

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

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

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7 **Special Projects Committee Meeting**

8 Thursday, May 26, 2011

9 8:00 a.m.

10
11 3rd Floor Banquet Room

12 Football Towers

13 Liberty University

14 Lynchburg, Virginia

1 **APPEARANCES:**

2 The Honorable William C. Wampler, Jr., Chairman

3 Ms. Connie Greene Nyholm, Vice Chairman

4 Mr. Kenny F. Barnard

5 The Honorable Kathy J. Byron

6 Mr. John R. Cannon

7 The Honorable Daniel W. Marshall, III

8 Mr. Israel O'Quinn

9 Mr. David S. Redwine, DVM

10 The Honorable W. Roscoe Reynolds

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12 COMMISSION STAFF:

13 Mr. Neal E. Noyes, Executive Director

14 Mr. Ned Stephenson, Deputy Director

15 Mr. Timothy S. Pfohl, Grants Program Administration Manager

16 Ms. Stephanie S. Kim, Director of Finance

17 Ms. Stephanie S. Allman, Program Administrator

18 Ms. Sarah K. Capps, Grants Program Administrator –

19 Southside Virginia

20 Ms. Sara G. Williams, Grants Program Administrator –

21 Southwest Virginia

22

23 COUNSEL FOR THE COMMISSION

24 Mr. Francis N. Ferguson, Esquire

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1 SENATOR WAMPLER: The Special Projects
2 Committee will come to order. First I'd ask our Director to
3 take note of the roll and observe that we have a quorum.

4 MR. NOYES: Yes, sir.

5 Mr. Barnard?

6 MR. BARNARD: (No response.)

7 MR. NOYES: Secretary Brown?

8 SECRETARY BROWN: (No response.)

9 MR. NOYES: Delegate Byron?

10 DELEGATE BYRON: Here.

11 MR. NOYES: Mr. Cannon?

12 MR. CANNON: Here.

13 MR. NOYES: Mr. Jenkins?

14 MR. JENKINS: Here.

15 MR. NOYES: Delegate Marshall?

16 DELEGATE MARSHALL: Here.

17 MR. NOYES: Ms. Nyholm?

18 MS. NYHOLM: Here.

19 MR. NOYES: Mr. O'Quinn?

20 MR. O'QUINN: Here.

21 MR. NOYES: Mr. Redwine?

22 MR. REDWINE: Here.

23 MR. NOYES: Senator Reynolds?

24 SENATOR REYNOLDS? Here.

25 MR. NOYES: Senator Wampler?

1 SENATOR WAMPLER: Here.

2 MR. NOYES: You have a quorum.

3 SENATOR WAMPLER: My apologies for starting
4 late; the shuttle buses are doing the best they could to get a
5 quorum here. We're ready to proceed. There probably are one
6 or two that will follow shortly.

7 The Agenda is rather light this morning, and there are
8 two matters that require action. The first is approval of the
9 Minutes of December 14, 2010.

10 MS. NYHOLM: So moved.

11 SENATOR WAMPLER: It's been moved and
12 seconded that the Minutes be approved. All in favor signify by
13 saying aye? (Ayes.) Opposed, no? (No response.) The ayes
14 have it, and they are approved.

15 The first item is what, Tim?

16 MR. PFOHL: We have a proposal that was originally
17 submitted almost a year ago to your committee, and it was
18 then numbered proposal 2140, Lenowisco Planning District
19 Commission for Solar Power Generation Project. At that point
20 when it was submitted in June, 2010, it would be built on the
21 UVA-Wise campus. The proposal was tabled by the Committee
22 in 2010, and it has come back to us and been resubmitted
23 and been assigned a new grant number. So we apologize for
24 any confusion that it may have caused.

25 Now, proposal 2334 revised at \$2 million, and I'll talk

1 about that in a minute, revised in terms of also the location of
2 the proposed project. Now it is supposed to be built in
3 Duffield in the E-Corridor Technology Park. Lenowisco and its
4 private partner, SecureFutures LLC, are proposing to build
5 two solar facilities. One is a 250 kilowatt ground-mounted
6 sun tracker, so to speak, on land adjacent to the Duffield
7 Technology Center and a 200 kilowatt panel array that would
8 be roof-topped on the Pioneer Center business incubator. The
9 Scott Economic Development Authority will purchase the
10 power generated there for using those two buildings, the
11 technology center and the business incubator.

12 Under the terms of a proposed 25-year purchasing
13 agreement, Lenowisco Planning District and SecureFutures
14 would form a single purpose LLC, Lenowisco Solar LLC, which
15 initially would be controlled 75 percent by Lenowisco PDC,
16 assuming this proposal is funded and our funds go towards
17 construction, and 25 percent controlled by SecureFutures
18 LLC, based on the fact that they're bringing to the project a
19 \$450,000 Virginia Department of Mines, Minerals and Energy
20 grant and some private equity we can talk about a little bit
21 further.

