

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 **TROF Committee Meeting**

10 Monday, January 12, 2015

11 1:00 P.M.
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13
14 Crowne Plaza Hotel Downtown

15 Richmond, Virginia
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1 **APPEARANCES:**

2 The Honorable Terry G. Kilgore, Chairman

3 The Honorable Frank M. Ruff, Vice Chairman

4 The Honorable Daniel W. Marshall, III

5 Mr. Timothy S. Pfohl – Interim Executive Director & Grants
6 Program Administration Director

7 COMMISSION STAFF:

8 Mr. Ned Stephenson – Deputy Executive Director

9 Ms. Stephanie S. Kim – Director of Finance

10 Ms. Carolyn Bringman – Performance Data Analyst

11 Ms. Sarah K. Capps – Grants Program Administrator,
12 Southside Virginia

13 Ms. Sara G. Williams – Grants Program Administrator,
14 Southwest Virginia

15 Ms. Suzette Patterson – Grants Office Manager

16 Mr. Benjamin Dawson – Grants Assistant, Southside
17 Virginia

18 Ms. Jessica Stamper – Grants Assistant, Southwest
19 Virginia

20 COUNSEL:

21 Heather Lockerman, Esquire

22 Senior Assistant Attorney General

23 Office of the Attorney General

24 Richmond, Virginia

25 Counsels for the Commission

1 DELEGATE KILGORE: Everyone's here.
2 Do I have a motion we approve the 9/24/14 minutes?

3 DELEGATE MARSHALL: So moved.

4 DELEGATE KILGORE: Do I have a
5 second?

6 SENATOR RUFF: Second.

7 DELEGATE KILGORE: All in favor say
8 aye. (Ayes.) Opposed? (No response.) All right, Ned, we have
9 a couple of applications. The first one is Grayson County IDA
10 and everything looks okay but the reason they're before us is
11 that this is the fourth bite at the apple and the fourth one they
12 have to come before the Committee.

13 MR. STEPHENSON: Yes, that's correct.
14 Otherwise, it would have been approved under your policy.

15 DELEGATE KILGORE: This has how
16 many jobs, one hundred jobs?

17 MR. STEPHENSON: Yes, sir.

18 DELEGATE KILGORE: Are you asking us
19 to approve the 385?

20 MR. STEPHENSON: I'm asking you to
21 approve the guideline amount, which is the 385.

22 DELEGATE KILGORE: So moved.

23 DELEGATE MARSHALL: Second.

24 DELEGATE KILGORE: Any other
25 discussion on that? Good, the only reason that's before us is

1 that it's the fourth bite at the apple and it is creating jobs.

2 DELEGATE MARSHALL: It's the fourth
3 one Grayson County has gotten.

4 DELEGATE KILGORE: Yes, which is a
5 good thing.

6 MR. STEPHENSON: In the fiscal year.

7 DELEGATE KILGORE: In the fiscal year,
8 which is good. You're talking about July 1 to June 30. All
9 right, we've got a motion and a second. All those in favor say
10 aye. (Ayes.) Opposed? (No response.) That one is approved.
11 The next one is Bristol City.

12 MR. STEPHENSON: Mr. Chairman, the
13 City of Bristol has made a routine TROF application to you
14 and you will find the announcements on page 195 in your
15 book and this is for the benefit of the Hotel Bristol. The
16 Committee should know that back in September the City
17 approached the Southwest Committee and requested funding
18 for the same project and the Special Projects Committee did
19 award \$700,000 or \$750,000 at that time and that has been
20 issued. The City is now applying to the TROF Fund for an
21 additional sum of money. The guideline amount that the hotel
22 has available or is eligible for is \$265,000 and the request is
23 before you for your consideration.

24 SENATOR RUFF: When they came to
25 Special Projects, how much did they request?

1 MR. STEPHENSON: One million. The
2 Special Project application was made in last July and that was
3 for one million dollars and the Committee approved \$750,000
4 and that is provided to the City and then ultimately to the
5 hotel developer under the terms of the TROF agreement.

6 SENATOR RUFF: Mr. Chairman, just to
7 follow-up on that, why did Special Projects decide to reduce
8 that amount to 750?

