

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

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

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9 **Special Projects Committee Meeting**

10 Thursday, September 25, 2014

11 8:30 A.M.

12
13 Holiday Inn Hotel & Suites

14 Bristol, Virginia

1 **APPEARANCES:**

2 The Honorable Daniel W. Marshall, III, Chairman

3 Mr. Kenney F. Barnard

4 The Honorable Kathy J. Byron

5 The Honorable Charles W. Carrico, Sr.

6 Ms. Missy N. Gould

7 The Honorable Maurice Jones,

8 Secretary of Commerce & Trade

9 Ms. Sandra F. Moss

10 Mr. Edward Owens

11 Dr. David S. Redwine, DVM

12 The Honorable Ralph K. Smith

13 Mr. Robert Spiers

14 The Honorable Gary D. Walker

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1 **APPEARANCES: (cont'd)**

2 COMMISSION STAFF:

3 Mr. Timothy S. Pfohl – Interim Executive Director, Grants
4 Program Administration Director

5 Mr. Ned Stephenson – Deputy Executive Director

6 Ms. Sarah K. Capps – Grants Program Administrator,
7 Southside Virginia

8 Mr. Benjamin Dawson – Grants Assistant, Southside Virginia

9 Ms. Sara G. Williams - Grants Program Administrator,
10 Southwest Virginia

11 Ms. Caroline Bringman – Performance Data Analyst

12 Ms. Stephanie S. Kim – Director of Finance

13 Ms. Stacy Richardson – Executive Assistant

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1 DELEGATE MARSHALL: I want to call
2 the meeting of the Special Projects Committee to order and
3 ask Mr. Pfohl to call the roll.

4 MR. PFOHL: Mr. Kenny F. Barnard?

5 MR. BARNARD: Here.

6 MR. PFOHL: Delegate Byron?

7 DELEGATE BYRON: Here.

8 MR. PFOHL: Mr. Cannon can't be here
9 today. Senator Carrico?

10 SENATOR CARRICO: Here.

11 MR. PFOHL: Ms. Gould?

12 MS. GOULD: Here.

13 MR. PFOHL: Secretary Jones?

14 SECRETARY JONES: Here.

15 MR. PFOHL: Ms. Moss?

16 MS. MOSS: Here.

17 MR. PFOHL: Mr. Owens?

18 MR. OWENS: Here.

19 MR. PFOHL: Dr. Redwine?

20 DR. REDWINE: Here.

21 MR. PFOHL: Senator Smith?

22 SENATOR SMITH: Here.

23 MR. PFOHL: Mr. Spiers?

24 MR. SPIERS: Here.

25 MR. PFOHL: Mr. Walker?

1 MR. WALKER: Here.

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

4 DELEGATE MARSHALL: Next we have
5 approval of the minutes the 9/12/14 minutes. Do I have a
6 motion? I have a motion and a second. All those in favor say
7 aye. (Ayes.) Opposed? (No response.) We've had a couple of
8 different news breaks since we met on the 12th and I think the
9 first one would be VCU. Tim, would you update us on that?

10 MR. PFOHL: When your Committee met
11 on September 12th, you adopted a funding recommendation on
12 grant proposal number 2930 for Virginia Commonwealth
13 University particularly for the Massey Cancer Center and their
14 project Continuing to Work to Achieve a Cancer Free Virginia.
15 Your Committee recommendation, which you can see in the
16 highlighted yellow block on the screen was \$1 million. I was
17 notified this week by the leadership of the Massey Cancer
18 Center that they are willing to accept an award of \$650,000 so
19 a surprising and unique opportunity to hear that news.

20 DELEGATE MARSHALL: In my years on
21 the Commission, I don't think I've ever heard of anybody
22 actually coming back to us and saying we'll take less money.
23 So I think we ought to have a motion to accept the 650.

24 MR. SPIERS: So moved.

25 DELEGATE MARSHALL: We have a

1 motion and a second. The motion is we'll fund VCU at
2 \$650,000. All those in favor say aye.

3 SENATOR SMITH: Mr. Chairman, do we
4 need to rescind what we voted for or would we be in essence
5 adding 650? Do we first have to have a motion to rescind the
6 \$1 million and then add the \$650,000?

7 DELEGATE MARSHALL: Senator Smith?
8 I'm glad you're here, sir to keep us straight. Are you making
9 that motion that we voted on?