22 Lenowisco Solar LLC will own the facility and
23 SecureFutures will manage the project, revenues will be
24 shared 20 percent with the Scott County IDA, and the
25 remaining 80 percent of revenues will be split between the

1 planning district and SecureFutures according to their 75/25
2 ownership stake in the LLC. The system will have annual
3 revenue of \$48,600 from the sale of solar power, and \$54,000
4 is anticipated from the sale of renewable energy credits.
5 Annual operating costs will be just under \$65,000 a year
6 resulting in a projected net annual revenue of \$37,700 to be
7 divided, as described above, among the three entities. Scott
8 Economic Development Authority will see annual energy
9 savings starting at about 12,000 in the first year and then
10 escalate to a 25-year purchasing agreement for a total of more
11 than \$1.3 million in energy savings.

12 We've been provided supplemental information where the
13 applicants are telling us that the retained earnings forecast
14 over a 25-year period are stated at just over a half million
15 dollars for the Planning District Commission and \$167,000
16 and change for SecureFutures.

17 SecureFutures will be paid an up-front developer's fee.
18 Hard costs of the construction, which would be turnkey
19 operation provided by the solar panel manufacturer, is \$2.6
20 million. Tobacco Commission funds were also requested to
21 create a sustainability coordinator position with a marketing
22 budget in the planning district but revisions to the proposal
23 during the course of conversation Staff has had with
24 applicants over the last few weeks they agreed to delete that
25 aspect of the request where we would be paying annual

1 operating costs for the Planning District Commission.

2 Several other aspects of the project are in front of you,
3 but in short this is here because of the anticipated expiration
4 of federal renewable energy credit at the end of this calendar
5 year, December 20, 2011, and the requirement to have the
6 project underway in the same time frame in order to preserve
7 the DMME grant funds. As of this week applicants have
8 reduced the tobacco request of \$1.75 million almost entirely
9 for facilities construction and a very modest amount for grant
10 administration by the planning district, \$12,000.

11 Very quickly, a few observations the Staff has had
12 throughout its review and conversations with the applicants.
13 First, and perhaps most importantly, this could be viewed as
14 precedent funding; a majority share of the costs were multiple
15 additional solar projects, and in fact proposal number 2109 is
16 still pending in Southwest Economic Development to use a
17 similar amount of Commission funds to develop a separate
18 solar facility in Wise County. Staff, over the course of the last
19 year, encouraged those two applicants to work together to
20 develop a single demonstration project. There has been no
21 progress to accomplish that.

22 Secondly, the Commission has already supported a solar
23 power generation project in Halifax County, which is a \$5
24 million grant from the Research and Development Program
25 matched dollar-for dollar per the requirements of that

1 program. That's a project to test battery storage capabilities in
2 cooperation with Dominion Power.

3 In short, an aspect of this decision is whether or not one
4 demonstration project per region will be the harbinger of
5 future solar power project investment.

6 The second point, the outcome measures for Special
7 Projects and for the Commission generally is private sector
8 capital investment, and this construction project is 99 percent
9 government funded. In fact, private investment of \$211,000
10 covered the soft costs of the project as well as a \$242,000 loan
11 from the private partner to fund a sustainability coordinator
12 initiative at the planning district and reduced by a proposed
13 developer fee to the private partner that I mentioned earlier in
14 the amount of \$329,000. So there's a little bit of a wash there.
15 There is significant leveraging of other construction forms in
16 the form of the DMME grant, federal credit totaling more than
17 \$870,000. There is a clear threat that both of those sources
18 will be lost if the project does not proceed by year end. We
19 have received confirmation of that from DMME, and we don't
20 get a confirmation routinely out of Washington on whether
21 energy credits are going to expire, so we may assume that is
22 the case.

23 The second principal outcome measure is anticipated
24 private sector job creation, which is speculative and undefined
25 in our view. The application cites 40 jobs created, which

1 includes the sustainability coordinator position and PDC,
2 some indirect jobs and speculative results of small business
3 development partnerships with SBDC in the region, People
4 Incorporated, and Mountain Empire Community College.

5 The last significant point is that the proposition that the
6 solar project could be an additional incentive to attract a data
7 center in Duffield is not contested at all, and we're not arguing
8 that point, but that must be weighed against the net result of
9 the project, would generate annual energy savings and
10 earnings and subsidized operating costs for the two public
11 partners, the planning district and the Scott EDA, which is not
12 a funding priority to support operating costs for public bodies.

13 Lastly, in a minor aspect, policy states the Commission
14 funds should not be used for grant management. So the Staff,
15 all-in-all, in light of all the issues and timing requests, is
16 recommending an award of \$1.75 million for construction
17 purposes only.

