34 this business to come. If they leave we will have updated this property and we're doing it in
35 what I would call a generic way. Before anything is done the loading docks can be used by
36 them, office space and parking lot. If they left we would have a more saleable property and
37 it's going to belong to the IDA. We are going to retire this deed of trust from VRS. We
38 could give the deed of trust on the property to the Tobacco Commission but I feel relatively
39 certain that the good will in favor of Charlotte County and the fact that the IDA, the IDA's
40 net worth on the day of consummation of this deal will be almost \$2 million dollars. The
41 Charlotte County IDA has got a quarter of a million dollars in cash which they've put into
42 this deal all except \$25,000. The point being is that if the real estate won't sell which is not
43 unusual in the real estate business and we can't sell it then we may have problems. The
44 county itself would have to enter into this deal but the real estate's going to be worth, by
45 assessment well over \$3.3 million dollars after being updated. The total indebtedness will
46 be \$1 million.

47 SECRETARY SCHEWEL: You said this earlier that initially the rent is low
48 to help with this transition and then it starts escalating. By year three and –

1 MR. CLARK: Paying market rate starting in year four. The rent the first
2 year is \$1 dollar per square foot, the second year is \$1.50 per square foot, the third year it
3 goes to \$2 dollars per square foot and in year four it goes to \$3.75. It's not a money making
4 deal but at \$3.75 through year five and the way this thing is structured with the buy out we
5 will have three quarters of a million dollars, by the end of year five he has to meet these job
6 requirements or he cannot exercise the option. If he doesn't have 50 people working there
7 at the end of three years he can't buy and we don't want him.

8 SECRETARY SCHEWEL: How big is the building?

9 MR. CLARK: It's 50,000. Basically the IDA will have 1.3 million dollars in
10 cash on this one deal at the end of year ten if he wants to lease it the entire time and he
11 probably wouldn't want to do that. Mr. Hunt has said to me that he wanted to prepay the
12 rent for tax purposes. I really think I need to be candid with you people. Christian Hunt is a
13 very, very astute person and he's an honest man I can tell you. He's going to do well with
14 this and I'm encouraged by it.

15 SECRETARY SCHEWEL: I was trying to identify for purposes of myself
16 and I was interested where another source of prepayment would be in addition to the
17 allocation. One of them would be the rent and at \$2 dollars a foot that's \$100,000 and \$3.75
18 that's not quite \$200,000 but if they pay that that would pay off the loan pretty quick.

19 MS. TERRY: But you're renting part of it?

20 MR. CLARK: They're renting the whole building. If this will help, in
21 September of 2006 if this scenario works out we would be in a position at that point in time
22 to have sufficient cash flow to retire this note within four years.

23 SECRETARY SCHEWEL: Just so you know, I have signed the GOF
24 approval and sent it on to the Governor for his approval which is the one that counts. Where
25 are these folks moving from? Are they leaving an operation in Northern Virginia and
26 moving everything down here?
27

28 MR. CLARK: Their manufacturing facility is moving it to Keysville. The
29 product they're making over there is going to be moving to Virginia. Some of these
30 electrodes you put on when you have a cardio and all that and they've got all kinds of
31 marketing plans including advertising and this is a long story. That's the thing that's going
32 around the country. The products he makes over there and some of that stuff has been, these
33 electronic devices look like T.V. remote controls but you still plug up, that you plug all this
34 stuff in to but that's still going to be made over there. It's a Norwegian design. It's a most
35 attractive product for companies that do this that's going to be on the market. The traction
36 devices that are manufactured in this country and that are being sold by this company and
37 not manufactured. They're going to put in the necessary equipment and they're going to
38 start making these traction devices solely as a product made in this state and assembled and
39 shipped. The cost versus the retail-selling price of these traction devices is 30% and it's
40 going to go down from there. They're a nice looking product and better designed than the
41 ones you buy now. They've shown all that stuff to us. They have projections for the
42 international market for these things and that's extremely attractive. He anticipates buying
43 this building in two years and add another building to it. That's what he's planning on
44 doing. I tried to structure a deal to bring before the Commission that is so conservative that
45 it would be difficult to turn it down. Behind all of this and throughout this whole thing is
46 the value of this property which is adjacent to the 400 acres in the business park being
47 developed by Virginia's Heartland. This is a conservative estimate and by any conservative
48 estimate it's worth three times the indebtedness on it from the beginning.