10 SENATOR SMITH: I so move.

11 DELEGATE MARSHALL: So what the
12 motion is and do we have a second?

13 MS. GOULD: Second.

14 DELEGATE MARSHALL: We have a
15 motion, the motion is to rescind the \$1 million. All those in
16 favor say aye. (Ayes.) Opposed? (No response.) Now we need
17 a motion to grant the \$650,000.

18 SENATOR SMITH: So moved.

19 MR. OWENS: Second.

20 DELEGATE MARSHALL: We have a
21 motion and a second to fund VCU at \$650,000. All those in
22 favor say aye. (Ayes.) Opposed? (No response.) Next is
23 request number 2942, Department of Conservation
24 recommendation. We had a question so I'll ask Tim to let us
25 know what the question was.

1 MR. PFOHL: Again when you met on
2 September 12th, one of the proposals you considered was
3 number 2942 from the Virginia Department of Conservation
4 and Recreation. The project title is Threatened and
5 Endangered Species Screening Tool for Virginia's Tobacco
6 Region. The motion on the 12th was to table this request in
7 order to allow the attorney general to provide an opinion on
8 whether it's proper for the Commission to make an award of
9 funds to a state agency. We have received a memo from the
10 attorney general's office stating that basically it does not
11 appear that 2942 would supplant or use for any purpose for
12 which state general funds are available and for the above
13 reasons and this is a two page memo, I won't read the whole
14 thing, would not supplant or use for any purpose for which
15 state general funds are available, which is a funding policy of
16 ours. The Commission simply does not fund projects for
17 which state and local funding would be available. Go back to
18 the Committee's activities to consider requests and the staff
19 recommended \$260,000. That proposal not including the
20 indirect agency costs in the original proposal.

21 DELEGATE MARSHALL: Tim, just to
22 refresh everybody's memory, would you explain the project.
23 DCR is here and there might be some questions.

24 MR. PFOHL: The proposal would have
25 grant funded positions in DCR to conduct studies on federal

1 listed threatened and endangered species for use in previous
2 grant funding to conduct a predictive mapping tool for twelve
3 of the 80 threatened or endangered species that are listed by
4 the federal government. The proposed funding would
5 complete the mapping for the remainder of the eighty
6 threatened or endangered species for the entire Tobacco
7 Region. That was part of the issue that the staff began to
8 explore. Are these positions state general appropriations
9 funded and the answer was no, soft money grant funded. Mr.
10 Smith, who is the division chief of DCR can probably explain
11 this better than I can. In effect, the benefit of funding this
12 proposal there would have to be far fewer surveys conducted
13 for threatened and endangered species. This would be a
14 better predictive mapping tool about where those species
15 habitats are located in the Tobacco Region. The outcome for
16 the Tobacco Region and for localities for that kind of economic
17 development purposes is that we would get a faster track
18 development and permitting process for at least 180 existing
19 economic development sites in the Tobacco Region as well as
20 any other future developments.

21 DELEGATE MARSHALL: Mr. Smith,
22 would you take the microphone in case we have any
23 questions?

24 DELEGATE KILGORE: Is the mission to
25 help develop a faster track for economic development projects?

1 DELEGATE MARSHALL: Yes.

2 MR. SMITH: That's it in a nutshell.

3 DELEGATE BYRON: I have a question
4 and it may be just wording but it says in our summary that if
5 a map indicating potential habitats for all species. Is this just
6 a guess of potential habitats that are out there? I'm really not
7 sure. I'm still trying to understand that.

8 MR. SMITH: Mr. Chairman, Tom Smith.
9 Members of the Committee, the problem that falls at the
10 current time the U.S. Fish and Wildlife Service if there is one
11 location for a federally listed species in a county, the service
12 uses the map project that basically identifies that entire
13 county and surrounding counties as a potential habitat for
14 that federal listed species. They do that through an online
15 tool that people are required to use. So any projects anywhere
16 in that county or any surrounding counties would have to
17 start in consultation with the Fish and Wildlife Service and do
18 surveys and prove that they don't have that federally listed
19 species on their project. This project uses really state of the
20 art scientific methods and procedures to identify the most
21 likely habitat where that species would occur. Instead of
22 going from a four county area or entire county area, the
23 projects we've done shrunk it down from a few thousand acres
24 to a few hundred acres. It removes most of the Tobacco
25 Region from areas where surveys would be required by the

1 service and that saves a tremendous amount of time up to a
2 year delay.