9 DELEGATE KILGORE: I wasn't there at
10 the Special Projects but was there any discussion with Special
11 Projects about the possibility of them being eligible for TROF
12 also or did that come up?

13 DELEGATE MARSHALL: I don't think
14 that came up, did it Ned?

15 MR. STEPHENSON: I don't recall that
16 came up but there's some representatives here from the City
17 who may have a different recollection and we'd have to consult
18 the minutes to see for sure.

19 MR. PFOHL: There was some non-
20 specific discussion about the TROF and I think it was stated
21 that and Andrew can answer this, that they did intend to come
22 and apply for TROF.

23 MR. STEPHENSON: There were
24 conversations about a TROF application that were held with
25 the City prior to the Special Projects award.

1 MR. TRIVETTE: Delegate Marshall, you
2 inquired about whether or not we would be applying for TROF
3 and I responded yes and all of this is in the minutes. At that
4 time, Special Projects decided to make the award and transfer
5 is the word they used to the TROF Committee to be added to
6 whatever application might come from us to TROF.

7 DELEGATE MARSHALL: Refresh my
8 memory, it's a transfer and when I look at page 195, the
9 guideline incentive of 265 and you requested a \$1,010,000.
10 Are you saying that \$265,000 plus the 750?

11 MR. TRIVETTE: Yes, that was our
12 understanding and that was our understanding that was the
13 intent of Special Projects.

14 DELEGATE MARSHALL: Ned, is that
15 your recollection?

16 MR. STEPHENSON: I don't dispute it
17 and I don't recall it but I accept Andrew's assertion that that's
18 true. I do think it's important to note that the analysis that
19 appears in your book on page 195 is an analysis based on 76
20 jobs, which is \$17 million capital investment and that would
21 yield a TROF award amount or guideline amount of 265. This
22 is not jobs and investment in addition to those for which the
23 Special Projects was made. This is the sum total of the jobs
24 and investment in that project.

25 MR. PFOHL: A little finer point on that,

1 Mr. Chairman. The City and developer are already committed
2 to these jobs and this investment through the existing
3 \$750,000 award. So, we'd be adding money to something we
4 already have a commitment for.

5 SENATOR RUFF: The reason I raised the
6 question, I don't want to be in a situation where we're allowing
7 folks to shop the different Committees and decide to get a
8 certain amount and then later decide they want more money
9 and go to another Committee.

10 DELEGATE KILGORE: Let's hear from
11 the folks from the City.

12 MR. TRIVETTE: When we began working
13 on this project and when we first inquired from the
14 Commission about TROF and in that process we also talked
15 about Special Projects. Because our requested award was
16 greater than what TROF can yield and when we proceeded
17 with this and we were fortunate enough to receive the
18 \$750,000 and it was our intention at that Commission
19 meeting and then apply for TROF and receive whatever the
20 project would garner under the normal formula. That's why
21 we're here today. We do need around a million dollars for the
22 project, which is part of the capital planning from the
23 beginning and that's why we're asking for both awards. It's
24 our understanding from the Special Projects meeting that
25 there would not be a TROF process without the TROF

1 applications. We were somewhat confused as to the nature of
2 this understanding because we just assumed that Special
3 Projects and we would be receiving whatever TROF was
4 allotted in addition to the 750 from Special Projects.

5 DELEGATE MARSHALL: If we're only
6 doing the \$265,000, if that's the question before us the 265.

7 MR. STEPHENSON: Yes, that's the
8 question before this Committee.

9 DELEGATE MARSHALL: The Executive
10 Director has the authority to do this through TROF.

11 MR. STEPHENSON: Correct.

12 MR. PFOHL: We had two no votes.

13 SENATOR RUFF: Would you elaborate
14 on what the process was?

15 MR. PFOHL: That we already have a
16 commitment to these jobs to the tune of \$750,000 and
17 secondly if I could, the entire project only merits \$265,000 to
18 begin with and we're already at almost three times that
19 amount.

20 DELEGATE KILGORE: We'll give you the
21 last word here.

22 MR. TRIVETTE: It's true, we're certainly
23 grateful for the \$750,000. All I can do is go back to see what
24 the intent was to apply for TROF and Special Projects and we
25 were fortunate enough to secure the Special Projects award

1 and now we're also hoping to receive the TROF award
2 pursuant to the capital investment and job creation. That was
3 the intent in the beginning and that was our understanding at
4 the Commission meeting in September and we hope that
5 remains the intent of the Commission.

