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P R E S E N T

GOVERNOR MARTIN O'MALLEY, Presiding

LIEUTENANT GOVERNOR ANTHONY BROWN;

HONORABLE PETER FRANCHOT, Comptroller;

HONORABLE NANCY KOPP, Treasurer;

SHEILA C. MCDONALD, Secretary, Board of
Public Works;

ALVIN C. COLLINS, Secretary, Department
of General Services;

T. ELOISE FOSTER, Secretary, Department
of Budget and Management;

HAROLD BARTLETT, Deputy Secretary,
Department of Transportation;

MEREDITH LATHBURY, Land Acquisition and
Planning, Department of Natural Resources;

LUWANDA JENKINS, Special Secretary,
Governor's Office of Minority Affairs;

MARY JO CHILDS, Procurement Advisor,
Board of Public Works; and,

MARION BOSCHERT, Recording Secretary,
Board of Public Works.

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P R O C E E D I N G S

GOVERNOR O'MALLEY: Here we go, ladies and gentlemen, ladies and gentlemen. There's something wrong with the microphone here. The light is on but the sound is down. You can hear me? Can the people in the back hear me? Those of you that said you couldn't hear me, how did you know what I was saying?

(Laughter)

GOVERNOR O'MALLEY: All right, we would like to welcome our colleagues in government. They are from the country of Russia and they are legislators in one of the states there, which is the state of Leningrad?

TREASURER KOPP: City.

GOVERNOR O'MALLEY: City of Leningrad, State of Leningrad. Do you call it a city or a state? Leningrad region, all around St. Petersburg? Well, we're honored to have you here. I know that the First Lady of Maryland, Judge O'Malley, has been involved in sort of a, what did we call it, legal exchange program

back and forth. And I understand you had a reception at Government House, and then I saw you last night, some of you, at the Turkish event. So we hope you've enjoyed your stay here in Annapolis. We thank you so very, very much for coming.

(Applause)

GOVERNOR O'MALLEY: Madam Treasurer?

TREASURER KOPP: Governor, I think it's important to point out that Maryland and Leningrad are sister states. And we are always very happy to have our brothers and sisters visiting us, seeing everybody, and look forward to a return visit so the family can get together in Leningrad. Thank you.

GOVERNOR O'MALLEY: Thank you.

COMPTROLLER FRANCHOT: I'm only sorry to report that the, when the United States in the Olympics plays Russia in hockey we're going to put a pretty big rubbing on you guys.

(Laughter)

COMPTROLLER FRANCHOT: That's the beauty of not speaking English, I guess.

GOVERNOR O'MALLEY: The Comptroller is renowned here in Annapolis for his diplomatic statements.

(Laughter)

GOVERNOR O'MALLEY: All right. We have a few items of business. I know, Madam Treasurer, tell us why we're here and what we're going to be doing later on today at what time so we can appropriately take a break in the music in order to do this business?

TREASURER KOPP: Yes. At 11:00, Governor, we are going to issue bonds on behalf of the people of the State of Maryland. They are going to federally taxable Build America Bonds in the amount of \$400 million. There will be a competitive sale starting at 11:00. We'll be able to watch the sale take place very quickly on this screen. We hope to do very, very well.

These bonds, as opposed to our normal general obligation bonds, are taxable. They're not tax exempt. So they bring a higher rate to the investors, but the federal government, through the

federal stimulus bill, the ARRA, and its Build America Bond program component, will be paying 35 percent of the interest on behalf of the people, so that we only pay 65 percent. Which in fact saves us money, saves the taxpayers money, and helps share it with the national government. We are doing it now because at the moment the BAB bond program is set to expire at the end of this year and we hear that many, many states and jurisdictions are rushing to the market towards the end of the year to use the program. And we thought, under the guidance of Pattie Konrad, the State's Director of Debt Management, that it would be better to act quickly, and to move before the market becomes more saturated. And that's why today the total general obligation part is going to be in the form of Build America Bonds and they are longer term bonds. They going for the, I think, ninth or tenth through fifteenth year of the term, instead of short term because these don't really gain much from this federal program in the very short term.

So it's sort of unusual. I trust we will do very well. We do have a number of dealers which have

shown an interest in it because, as you all know, this AAA bond rating was reaffirmed by all three bond rating agencies.