3 DELEGATE BYRON: So when someone
4 comes into develop these areas and some of them already
5 have this work done or is this something that's required?

6 MR. SMITH: Something that would be
7 required. We encourage people to work with Virginia
8 Economic Development Partnership and they're strong
9 supporters of this at the very first stage of considering the
10 project. So they know right up front whether there's going to
11 be a potential issue or not.

12 DELEGATE BYRON: Have you requested
13 any of these funds from the state before?

14 MR. SMITH: We have and we've been
15 trying to get funding for this for the past two years and we
16 started talking to the Virginia Economic Development
17 Partnership back in January about this project. We're
18 continuously looking for funds because we think it's an effort
19 that will certainly benefit the entire Tobacco Region and every
20 county and lots of other parts of the entire Tobacco Region.
21 So far we've been able to find the necessary funding to get the
22 work done.

23 SENATOR CARRICO: You said you'd
24 been working through VEDP, had you requested to make that
25 part of your budget for the state to do the projects?

1 MR. SMITH: We do not have the state
2 money to do that. We've asked for budget amendments for
3 this kind of work and we haven't been successful and the
4 agency is experiencing budget cuts. We haven't been
5 successful with that but and this is an effort we've been
6 working on for a couple of years.

7 SENATOR CARRICO: When you ask for a
8 budget, what was the reason you couldn't get funding to do
9 this work?

10 MR. SMITH: Other projects had a higher
11 priority.

12 DELEGATE MARSHALL: Is there shelf
13 life on this and if it is, how long?

14 MR. SMITH: This is state of the art work
15 that is just starting to happen. It's scientifically proven and
16 rigorous and there's a number of public papers on it so we're
17 confident in the procedures. The shelf life is when will
18 something better come along. I think the answer to that is
19 something better will come along when we continue the efforts
20 to do that. We're looking at a five year rotation to update
21 these maps on a five year basis. We think we can find, much
22 of the work is developing the base layers to develop the maps.
23 We think once we get through this initial effort it will be much
24 less expensive and updating the models is something we'll be
25 able to do with other resources and we will not be back to the

1 Tobacco Commission to ask for recurring funds.

2 DR. REDWINE: Briefly, for the record,
3 could you just take a minute and reassure me that this is a
4 benefit and a way to speed up economic development and not
5 a way to identify more endangered species and be another
6 hurdle in the process of trying to attract business to the
7 Tobacco Region.

8 MR. SMITH: I can promise you it's not
9 an effort to try to slow things down. I'll be brief on this but I'll
10 just tell you that I grew up on a small farm in Pennsylvania.
11 My dad was a farmer and truck driver and my mother worked
12 within a cutting room in a small dress factory. So somebody
13 that understands the importance of jobs in rural America. We
14 will be revisiting known locations of federally listed species
15 and these are places that are already mapped and on the
16 record and we'll revisit those to make sure they're either still
17 there or no longer exist because that's a very important part of
18 the modeling effort but we will not be in the field going places
19 where there's never been a record before or attempting to find
20 new locations, it will be a benefit.

21 SECRETARY JONES: Remind me, how
22 long will it take to get this tooled up?

23 MR. SMITH: We think it's a three year
24 process and the big part of the work is assembling the data
25 and developing the geographic information system base layer.

1 Step two is the modeling and finally putting the final product
2 together. We're not sure how we can do it in less than three
3 years.

4 MS. GOULD: Tom, as a follow-up
5 question to Senator Carrico's, I understand you answered you
6 might not be able to remove certain species from the list?

7 MR. SMITH: Part of this effort will go
8 back to locations that have been reported in the past, maybe
9 fifteen or twenty years ago and verify whether they are there or
10 not. Moving into the future, we verify there is a record it's no
11 longer there and that will certainly help projects in the future
12 to have that current information.