18 MR. NOYES: Mr. Chairman, if I may. Mr.
19 Chairman and members of the Committee, it is a fact that the
20 major data center that we're hearing from on a far more
21 regular basis than what it was a few years ago have as part of
22 their requirements a certain amount of renewable energy that
23 they use. One of the decisive elements in this revised
24 application, as Staff looked at it and I looked at it, to stay in
25 the game for a major data center compliant renewable energy

1 has to be part of our equation; for that reason,
2 notwithstanding some of the difficulties with the project, the
3 Staff is recommending an award. If we're going to be in this
4 game, we need to do this, and other people are doing it, and
5 we'll lose if we don't.

6 SENATOR WAMPLER: The Chair recognizes any
7 Committee members, but Tim, a question, and hopefully
8 rather pointed and clear. How easy will it be for Staff if the
9 revisions of this grant are adhered to?

10 MR. PFOHL: If our funds are focused solely on
11 construction, we will receive construction invoices so that we'll
12 know how the funds are being used. Now, how the project is
13 managed and implemented over a 25-year period of time is
14 another challenge. I'm a young man, and I don't intend to be
15 working for you in 25 years, but that's a long-term project
16 monitoring task, I think.

17 SENATOR WAMPLER: This would be a one-time,
18 non-recurring capital expenditure on the part of the
19 Commission to support the data center?

20 MR. PFOHL: As it is proposed, yes.

21 SENATOR WAMPLER: Questions from the
22 Committee?

23 MR. NOYES: Be owned 75/25 by Lenowisco's
24 Board LLC and the private sector partner.

25 MR. PFOHL: I should state that during the

1 discussions and revisions, instead of the Commission being
2 asked to fund, that coordinator position at the PDC the private
3 partner is now willing to loan the PDC money to fund that
4 position and capture that loan out of project revenues. That
5 would give the private partner an option to increase its
6 ownership stake, but only to 49 percent of the project. As
7 proposed it will continue to be controlled with at least 51
8 percent ownership by the Planning District Commission.

9 DELEGATE MARSHALL: Mr. Chairman.

10 SENATOR WAMPLER: Delegate Marshall.

11 DELEGATE MARSHALL: Tim, you mentioned in
12 your presentation there was an up-front fee to SecureFuture;
13 that would not be part of the construction money, so it would
14 not be part of our money?

15 MR. PFOHL: No, the way they presented the cash
16 flow to us it would come out of DMME funds, excuse me, out
17 of tax revenue, and the applicant is here to address it.

18 SENATOR WAMPLER: Any questions from the
19 Committee? All right, Mr. Skinner from Lenowisco, do you
20 want to address the Committee?

21 MR. SKINNER: Mr. Chairman, I'm Skip Skinner
22 with the Lenowisco Planning District Commission. I have with
23 me our partners with regard to the project, Mr. Thomas Smith
24 and Mr. Robinson, and he's been assisting us with the
25 proposed development. I've spoken to the committees of the

1 Tobacco Commission before and want to have as much
2 transparency as possible with regard to this project. I think
3 it's been set up in such a way as the Staff has explained to you
4 we intend to have that in place. I think this project, with the
5 way it is designed or set up, will be a win-win for all of us and
6 give us a good project. And I'll be happy to answer any
7 questions you may have.

8 SENATOR WAMPLER: Any questions from the
9 Committee?

10 MS. NYHOLM: What is the partnering with the Wise
11 County that Tim said progress has been made?

12 MR. SKINNER: We were working with the
13 University of Virginia College at Wise, and when we started
14 this project the University of Virginia College at Wise, of
15 course, is affiliated with the University in Charlottesville, and
16 the University in Charlottesville has changed leadership since
17 we began this project. Because of a University-wide effort and
18 looking at green energy and what it means to the campus in
19 Charlottesville as well as Wise, they were not prepared to go
20 forward with the project, and I think they're presently studying
21 their options and the green energy alternative. We're willing to
22 wait on the various other partners and the renewable energy
23 credits from the Feds, but then started driving this project. I'd
24 like to thank the Chairman of the Committee and the Staff for
25 going ahead and working us in, the Department of Mines,

1 Minerals and Energy federal stimulus grant that was going to
2 expire if we didn't move forward. So the University of Virginia
3 College at Wise told us if we had another partner we could
4 bring to the table they would be more than willing to step
5 back. In fact, this will give them another opportunity to look
6 at some green power alternatives.

7 SENATOR WAMPLER: Tim, one of the versions of
8 this application is a performance agreement issue, or
9 potentially an issue. This is a construction grant one-time,
10 non-recurring capital expenditure, and the administration of
11 the grant is pretty easy. You submit the invoices and they're
12 paid, and we're in and out of the transaction. Do you agree?