GOVERNOR O'MALLEY: Was it really?

TREASURER KOPP: It was. You might have read it in the newspaper, or even told them --

GOVERNOR O'MALLEY: I've heard that. Now, how many states still have a AAA bond rating, Treasurer?

TREASURER KOPP: Seven states have a AAA bond rating from all three agencies. We are one of seven. We are one of the leaders of the seven because of our strong diversified economy, and our, on the timing is excellent, and very strong financial management systems.

(Applause)

TREASURER KOPP: So that's at 11:00.

GOVERNOR O'MALLEY: So that's at 11:00, and in the meantime we also have a report that we're going to have on climate change, and resilience and climate change. And I can't recall whether that was the Treasurer or the Comptroller, I think it was the

Treasurer that had asked that DNR update us on what we're doing on the resiliency. Comptroller did you have other things you wanted to just talk about?

COMPTROLLER FRANCHOT: Yeah, if I could, just briefly. I know we've got a long Agenda. But I wanted to personally thank everyone who participated earlier in a press conference down the hall to promote financial literacy education in Maryland's public schools. It's an effort to equip the high school students with fundamental principles of financial sustainability. It's about education for them, and consumer protection, and it's about long term economic security for our working families.

Also, Governor, since this is our first meeting since the historic winter storms that virtually paralyzed our State, and even led to the cancellation frankly of our last meeting, I also want to offer my deep personal thanks to our State and local governments for their extraordinary response to these emergencies. I'm specifically referring to the road crews, who worked tirelessly in truly threatening elements to keep our highways and interstates

navigable for those who had to travel. The county and city crews that went round the clock to do the same thing on our neighborhood streets. And those first responders who went above and beyond the call of duty to save lives and safeguard the well-being of our communities. And finally, those in the private sector, such as the power companies, and the hospitals, and the shelters, that are responsible for providing essential services. And for whom, frankly, failure is not an option. As the Governor so aptly said at the time, these are the folks who are the true heroes of the Blizzard of 2010. Frankly, anyone who questions the caliber of our State or local governments, or disputes the resolve of our public employees, should think back to February, 2010 and the men and women that climbed out of bed and somehow got to report for duty and worked around the clock behind the wheel of a salt truck, or snow plow, or an ambulance, while the rest of us were safe at home.

I particularly want to thank our Transportation Secretary, Beverley Swaim-Staley. I know she's not here today, the Deputy Secretary is,

but if you could take my congratulations back to her for the incredible accomplishments, and how much I admire what she does within State government. She's very unassuming, and works very quietly, probably most people don't even know her name. But I think she showed exceptional leadership and reassured the public. And frankly, the magnitude of the storm was something that there really isn't a modern precedent for. And so if you could give her my best wishes and congratulations.

I'd also like to just mention that two members of my team, with their crews, made it here because in order for the State to process the payroll and actually get payments out to State employees during the blizzard people had to be working here in my office. And I know there are 65,000 State employees that appreciate the fact that they were able to get a paycheck during the emergency storm. And I'd like to congratulate Bob Murphy and his team in central payroll, and John Salmon and his folks at IT. Are they here? If they could put their hands up, they're out there in the hallway. Thank you very much

for doing that. I think you removed a source of potential frustration for people that didn't need it at the time, and thank you very much. And Governor, thank you for all your hard work.

(Applause)

TREASURER KOPP: If I could just pile on for a second. First of all, to thank all the great people from the State Treasurer's Office who walked to work and were here. But also there was one gentleman who received a lot of guff, and I think absolutely inappropriately. And that's Neil Pedersen, who I think did a terrific job as the Head of the State Highway Administration. And although I spent from, personally, from Saturday to Friday in my warm home, other than out shoveling, that was not because of SHA. They do not do (unintelligible) Road. But really I hope you also tell him that we understand people and in their frustration become very frustrated. And he was the subject of some, I think, undeserved criticism. I appreciate --

MR. BARTLETT: Thank you.

LIEUTENANT GOVERNOR BROWN: Governor?

GOVERNOR O'MALLEY: Lieutenant Governor Brown?