1 MR. ARTHUR: Thank you. For everybody's information I may have
2 misspoken about the staff's due diligence on this project. I was aware of it and it didn't
3 occur to me. Carthan had asked Mr. Pfohl in researching this project and doing his due
4 diligence on it to have a recommendation and he has him here now. Would you like to tell
5 us about that?

6 MR. PFOHL: Thank you Mr. Chairman, I'm Tim Pfohl Grants
7 Administration Manager for the Tobacco Commission. Doing our research on this specific
8 request as well as the opportunity fund request that accompanies this project from Charlotte
9 County. We work in a partnership with the Economic Development Partnership for the
10 Opportunity Fund and offers that were made and worked with them in calculating return on
11 invest for the Commonwealth. We also worked with the partnerships research staff to verify
12 that the county does indeed owe from the financing of this building through the Virginia
13 Shell Building Initiative Program, which requires that they repay the Virginia Resource
14 Authority when they obtain the first tenant in this building. The county also submits to us
15 information that indicated that they owed additional funds for site development, engineering
16 and legal work for this site. It was indicated to us by the Economic Development
17 Partnership that would help resolve in the first industrial announcement of the new location
18 in Charlotte County in four years. For those reasons staff was supporting the two requests
19 that were made to the Opportunity Fund and Southside Economic Development Committee.

20 MR. ARTHUR: Ms. Terry.

21 MS. TERRY: Is this a written report that we normally get or are we getting
22 another report?

23 MR. ARTHUR: We're getting a verbal report. We discussed it so many
24 times over the phone I guess that I knew the results without –

25 MS. TERRY: You and I had discussed that we knew the results. But I wrote
26 an email to Mr. Pfohl Monday a week ago about being out of town with specific questions
27 about this project and never received an email response. I've been out of town the last three
28 days. Nor did I receive a phone call from anyone from the Tobacco Commission staff
29 putting me in a better position to get a feel for this project. It's one thing to talk to folks and
30 it's another thing to put something in writing.

31 I'd like to ask Mr. Chairman has the Commission in the past operated frequently on
32 this basis where grants are taken up on an emergency basis or requests and there's no
33 independent staff review or no independent report from the staff for purposes of providing a
34 document for future reference? In other words, when's the last time we had an occasion to
35 meet in an emergency meeting although an executive review three to four weeks ago and
36 had a staff recommendation and gave a loan?

37 MR. ARTHUR: I'd have to tell you this is not standard procedure. All the
38 economic development grants and loans in the past have gone through a review status with
39 people except in one or two cases that I can't think of at the moment. With time factors
40 involved the staff in the past and in fact the full committee has operated in an emergency
41 situation to cover a job when it's been time sensitive. It's not standard procedure but it has
42 been done.

43 MS. TERRY: Mr. Chairman, could you ask the staff to provide us
44 with a list of those projects that deviates from the norm because it seems to me that one of
45 the challenges in going forward is to come up with a process. I'm sure there's other
46 counties out there that need this type of thing where they're able to come forward as well
47 and they're going to be deprived. There are counties that have allocations like Patrick or
48 Charlotte, we're taking their money the small counties and foreclosing the opportunity for
them to have an opportunity to do something in their localities. I would make that

1 suggestion that perhaps we need more guidelines going forward in the future and
2 particularly bypassing staff and not following the normal procedures of staff review and
3 written reports.

4 MR. ARTHUR: Your words are certainly taken to heart Ms. Terry.

5 SENATOR RUFF: Mr. Chairman?

6 MR. ARTHUR: Senator Ruff.

7 SENATOR RUFF: At the proper time I'd like to make a motion. Mr.
8 Chairman, I move that we accept the request from Charlotte County to loan them \$1 million
9 dollars to be paid back on their allotment within the next three years of 100% of the
10 allotment.

11 DELEGATE HOGAN: Second.

12 MR. ARTHUR: There's been a motion made and seconded by Delegate
13 Hogan. Is there any further discussion?

14 MR. TAYLOR: Call for the question.

15 MR. ARTHUR: The question's been called for. All in favor of this loan
16 arrangement signify by saying Aye (ayes) Opposed (No response).

17 MS. TERRY: I would just like to –

18 MR. ARTHUR: I will see that you get the information that you requested,
19 I'll do that. Is that satisfactory?

20 MS. TERRY: It would also be helpful Mr. Chairman, that when a member of
21 the Commission writes the Commission staff an email for certain information that someone
22 on the staff get back with them.