6 DELEGATE KILGORE: Before us is
7 whether or not to approve 265.

8 DELEGATE MARSHALL: Let me make it
9 easy, I make a motion that we do not approve the \$265,000.

10 DELEGATE KILGORE: You're making a
11 motion that we do not.

12 MR. PFOHL: Second.

13 DELEGATE KILGORE: All right, I'm
14 going to vote against his motion so that doesn't carry the day.
15 So that's a vote three to one to not approve it.

16 MR. TRIVETTE: Thank you.

17 DELEGATE KILGORE: All right.

18 MR. STEPHENSON: Next, Mr. Chairman,
19 is 196 in your book and there is an outstanding TROF award
20 to a company listed there in your book. The reason this is
21 before you is that the company is asking for an extension of
22 time to perform their obligation. This particular company has
23 already been extended three times and they're asking for a
24 fourth extension. The employment has fallen short of those
25 promised. However, the company has made a pro-rata refund

1 of the employment shortfall. As of this very time, the capital
2 investment is a little bit short of their obligation but they've
3 given evidence that they can meet that target given a little bit
4 more time.

5 DELEGATE KILGORE: They've reduced
6 their job count to 70 and refunded us \$309,000?

7 MR. STEPHENSON: Yes, they realized
8 they weren't going to make the 150 that they promised so they
9 brought down their job promise from 150 to 70.

10 DELEGATE KILGORE: How did they
11 come up with the 309?

12 MR. STEPHENSON: That's the pro-rata
13 amount for those jobs and the difference between 70 and 150.
14 Later on, when only thirty jobs were found, they have repaid
15 the amount of money to pay for that shortfall.

16 DELEGATE KILGORE: How much have
17 they paid?

18 MR. STEPHENSON: They paid 309 and
19 we got a check two or three days ago for some two hundred
20 odd thousand, I believe. The job portion of the grant
21 agreement has been satisfied in part through employment and
22 in part through refunds. And we're satisfied that's all right.

23 DELEGATE KILGORE: Thirty jobs there.
24 We're satisfied with the jobs?

25 MR. STEPHENSON: Yes. The

1 investment, correct. The promise was a hundred million and
2 the Commissioner of Revenue attests to \$80.5 million in place
3 and I am advised there are additional assets on the ground
4 but have not yet been placed in service; they have not hit the
5 Commissioner's books yet but they're soon to be, I am told.

6 DELEGATE MARSHALL: Mr. Chairman, I
7 understand the reason for this cutback is that when the plant
8 was to first go in, they were planning on selling titanium to the
9 military. And the military has been cut back and so has the
10 order book.

11 SENATOR RUFF: Ned, you said they
12 requested an extension?

13 MR. STEPHENSON: They requested an
14 extension through the end of this fiscal year, or I should say
15 the end of this calendar year. Through the end of '15.

16 SENATOR RUFF: I move that extension
17 be granted.

18 DELEGATE MARSHALL: Second.

19 DELEGATE KILGORE: All those in favor
20 say aye. (Ayes.) Opposed? (No response.) Thank you, Ned.
21 Policy guidance.

22 MR. STEPHENSON: Mr. Chairman, I'm
23 really not asking for any action today except that I need to
24 apprise you of some of the nuances of how this program works
25 and to make sure you're satisfied with that. If you're not,

1 changes can be made. We frequently have applicants to this
2 program who want to announce the arrival of the project in a
3 community prior to your approval or denial of their grant
4 request through TROF. I've always taken the position that if
5 they announce prior to approval that your money is not
6 needed and that they will be or won't be any consideration of
7 the application because the deal is done. I'm making you
8 aware of that and if that's not what you want us to be doing, I
9 would hope you'd give us guidance at this time. We also have
10 project managers who have extended resources for the project
11 prior to grant approval and they want those resources counted
12 as capital investments for which the grant is made. We don't
13 count monies spent prior to approval as capital investment for
14 this grant. That typically is not a problem but every now and
15 then it is. The communities and the applicants are unhappy
16 with that. I'm making you aware that is the line that we draw.