13 MR. PFOHL: Yes, sir.

14 MR. NOYES: The Staff does not envision the
15 performance agreement in relation to this project.

16 SENATOR WAMPLER: Mr. John Kilgore, anything
17 from the EDA's standpoint you wish to talk about or want to
18 add?

19 MR. KILGORE: I want to thank the Commissioners,
20 but from the data center's perspective, one of the reasons Neal
21 mentioned already, the important side is TVA, the Tennessee
22 Valley Authority, that supplies power there has certified this
23 as a data center site. It's one of two in the northeast
24 Tennessee region, and they want to do that, and this gives us
25 another benefit to that site. They are looking for renewable

1 energy, and they're looking for the different types of energy
2 that go into that data center project. So that's one of the key
3 factors that Neal mentioned already. We appreciate the
4 Partnership working with Lenowisco.

5 SENATOR WAMPLER: Questions for Mr. John
6 Kilgore? Thank you very much. Just trying to give the
7 Committee an opportunity to reflect and digest the application
8 that is before us. This Committee operates on a motion. Is
9 there a motion to approve the Staff's recommendation? It's
10 been moved and seconded the application 2334 with the
11 recommendation and the amount that Mr. Pfohl quoted, \$1.75
12 million for capital expenditure. Any question or discussion
13 concerning the motion? All in favor of the motion please
14 signify by saying aye? (Ayes.) Opposed, no? (No response.)
15 The ayes have it, and that is agreed to. Thank you all very
16 much, and thank you, Tim, for your work on this and the
17 modifications thereto.

18 We have one more item coming before us for action, and
19 that is the William King Art Center Museum. If you'd lead us
20 through this, Tim.

21 MR. PFOHL: Several years ago the Commission
22 granted \$500,000 from Special Projects funds to the William
23 King Museum for construction at their current site in
24 Abingdon. Over the course of the past year the Museum has
25 made a decision to relocate from that facility and relocate to

1 downtown Abingdon where they have more visibility on Main
2 Street. In December your Committee met and approved a
3 request to repurpose the grant to allow the use of these funds
4 for reconstruction planning and designing activities.
5 Conditions were attached at that point. The Museum was
6 looking at locating on property owned by the Barter Theater
7 and we wanted some assurance that they had an agreement
8 with the Barter for the use of that site before the release of
9 funds for the design of the facility there. The Museum has
10 taken a broader look at potential sites in downtown Abingdon.
11 They're simply asking for the removal of the condition in an
12 agreement with the Barter Theater and must be in place before
13 the use of the funds so they can assess other sites that they're
14 looking at. The Staff is supportive of giving the Museum the
15 freedom to look at multiple sites in downtown Abingdon. We
16 recommend that we relieve those conditions from that grant.

17 SENATOR WAMPLER: I'm not aware of any
18 objection to this request on behalf of William King. Any
19 discussion on it, or any questions?

20 MR. O'QUINN: Mr. Chairman, when was the
21 original request from William King?

22 MR. PFOHL: 2006, the original grant approval. I
23 believe this is a five-year-old grant. The discussion on the
24 relocation and building a new facility occurred over the last
25 year or so.

1 SENATOR WAMPLER: Any other questions? A
2 motion would be in order.

3 MR. CANNON: I'll make the motion.

4 SENATOR WAMPLER: It's been moved and
5 seconded to adopt the Staff's recommendation that the Barter-
6 related conditions be removed. All in favor signify by saying
7 aye? (Ayes.) Opposed, no? (No response.) The ayes have it,
8 and that is approved.

9 MR. NOYES: Application deadlines for the
10 Committee, that application deadline is July 15, 2011. The
11 Committee will convene on Thursday, September 15th to hear
12 the Staff recommendations. The deadline is July 15th for
13 application, and the Committee meeting date is September
14 15th.

15 SENATOR WAMPLER: Is there anyone in the public
16 who desires to speak or desires to be heard? If anyone wishes
17 to be heard, come forward and identify yourself, and we'd like
18 to hear from you. Hearing none and seeing none, then, we
19 would move to adjourn at 8:38, realizing our next meeting is
20 9:00 here. If there is no other business to come before the
21 Special Projects Committee, we'll rise.

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PROCEEDINGS CONCLUDED.

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CERTIFICATE OF THE COURT REPORTER

I, Medford W. Howard, Registered Professional Reporter and Notary Public for the State of Virginia at large, do hereby certify that I was the court reporter who took down and transcribed the proceedings of the **Virginia Tobacco Indemnification and Community Revitalization Commission Special Projects Committee Meeting when held on Thursday, May 26, 2011 at 8:00 a.m. in the 3rd Floor Banquet Room, Football Towers, Liberty University, Lynchburg, Virginia.**

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

Given under my hand this 30th day of May, 2011.

Medford W. Howard

1 Registered Professional Reporter
2 Notary Public for the State of Virginia at Large
3
4 My Commission Expires: October 31, 2010.
5 Notary Registration Number: 224566