23 MR. CURRIN: Ms. Terry, I did not get the email and you didn't send it to
24 me so, and Mr. Pfohl does not seem to recall you did email him but I will find out and if you
25 did I can assure you you will in the future.

26 MR. WALKER: Mr. Chairman, I have on a regular basis emailed and made
27 phone calls and written to the Commission staff and I have never gotten a response. So, it's
28 something that's certainly out of the ordinary that they didn't respond. So, they've always
29 been very receptive to me.

30 MR. ARTHUR: All right.

31 MR. CLARK: Mr. Chairman and members of the Commission, thank you.
32 We are inviting you and the IDA would like to have all of you or as many as can come to
33 the county on June 23rd at 4 p.m. for the official announcement. The Governor's Office
34 request to deal with that as they see fit. I know it's probably impossible to ask but I'd like
35 to keep this as quiet as possible until that time. Without you there would be no Regional
36 Business Park being built in the southside, without you this deal would not have been made
37 and hopefully you will have something to be very proud of in the future. Thank you Mr.
38 Chairman. You'll be getting written notice.

39 SENATOR RUFF: There's some information on this sheet, do you want this
40 public?

41 MR. CLARK: I would rather have it back.

42 MR. ARTHUR: Maybe somebody on the staff can give that back.

43 MR. CLARK: Mr. Chairman, this question might come up and I'll tell you
44 this. The parties we're dealing with they have executed the performance agreement and
45 we're the ones that have not performed at this point.

46 MR. ARTHUR: Frank, Carthan, would it be good to get the staff together
47 and the Attorney General's office to prepare that type of document or announcement?

1 MR. FERGUSON: I will take this as a request that this information be
2 treated as proprietary or trade secret information and I make that suggestion to the extent
3 that this has been available publicly so far and we're now retracting it if you will, for
4 compliance with the Freedom of Information Act. I do have a difficult time if someone
5 requests it refusing to provide it to them unless we at least consider, that request has to come
6 from the person providing this.

7 MR. ARTHUR: All right. Our second item deals with the Town of
8 Clarksville. Anyone here representing Clarksville? I don't see anyone. So, let me make
9 this comment here. This item about the Clarksville IDA request and I originally said it was
10 not on the original agenda but the Attorney General's office has assured me that under the
11 past working on this particular project is allowed to bring it up.

12 MR. FERGUSON: Yes, Mr. Chairman. The real question I think would be
13 whether as a matter of public notice you can present this in sort of an emergency fashion.
14 Given the nature of the question and the timing of the request that Clarksville views this as
15 an emergency situation. As long as the public has access to this information at the same
16 time as members of the Commission have access to it, it qualifies under the emergency
17 provision.

18 Obviously Committee meetings often have an agenda, add-ons at the last minute and
19 I'm not concerned about that. The reason I thought it was important that the Economic
20 Development Committee hear this. This does appear to be a change although not an overly
21 significant one necessarily but it does appear to be a change from what the Commission
22 voted to approve. As I understand the motion that was before the Commission that was
23 voted on in April and approved is that it was for a multi-tenant structure and this change
24 would be to a single-tenant structure. There are some floor changes that probably are
25 significant but under the fact that the Commission approved a multi-tenant structure and
26 maybe members of the Commission view that as an important factor in their vote. I thought
27 it prudent that the Commission take a second look at it and act on the change order if you
28 will.

29 MS. TERRY: May I ask a question? Are the localities subject to providing
30 information on the action items that are being taken up? It's one thing that the public get
31 notice, we don't have an opportunity to do independent thinking and you never know if you
32 happen to miss a meeting you never know what's going to be revisited and what subjects are
33 going to be brought up because the agenda doesn't present what's going to be the action on
34 it. I thought we had a discussion about that some time back.

35 MR. ARTHUR: That was along my thoughts originally Ms. Terry.

36 MR. FERGUSON: Just to clarify Mr. Chairman, that something within the
37 authority of the subcommittee to defer any further action based on that if that's the will of
38 the subcommittee. From the Freedom of Information Act perspective it was something you
39 could do under the circumstances. Number two, I was unwilling at least from the Attorney
40 General's office point of view to say that this change was one to be made without the
41 Commission reviewing it. I understood there was some time urgency. Clearly if the
42 Committee is uncomfortable with reviewing it without more time to understand what the
43 change being requested was all about that's certainly appropriate.