LIEUTENANT GOVERNOR BROWN: Thank you, Governor. I echo the remarks, the laudatory remarks from the Comptroller and the Treasurer, particularly as they pertain to leadership in the Department of Transportation, the men and women on the road for countless days and hours. But I do want to take this opportunity, I don't get the opportunity to do this often, and it's not something that the Governor appreciates that I do too often. So I'll take this opportunity to do it. But I really want to publicly thank the Governor for his leadership during this difficult time. You know, the leadership that was demonstrated at MDOT, State Highway, and the National Guard is innate. But it is enhanced when leadership at the highest level sets the tone for how to respond to situations like this. Whether it's natural disaster, whether it's other emergency situations. And as I traveled around, particularly in the Washington, D.C. area, during those few days the number of people, leaders, citizens, who commented

about the efforts in Maryland were amazing. I spoke with one gentleman who lives in Central Virginia and he said, "In addition to the sign that says Welcome to Maryland, there was a sharp contrast between operations in Virginia and operations in Maryland."

The Governor spent days traveling to almost every emergency operation center throughout the State, the county, the local emergency operationing centers, making sure that the State is coordinating with local government, that the resources are where they need to be, when they need to be. Governor asked General Adkins to call out the National Guard. We had about 500, 700 men and women from the National Guard, I want to thank their leadership as well, to support local efforts. And as I traveled around a lot of thank yous from fire stations, police departments because of the good work of the National Guard.

So I just want to take this opportunity to thank the Governor for your involvement and your leadership during Snowmageddon 2010.

(Applause)

GOVERNOR O'MALLEY: Not to stretch this out too much further, but Lieutenant Governor, thank you. And thanks for all of your hard work during that storm as well. But when the Treasurer was going through her litany of people receiving absolutely unjustified guff, I thought you were looking at the Mayor of Annapolis and talking about the Senate President. And --

(Laughter)

GOVERNOR O'MALLEY: So Mayor Cohen, I, you know, there are very few cities in America that have streets as narrow because of its colonial character as Annapolis does. And, you know, it was an unprecedented snowfall, and certainly this is true of all of the local governments, certainly the State didn't help you in the budget this year with the cuts that rolled down to you on the motor vehicle revenues, which we refrained from having to hit for the first two years of this but that we did hit last year and then again this year. So I thought that everybody, including the City of Annapolis, were doing their very best with the historic fall. I'm sure you're as glad as we are to see it now melting and so anyway, I

thought you got unjustified guff, and I thought you handled it with class and dignity and grace, and I compliment you on that. I know it's not easy when somebody bashes your City. Having once been a mayor, I'll always be a mayor. But I thought you all did very well, especially in the face of the challenge you had with the physical nature of Annapolis.

MR. COHEN: Thank you.

GOVERNOR O'MALLEY: Thank you.

(Applause)

GOVERNOR O'MALLEY: The Treasurer said if she had gotten out of Bethesda she would have come to the same conclusion, had she been able to.

(Laughter)

GOVERNOR O'MALLEY: All right, so here we go here. We have three things we're going to handle up front. And they are some happy events, really. The naming of some buildings in Annapolis after some great Marylanders who have dedicated their life to making our State a better place and strengthening the fabric of community here. So we are going to call the Secretary's Agenda but we are going to go first to,

Secretary Griffin is the namer on all of these? Mr. Secretary, I think that other microphone is --

MR. GRIFFIN: This is the one? Can you all hear?

GOVERNOR O'MALLEY: That's the one that amplifies, the other is the one that records.

MR. GRIFFIN: Governor, Madam Treasurer, Mr. Comptroller --

GOVERNOR O'MALLEY: We're on Items 9, 10, and 11.

MR. GRIFFIN: -- Mr. Lieutenant Governor, good morning. Thank you for taking the time in this busy Agenda to consider the item before you that proposes to name, as you mentioned, Governor, three facilities on behalf of three exceptional individuals who have devoted their careers to the natural world, and the beauty and inspiration it provides everyone.

First, Tom Wisner, who is a personal friend of yours, Governor, as well as many people. Known as the Bard of the Bay, Tom has been raising awareness among children and adults for the past forty years

about the spirit, beauty, and human connection to the Chesapeake Bay through his music.