13 DELEGATE MARSHALL: Any further
14 questions?

15 SENATOR SMITH: I'm still puzzled.
16 When we talk about this for highway widening and expansions
17 and improvements, we're talking about millions of dollars of
18 environmental work and the main tool, the proponents of
19 development. They may not hear a thing about the
20 environment but they will find some endangered species.
21 They don't want it to happen the way it's going to happen. If
22 you can explain to me how you can put a system forward
23 without increasing that or if you were to say we determine
24 there is no longer this endangered species in a particular area,
25 if they claim they saw one, how is this information you are

1 planning to provide, how would anyone defend that if they
2 claim they did and you claim they did not? Somebody
3 previously had said there was so I just –

4 MR. SMITH: - I guess I would say this
5 project will certainly take some ammunition away from folks
6 that misuse and misrepresent information and data.
7 Currently somebody could look at the U.S. Fish and Wildlife
8 Service system and say there's a record in Nottoway County
9 that one place and that species could be anywhere in
10 Nottoway County and you the developer have to start talking
11 to the service, we think this endangered plant is on your
12 property and this is going to remove that bullet from their gun.
13 It's going to show it's not the entire county, it's not the
14 adjacent county, it's a very small part of Nottoway County. We
15 think it will remove that element of the argument from a lot of
16 people.

17 SENATOR SMITH: If I may, once your
18 client or your documentation, is that the rule of law, cannot be
19 challenged in the courtroom because when you say something
20 is not an issue. How can it save us money without being the
21 rule of law?

22 MR. SMITH: It will save you money
23 because the current process, because you must use the Fish
24 and Wildlife Service tool. It covers a very broad area, basically
25 covers the entire Tobacco Region. This product will eliminate

1 most of the Tobacco Region from that tool. When somebody
2 starts into a project they'll know right up front and be aware of
3 what the concerns are. Does that mean that some well-
4 funded environmental group cannot chin up information and
5 come to and try to file a suit, no one can promise no legal
6 action and that sort of thing. It certainly means that there
7 wouldn't be much standing or basis for that.

8 SENATOR SMITH: Thank you.

9 SECRETARY JONES: I think I'm with
10 you but I want to make sure I understand the value
11 proposition. The screening has to be done and what this
12 would enable you is could take a lot of areas particularly the
13 Tobacco Region off the problematic part if you will and narrow
14 it down to a few places and this would highlight where those
15 places are? Is that what you're talking about?

16 MR. SMITH: Exactly.

17 SECRETARY JONES: The second piece
18 of that is that it also would actually expedite this process
19 tremendously. It is a process that I'll tell you we have seen
20 cases and maybe even more and when we're competing for
21 projects a twelve month delay often means the end or period.
22 Is that the value proposition?

23 MR. SMITH: That is the value
24 proposition.

25 SECRETARY JONES: Thank you.

1 DELEGATE MARSHALL: Any further
2 comments? What's your pleasure?

3 SECRETARY JONES: I move that we
4 accept this recommendation for funding.

5 MS. GOULD: Second.

6 DELEGATE MARSHALL: We have a
7 motion and a second in support of the staff recommendation
8 for \$260,000.

9 MR. PFOHL: Correct.

10 DELEGATE MARSHALL: Does everyone
11 understand that? Any further comments?

12 DELEGATE BYRON: What is the balance
13 please or is this already in the balance?

14 MR. PFOHL: Current balance is
15 \$706,000.

16 MR. WALKER: This would come out of
17 that balance?

18 MR. PFOHL: Yes.

19 DELEGATE MARSHALL: Any other
20 questions or comments? All those in favor of funding DCR
21 2942 for \$260,000 say aye. (Ayes.) Opposed? (Nos.) We have
22 four nos.

23 MR. PFOHL: Delegate Byron, Senator
24 Carrico, Senator Smith and Mr. Walker.

25 DELEGATE MARSHALL: Motion carries.

1 Next on the agenda Piedmont Access to Health Services. We
2 had tabled an application and we're going to move them to the
3 January meeting and we'll get them before us then but they're
4 not here today.

5 MR. PFOHL: Is anyone here from
6 PATHS? I guess not. Now, Mr. Chairman, I have a seven
7 o'clock phone call today from the U.S. Department of
8 Agriculture and Rural Development. They got some verbal
9 communication regarding the offer that PATHS had made for
10 the property from their DC offices but have not received it in
11 writing so I think by January we'll have something in writing
12 to look at and make a more informed decision.

13 DELEGATE MARSHALL: Anything else
14 before us, Tim? Or any member want to bring up before we
15 adjourn?

16 MR. WALKER: The Cumberland project,
17 2934 was also tabled. It seemed like the staff was favorably
18 inclined for the project but there wasn't any funding. I wonder
19 if the excess funds we found today would be able to move that
20 project along.