44 MR. CURRIN: Mr. Chairman, if I may address Ms. Terry's concern.
45 Number one, this information was not supplied to my office until 4:22 yesterday afternoon
46 by the Town of Clarksville. The Attorney General's office didn't inform my office until
47 1:20 p.m. this afternoon as to whether or not this Committee and thus the Commission

Comment [MCS1]: Mr. RB Clark is interpreting this statement to mean that the information considered proprietary should be stricken from the record. But it seems to me that this statement refers to the handout being discussed at the time.

1 should be allowed to vote on this or whether it would be handled without a vote. That's the
2 reason.

3 MR. ARTHUR: This is actually a very minimum impact type of request.

4 MS. TERRY: It sets a precedent and I think that we should have fixed public
5 notices and action items so that members know when they can't make a meeting they know
6 what's going to be voted on and nothing else is going to be voted on. This is the way our
7 localities operate. I know that there have been meetings where there was an action item that
8 wasn't on the agenda and it was an important action item to some of us. So, I would like us
9 to submit to some type of internal rules and procedures so we know what's going to be
10 taken up in a meeting. I don't think we should be setting precedent where localities can
11 come in at the ninth hour and ask us to make an alteration there. I don't think that's a good
12 way to do public policy and public business and making those decisions. If we start doing
13 that then the question is where are we going to stop?

14 MR. ARTHUR: The urgency on this is that the contractor's are already in
15 the building and the tenant has committed to move in August 1.

16 DELEGATE HOGAN: I move approval.

17 MS. TERRY: There's always an emergency. There's a process and there's
18 rules to be followed Mr. Chairman. How long have they known this, we're not given proper
19 notice and no one operates a business this way.

20 DELEGATE WRIGHT: Mr. Chairman –

21 MR. ARTHUR: Delegate Hogan I think –

22 DELEGATE HOGAN: Mr. Chairman, I move approval of this project.

23 MR. ARTHUR: Changing it to from three to two to one.

24 DELEGATE HOGAN: That's correct.

25 MR. ARTHUR: The motion is made by Delegate Hogan and seconded by
26 Senator Ruff. Any further discussion? Hearing none, all in favor signify by saying Aye
27 (ayes) Opposed like sign (no response). Hearing none it is changed.

28 All right, I would like to ask the staff to make sure in the future notifications and
29 Tim you and I discussed this, not on the original agenda when we send it out. That's
30 certainly a legitimate request and let's see what we can do to make sure that doesn't change
31 in the future.

32 Now, I'd like to have a minute of personal privilege if I could. This may well be my
33 last chaired meeting. I'd like to say to all of you what a pleasure it's been to work with all
34 of you. It's been truly a joy to me to work with people with single-mindedness enough to
35 know that we are in dire straights in southside and that we're all working together for the
36 benefit of southside. I think we've achieved that and we've done a good job over the past
37 four years and it's been indeed my pleasure to work with all of you.

38 This is an open session so does anyone else have anything else to say?

39 MR. TAYLOR: Mr. Chairman, I feel that we have benefited from your
40 service and we appreciate it.

41 MS. TERRY: I want to thank you and I've enjoyed getting to know you.

42 MR. ARTHUR: Thank you. Any further discussion? That completes the
43 business of today's meeting and this meeting is adjourned.

44
45
46 PROCEEDINGS CONCLUDED
47
48

CERTIFICATE OF THE COURT REPORTER

1
2
3 I, Medford W. Howard, Registered Professional Reporter and Notary Public for the
4 State of Virginia at Large, do hereby certify that I was the court reporter who took down and
5 transcribed the minutes of the Tobacco Indemnification and Community Revitalization
6 Commission public meeting, Southside Economic Development Committee when held on
7 Thursday, June 12, 2003 at 4:00 p.m. in the Hotel Roanoke and Conference Center,
8 Roanoke, Virginia.

9 I further certify this is a true and accurate transcript to the best of my ability to hear
10 and understand the proceedings.

11 Given under my hand this 20th day of June, 2003.
12
13
14

15
16 _____
17 Medford W. Howard
18 Registered Professional Reporter
19 Notary Public for the State of Virginia at Large
20

21
22 My Commission Expires:
23 October 31, 2006