GOVERNOR O'MALLEY: So we're doing Item 10 rather than Item 9 first?

MR. GRIFFIN: Yes, I'm sorry.

GOVERNOR O'MALLEY: Okay, Item 10. I'm listening.

MR. GRIFFIN: There's a picture of Tom behind you. Governor, as you know, you and Tom share a bond of music and commitment to restoring the Bay. And Tom grew up along the banks of the James and Potomac Rivers. After serving in the Korean War and studying science at Cornell University he began a public outreach program at the University's Chesapeake Biological Lab in Solomons to introduce youth to the science of the Bay. Since then, his award-winning folk music has entertained and taught thousands of schoolchildren and adults around the Chesapeake, and his music has been recorded by the Smithsonian Institution. Today, therefore, we ask that the Board consider naming what is now called Patuxent Hall at Kings Landing Park in Calvert County, renaming that to

Tom Wisner Hall, and Kings Landing lies along the Patuxent River, appropriately for Tom, to recognize his life's accomplishments and efforts to educate the public through music and storytelling about the importance and beauty of our natural surroundings. In case you didn't know, DNR purchased this property some years ago and we lease it to Calvert County government. And it's a gathering place for the larger community there, a place where the County sends its schoolchildren for environmental education, and a place where Tom has taught and performed for years.

So, well, as we know Tom is not doing well and he is in hospice as we meet here this morning. But he was thrilled when he learned about the possibility that this would happen here this morning. There's many people here that I would recommend that the Board acknowledge who wish to say a few words. His good friend Tom Horton is here, as well as Senator Dyson, and Delegate Sue Kullen. And the President of the Calvert County Commissioners Wilson Parran. Again, Calvert County manages and operates this facility. So Senator, do you want to --

SENATOR DYSON: Good morning.

GOVERNOR O'MALLEY: Good morning.

COMPTROLLER FRANCHOT: Good morning.

SENATOR DYSON: Before I start out, let me thank you all for what you did during the snow, even though you were locked in in Bethesda. Our State, I think, did a tremendous job. And SHA deserves a lot of credit. I didn't know that's what you were going to talk about at the beginning of today, but you know, all politics is local according to Tip O'Neill. I want to throw out Stewart Dementhe [phonetic]. He is with SHA in St. Mary's County. Since I drive back and forth every day, Governor, to this place. I know the hell on those highways, I do. And it was so much here, and Mr. Comptroller I agree, and Lieutenant Governor, and the Treasurer, about dealing with those other states. You just did not want to do it. God bless us, we really did a great job. And I hope that this message gets back to Neil Pedersen and his folks.

Tom Wisner. Tom Wisner, you know, he's the music man of the Patuxent River, and probably the Chesapeake Bay, too. But --

TREASURER KOPP: The Bard of the Bay.

SENATOR DYSON: But, the Bard of the Bay?

Okay, the music man of the Patuxent, the Bard of the Bay. Governor, you know he's a pretty cool guy. And when we do the wade in at Broomes Island every year there's two things that are really cool. The water, and as we wade out there in the beginning of the summer, or the end of the spring, and Tom Wisner. And as you know, he always sings. And he usually brings with him a group of school kids. They have been in the past almost always from Hollywood Elementary, which is in St. Mary's County.

But I applaud you today. I urge you to vote and to do this, to do it as soon as possible. I think it's, as the Secretary has said, it's a great thing to happen now before it's too late. And there's no one more deserving. You know, when folks go into that park there, and to that building, they'll say, "Hm, who is this Tom Wisner? Why is this named after him?" And we will be able to tell them why, all of these school kids that you talk about, that the Secretary talked about, that go to and use that facility. I've

gone there on various occasions for, like, 4-H and those types of programs. Mostly focused on young, you know, young people. That's what this man is all about.

I remember this past summer Bernie Fowler, myself, we sat down with the charter school, we have one of the first legitimate charter schools in Great Mills, Maryland. And we did at the Myrtle Point Park. And he sang, and then we went and waded, fought off those damn geese, the illegal ones, and then we got back together and had a picnic. And I've got to believe, and I'll finish with this, those kids were greatly moved. I know I was, and I'm certainly not a kid anymore, but, you know, they were greatly moved by it all. And I've got to believe they all went home that night and talked to their parents, and they talked about Tom singing, the wade in that we all did with Bernie. It was the kind of education, not in a real formal sense, but that makes an impact on kids and sometimes, I think, they never forget it. So I urge you to vote yes on this today. And I thank you for giving me the time. And I don't know if we have

any session left, Senator Edwards, but I'm going to try to see if we do. Thank you.