21 DELEGATE MARSHALL: 2934.

22 MR. PFOHL: The Cumberland County
23 Industrial Development Authority submitted a request
24 \$850,000 to develop a site for a company that's currently
25 located outside of the Tobacco Region but within Virginia and

1 that company is constrained for expansion at its current site
2 and is prepared to relocate to Cumberland County and 24
3 existing jobs and adding ten. The Commission has provided
4 funding through Special Projects previously for this site for a
5 different prospect. Your Committee did repurpose those
6 previous grant funds that will assist with initial site
7 development costs. Staff is suggesting that additional non-
8 Commission financing be found by Cumberland in order to
9 make the project work. It was tabled.

10 MR. WALKER: Are there funds available?
11 Because Cumberland is one of the poorest counties in the
12 Tobacco footprint.

13 DELEGATE MARSHALL: What's the
14 balance? The issue with staff was –

15 MR. PFOHL: The size of the proposal,
16 \$850,000 was not something that and given the demand for
17 this program and site, we felt we couldn't accommodate the
18 request.

19 DELEGATE MARSHALL: We have
20 \$40,000 and change?

21 MR. WALKER: The way the staff, just the
22 way this was presented in the proposal we are essentially
23 saying while they were supportive of it, there wasn't funding. I
24 wanted to see if funds remained and that's what I'm asking
25 what's available.

1 DELEGATE BYRON: I have a request for
2 a small portion of money as well but the other comment on
3 this particular one while it may be worthy from the comments
4 that were given to us at our other meeting were that they
5 needed other financing and funds from non-Commission
6 sources that weren't there and didn't seem like this one was
7 potentially ready to go forward and didn't have the money.
8 Any staff comment on that?

9 MR. PFOHL: The Cumberland project is
10 a bit of a moving target. As noted in the staff comments and
11 in early September we got a revised construction estimates
12 which show the cost of putting up the buildings for the
13 prospect had risen from what they were at first or what was
14 initially included in the proposal. I think my concern to Mr.
15 Walker's point is that we don't know what additional amount
16 of funding over and above the existing grant that would be
17 repurposed would allow them to complete the project.

18 MR. WALKER: I wanted to know the
19 staff's opinion.

20 DELEGATE BYRON: I would like to
21 make a change to the motion we had for Jefferson Poplar
22 Forest. The Committee recommended \$65,432 and the
23 remainder to go before Economic Development Committee. In
24 light of some additional fines, I would like to –

25 DELEGATE MARSHALL: The first motion

1 is we have to take the \$65,432.

2 DELEGATE BYRON: The \$65,432, I
3 move that we reconsider that.

4 DELEGATE MARSHALL: Do I have a
5 second? All right, I've got a second. Everyone understand
6 what we're doing? Does everyone understand?

7 MR. STEPHENSON: Not clearly, it would
8 help if you would restate it.

9 DELEGATE BYRON: Number 2933 and
10 right now are we reconsidering what we approved \$65,432, I'm
11 going to make that motion.

12 DELEGATE MARSHALL: We have a
13 motion and a second, everybody understand? All those in
14 favor say aye. (Ayes.) Opposed? (No response.)

15 DELEGATE BYRON: Mr. Chairman, I
16 move that we fund the project that was recommended by the
17 staff for the full amount of \$132,524.

18 DELEGATE MARSHALL: We have a
19 motion to fund project number 2933 for \$132,524.

20 MR. OWENS: Second.

21 DELEGATE MARSHALL: Any
22 discussion?

23 MR. OWENS: Those would have the
24 same stipulations, with the claw back?

25 MR. PFOHL: This is not a TROF project.

1 MR. OWENS: But there would be a
2 performance agreement and those arrangements?

3 MR. PFOHL: It's archeological work, it's
4 primarily contractual work, it's not creation of permanent jobs
5 in this phase of the project. This is not one where we would
6 typically use the TROF, we would use our standard grant
7 agreement.

8 DELEGATE MARSHALL: I think we've
9 done that in the past. We've funded Poplar Forest in the past.
10 All right, any comments? We have before us request number
11 2933 Poplar Forest to fund \$132,524. All those in favor say
12 aye. (Ayes.) Opposed?

13 MR. BARNARD: No.

14 DELEGATE MARSHALL: All right,
15 anything else? Do we have any public comment? All right,
16 there's no public comment so we're adjourned.

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18 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, September 25, 2014 at 8:30 a.m. at the Holiday Inn Hotel & Suites, Bristol, 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 1st day of October, 2014.

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

My Commission Expires: October 31, 2014.

1 Notary Registration Number: 224566