17 SENATOR RUFF: Did I understand that
18 they wanted to call payroll as capital?

19 MR. STEPHENSON: We have all of that
20 going on also, Senator Ruff, and that's a whole other issue.
21 We hold to the standard that it's not a capital investment
22 unless it shows up on the Commissioner of Revenue's books.
23 Payroll does not. Any amount spent for payroll is not a capital
24 investment.

25 SENATOR RUFF: I would think any

1 business would understand capital investment, hard assets.

2 MR. STEPHENSON: You'd be surprised
3 what is offered to me as capital.

4 DELEGATE KILGORE: Going back to
5 this other issue about announcements. I would hope that
6 they would work with us on the announcement and the
7 process because it's our money going into that so it looks like
8 we should be able to participate in that announcement and
9 regularly participate in that announcement. That's what I
10 would say.

11 MR. STEPHENSON: There's two issues
12 on the announcement. The first is an announcement prior to
13 grant approval. The second issue is announcement without
14 coordinating the event with the Commission. I have a cure for
15 the second one but you're not going to like it. The cure for the
16 second one is that if you announce without coordinating with
17 the Commission, there will not be any disbursement. It will
18 cure the problem.

19 DELEGATE KILGORE: Yes, it would.
20 The first one, I think, is easier. If they announce before we
21 approve it, they do so at their own peril. I don't think that's
22 really smart to announce before, wherever that falls.

23 MR. STEPHENSON: We would knock
24 that application out of the process as soon as that happened.
25 I'm making you aware of these nuances to make sure that

1 we're operating within your guidance.

2 SENATOR RUFF: We've streamlined this
3 process. I'm not sure why there should be such a problem. If
4 they're really getting pushed to make an announcement.

5 DELEGATE MARSHALL: How long does
6 it take, we're not talking about months?

7 MR. STEPHENSON: Your approvals
8 typically happen within 72 hours.

9 DELEGATE MARSHALL: Like processing
10 a credit card.

11 MR. STEPHENSON: But if an approval is
12 issued and they bring the capital assets that were a piece of
13 real estate that was purchased a year ago and they want to
14 count that as part of the incentive, we won't count it because
15 it was done before the approval happened and we don't pay for
16 that. I'm not asking you for any motion or decision unless you
17 are unhappy with some of these practices.

18 SENATOR RUFF: I can understand
19 purchases of land a lot faster than I could payroll.

20 DELEGATE KILGORE: If they announce
21 it before we approve it, that's another story.

22 SENATOR RUFF: You're saying they're
23 making the announcement before approval?

24 MR. STEPHENSON: Typically, they will
25 apply and before the grant is awarded or approved and

1 sometimes they come to this Committee and the company is
2 preparing to announce or sometimes will announce the project
3 and we haven't fully processed and approved the application
4 yet.

5 DELEGATE KILGORE: Is that through
6 the local EDA or VEDP?

7 MR. STEPHENSON: We don't control the
8 announcements and the announcements pop out and we are
9 typically advised or engaged in the announcement or engaged
10 in the process. Sometimes we are not. Obviously, companies
11 are eager to announce and they have their own calendars and
12 it's important to them and they'll announce without
13 coordination with us and occasionally prior to approval. Staff
14 gets pinched by our Board members when announcements
15 occur and you find out in the newspaper and that's not the
16 way it's supposed to be.

17 SENATOR RUFF: I agree that's not the
18 way it's supposed to be and our number one responsibility is
19 creating jobs and investment. And before we lose anything,
20 we need to make sure we're in.

21 MR. STEPHENSON: I understand. Now,
22 the balance in the fund is roughly \$9 million. This is January
23 and we have six months to go. It would appear we have
24 enough to cover normal deal flow between now and May. I
25 don't know you need to be concerned about that unless a

1 large award unforeseen came to us.

2 DELEGATE KILGORE: That's the fund
3 balance, all right. Any public comment as relates to the TROF
4 Fund? All right, no comments, so we'll stand adjourned.

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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 TROF Committee meeting when held on Monday, January 12, 2015 at 1:00 p.m. at the Crowne Plaza Hotel Downtown, Richmond, 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 24th day of January, 2015.

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

My Commission Expires: October 31, 2018.
Notary Registration Number: 224566