GOVERNOR O'MALLEY: Thank you. Sue Kullen?

DELEGATE KULLEN: Yes. Thank you for considering this. I love Tom Wisner. I think we share a love of this man. And I can think of nothing more fitting in his final days than to give him this honor. I visited him in hospice a couple of weeks ago, and I was able to present him with a lifetime achievement award for education of children. And he was very touched. I think he's just at the point in his life that he just appreciates the thank yous for all the work that he's done. I will see him again this weekend, and I will let him know the progress of this. And I hope for a favorable report. I also have his cell phone number. He would love to hear from you, Governor.

GOVERNOR O'MALLEY: Oh, good. Great.

DELEGATE KULLEN: So I'll share that with you. But he's just a great man, and this is just a perfect timing for this. So I just hope that you consider it. Thank you.

GOVERNOR O'MALLEY: Thank you. Sunshine over the deep blue sea. Wilson Parran?

MR. PARRAN: Governor, members of the Board, first of all I want to say thank you for the support during the storm, Snowmageddon, I guess you would call it, Lieutenant Governor. However, it, and Neil Pedersen deserves a lot of credit. State Highway, without State Highway the secondary roads that we take care of in the counties, we would not have gotten anywhere. Also for the communications throughout that blizzard, the conference calls, the making salt available to the locals. All that came together. Even loaning us some salt when we didn't have any down there. Also, Mr. Comptroller, thank you for coming down to Calvert County this past Monday to visit Calvert High School.

COMPTROLLER FRANCHOT: Yes.

MR. PARRAN: Three million? And I also want to thank Secretary Griffin for recognizing and naming this Patuxent Hall the Tom Wisner Hall, because this is a, it's very important to me as President of the Calvert County Board of County Commissioners. This

actually, this facility is in Huntingtown. It's where I grew up and where I live today. So this has some importance to me personally.

Tom is an icon in Calvert County. He's well known. He reminds us, because of his passion for the Bay and our tributaries, he reminds us how important it is and how blessed we are in Maryland to have these natural resources, and how important it is to take care of these resources.

So the County Commissioners support the naming of this facility. This facility is used by kids. It's used by boy scouts. It's used by girl scouts. It's used by 4-H, as the Senator said. And it's used by the community in terms of recognitions for graduations, weddings, and wedding anniversaries. So it's a well used place within the County. And I, you have the support of the County Commissioners to rename this facility, and I ask for your support to do that. Thank you very much.

GOVERNOR O'MALLEY: Thank you very much, Mr. President. And his water is his freedom from the need to sell his soul. Tom Horton?

MR. HORTON: Thank you. You know, the other day I was trying to cheer Tom up a little bit down at the hospice. And I said, "If you somehow by a miracle got another year or two, what would you do?" And he brightened right up. He said, "Well, the first thing I'd do is finish and expand on that song about the fishes. It starts, 'Who answers the prayers of the fishes, ensures their abundance and more? Who guides them to life everlasting as they swim for that far distant shore?'" And I had asked Tom earlier, I said, "Tom, are you right sure that fishes pray?" Because some people might dispute that. He said, "I'm certain of it and I've got proof." And he went on to say that, you know, for the last several decades, even centuries, from Richmond to Conowingo these fishes of the Bay have come all the way back from the oceans to run up their historic rivers to spawn, and met millions of cubic yards of concrete in the form of dams. And if that coming back year after year after year, century after century, pressing soft fish flesh against concrete, think of Conowingo Dam and a herring. If that isn't a yearning, a supplication, an

expression of hope, a prayer, what is? And indeed, that has been one of the more successful little parts of the Bay restoration. We've begin to lift them over these dams, blow those dams up, put notches in them.

And I think Tom is thrilled at the prospect of this naming of the building. I think he would also say his real legacy, his real hope, would be that you guys and all of us continue answering those prayers of the fishes. And if there would happen to be someone on the Board who can play a guitar and sing they might want to pick that song up and finish it someday.

(Laughter)

MR. HORTON: Thank you.

GOVERNOR O'MALLEY: Thank you. Is that, anyone else on behalf of --

MR. GRIFFIN: I don't think so. No, Governor.

GOVERNOR O'MALLEY: I didn't see Walter Boynton back there, did I? Is Walter here?

MR. GRIFFIN: I don't think Walter could come today.

GOVERNOR O'MALLEY: Oh, okay. It was some other distinguished gentleman. Okay. Well, this is Item 10. It is before us for Tom Wisner, Bard of the Chesapeake, to name appropriately the education center at Kings Landing Park as the Tom Wisner Environmental Education Center at Kings Landing Park. I would like to exercise the prerogative of making the motion.

COMPTROLLER FRANCHOT: Second.

GOVERNOR O'MALLEY: Seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed? Tell Wisner you accomplished something I never have in life, and that is a unanimous vote.

(Laughter)

GOVERNOR O'MALLEY: Thank you.

(Applause)

GOVERNOR O'MALLEY: We're going on to Item 9. Is that where we're going now?

MR. GRIFFIN: Can we go to Mr. Yoder?

GOVERNOR O'MALLEY: Right. Let's go to Item 9.

MR. GRIFFIN: Members of the Board, second up on the list of three is Gary Yoder. Gary recently retired from the Department of Natural Resources after a thirty-year career and suddenly passed away in December of last year. A native Western Marylander in his long career with the Department, Gary served as the first manager of Deep Creek Lake, worked extensively in land acquisition and planning, and was instrumental in many efforts to restore and promote fishing opportunities in the region. Gary in addition really served as the Department's ambassador to Western Maryland, and he did so because, as Senator Edwards, and Delegate Beitzel, and Commissioner Holliday remind me frequently, we own a good percentage of Western Maryland and so we needed an ambassador to help carry the message from Mountain Maryland back to us to keep us grounded in its importance to the State. And Gary was great at doing that.

As a child growing up in Cumberland, Gary witnessed the North Branch of the Potomac recovery that saw its once heavily polluted waters recovered to

once again serve as home to a valuable sport, fishery. And I might add that the North Branch of the Potomac now is home to a whole variety of thriving trout, including ones not normally seen in a native sense here in this part of the country, like cutthroat trout which normally are only native to the western part of the country. Gary was instrumental in promoting that recovered fishery, and rebuilding recreational and economic potential of the River and the region.

The Carrie Dixon property in Garrett County was the first acquisition by DNR for public boating and fishing access on the North Branch of the Potomac River between Westernport and Cumberland. This was one of Gary's projects. We believe it is a most fitting tribute for the Board to consider naming this site in his honor, the Gary A. Yoder Fish Management Area.

We have a number of people here, Board members, on Gary's behalf, starting with his son Garrett. You'll notice the resemblance, I think.

GOVERNOR O'MALLEY: Hello, Garrett.

MR. GRIFFIN: Gary was obviously very proud of his son, and his lovely wife, Jen. Gary's brother and sister-in-law, Olin and Betty Lou Yoder, are here.

COMPTROLLER FRANCHOT: Excellent.

MR. GRIFFIN: As well as Debbie Yoder Harkins and her husband, Jim Harkins.

COMPTROLLER FRANCHOT: Oh, wow.

MR. GRIFFIN: So you see how the genes are all connected.

GOVERNOR O'MALLEY: She married down.

(Laughter)

MR. GRIFFIN: And of course, as you also know, we have Senator Edwards, Delegate Beitzel, and Commissioner Fred Holliday, who wanted to say a few words on Gary's behalf. I think that for the family, young Garrett wanted to say a few things to the Board, if that's okay? Oh, no, Olin? Okay. Sorry. Pardon me? Oh, Olin. Olin, did you want to say something?

MR. YODER: Oh, yes.

MR. GRIFFIN: Yeah, sure, please. Is that okay?

MR. YODER: You've got to get permission or you can't talk.

(Laughter)

COMPTROLLER FRANCHOT: Watch out for these -

-

MR. GRIFFIN: Yeah, don't --

COMPTROLLER FRANCHOT: -- wires out here.

MR. YODER: Well, good morning. I want to thank the Governor, the Assembly, DNR, anyone who made this possible for Gary. The family is very proud. If my mother was here she wouldn't believe it.

Now, we grew up about seven miles west of Cumberland, a place called Potomac Park. We overlooked the Celanese Plant, and this is where all our dads worked. But right behind the plant were the mountains. But they were the mountains of West Virginia. So if you know your geography you know the Potomac has to be running through there somewhere. So Gary, at a very young age, started to fish. He took one of my sister's purses that looked like something you could keep fish in, and he went down and fished in the Celanese Dam.

Now the Celanese polluted the River. The paper mill polluted the River. And Gary brought the fish home. Now, if you had eaten those fish you would have grown another eye, or you would have gotten gills or something. So my mother would always have an excuse not to fry them. And it would be kind of like frying mushy plastic. I mean, they were just kind of horrible.

Now, Gary then went to work for DNR and we would discuss the rivers, et cetera. I told him I was going east. So I came down to the Baltimore/Anne Arundel area. He said he was staying west because he wanted to stay in the mountains. One evening I was at the Morris Mechanic and I was watching Annie. And in it Daddy Warbucks says, "What do Democrats eat?" Now the Governor, Governor Schaefer was there. So I kind of sidled up to him and I said, "Governor, I'm a little upset with you." Now, he didn't like that, anyone being upset with him. So I said, "You should have jumped when Daddy Warbucks asked what Democrats eat and yelled, 'Crabs!'" "Oh," he said, "that would have been good." "Oh," I said, "by the way, I hear

you like to fish." "Yes." And I said, "My brother will take you fishing when you come up to Deep Creek Lake." He loved coming to the mountains. He said, "Boy, that boy has more degrees," and I didn't say anything. And then I said to Gary, "The Governor says you have an abundance of degrees. Did you ever straighten him out?" He said, "No, I'm no fool."

(Laughter)

MR. YODER: So he told the Governor, after the Governor caught his first fish, he said, "Governor, you do not realize how many men at DNR we lose down there putting those fish on your hooks."

(Laughter)

MR. YODER: So any of you that know Gary, know that there was always a story. And that's what I'm miss, his stories. But this one is going to carry it on.

One of our last conversations was we were discussing, he could never understand why I didn't run and go fishing with him all the time. He wouldn't go to an art gallery with me, so you know, I thought it worked out well. One of our last conversations, the

thing that he was extremely proud of was telling me how clear the Potomac is now. And that the fish have come back, et cetera, et cetera. And he enjoyed it. So he stayed true to Western Maryland, and of course I abandoned it. And those of us that grew up in Garrett County and you're talking about snow, we want to know how you like it.

So thank you very much, and we appreciate what you've done.

GOVERNOR O'MALLEY: Okay, thank you.

(Applause)

GOVERNOR O'MALLEY: Senator George Edwards?

SENATOR EDWARDS: Well, thank you, Governor. Good morning, Lieutenant Governor, Comptroller, Treasurer. If I might before I start, you all talked about snow, and a good job, and a great job the State did. I thank you for that. But you only got a dusting down here. I know you broke records, but we also broke a record. We're now at 238 inches, which is five inches above the record. And I've said since I've been in elected office, our people, State Highway, county, and local, do the best job in the

world, not just in the State, but in the whole world. And I appreciate everything you've done during your snow mega-thing here.

(Laughter)

SENATOR EDWARDS: But we get that quite often up there. I'm here to express my strong support for the naming of this area of the Potomac River for Gary Yoder. I've known Gary for a long time. A good buddy, I served on quite a few committees with him. A guy that was an outstanding State employee, an excellent person. He could tell stories or jokes all day and never tell the same one twice, and would liven up a party pretty regularly in other ways.

He worked very hard for the State, did a great job for the State. But more than that, he was a champion for Mountain Maryland as he worked for the State. He came from that part of the State. He wanted to see it improve. He wanted to do things that would bring people to our part of the State, and he was very involved and very active and did a great job with that. He wanted to improve our economic development, use our national resources, at the same

time protecting the environment. And he did that. And we have a lot of people coming to our part of the State to utilize those resources that he worked very hard to do.

As a matter of fact I remember when he was working on this particular part of the Potomac. I wanted to put in, I thank Secretary Griffin over at DNR for putting forth this recognition, I think it's very well deserved, for putting this forth. But he came to me, and a couple of others, he actually worked to get a lot of boat ramps put in the Potomac River. Because he like to fish. And probably, it wouldn't surprise me if he was cruising down the River right now trying to catch some fish out of the River. And I think they actually did hook some fish on the Governor's line for him.

But he has a great family. They're very active in the community. I just think this is something that's very, very well deserved, and I hope that you'll act favorably on it so we can get recognition that Gary, so people will remember it, and they will for many, many years in the future utilize

and grab hold of the things that he established out in our part of the State. So thank you very much.

GOVERNOR O'MALLEY: Thank you. Delegate Beitzel?

DELEGATE BEITZEL: Thank you, Governor, Comptroller, Lieutenant Governor, and Madam Treasurer. It is indeed a privilege for me to be here today to help recognize Gary and to thank DNR for offering him up for this memorial and award. And I've known the family very, very well, and Gary way back before he married Jen. And you can see here the apple didn't fall very far from the tree. And one thing about Gary, and I could tell a lot of stories about Gary Yoder, but there's no one that could tell a story like Gary.

We had a business on Deep Creek Lake, a restaurant and a motel and a bar, and Gary would spend some time there. And he kept me there many nights way late in the morning telling some of these stories. And really the other thing that Gary did too, in addition to working for DNR, is he really contributed to the community. Talking about snow, he was on the

ski patrol at Wisp. He loved to ski. And Gary will be sorely missed. And the family, I just feel for them and hope that this award and this memorial will help go a long way to recognizing what Gary Yoder has done for our area and the State.

GOVERNOR O'MALLEY: Fred Holliday,
Commissioner Holliday?

MR. HOLLIDAY: Good morning, Governor,
Lieutenant Governor, Comptroller, Treasurer. How are you all this morning? I'll try to be brief. Just to update you a little more on the snow that George gave us, the 238, we have a call for seven to ten inches tonight. Which will put us over 240. Now if you do the math, that's twenty feet of snow that our people have kept off the roads. We have about 700 miles of local roads. So they've done a tremendous job, as well as the State. They keep 68 practically bare, and we really appreciate that.

Back to the main reason we're here, Gary Yoder, a wonderful person. You couldn't want to know anybody more jovial. He, if it was a sad time he could make you laugh. He could really bring your

spirits up. And I can't tell you of anybody that would be more deserving. He loved to fish. He loved the fisheries. And to have this honor would be so great for his family to live on with, not having him, and them having something to remember him by besides just their personal family memories. And I would humbly request that you all support this initiative and vote for it. Thank you very much.

GOVERNOR O'MALLEY: Thank you. C.J. Baker is here. Are we doing a family picture once this passes?

MR. BAKER: Yes, sir, Governor.

GOVERNOR O'MALLEY: Don't do it beforehand, you'll jinx it.

(Laughter)

GOVERNOR O'MALLEY: And Garrett, is it? Do you want to say anything, pal? Okay, well let me say something to you on behalf of the people of our State. You know, there's no more important work in this world that any human being can do than to restore the beauty of God's nature for the beauty of God's people. And that's what your dad did with his whole life. And

that's a tremendous gift that he's given to our State, and it's also a tremendous gift that he's given to you. Because you've got that same sense of what's important in the world in your heart because of your dad. And all of us loved him very much.

The Treasurer moves approval, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: It's unanimous.

(Applause)

GOVERNOR O'MALLEY: Okay, family do a quick picture here if everybody wipes their eyes, including the Governor. And we're going to look at Mr. Baker.

MR. BAKER: Governor, is it okay if everybody came behind you?

GOVERNOR O'MALLEY: It could be. They may not all be in the light, though, but how's that work?

MR. BAKER: Okay. The flash should overpower it.

GOVERNOR O'MALLEY: Will overpower? Sure, everybody can come back here.

MR. BAKER: Yeah, yeah, please. That way we can get everybody in. Everybody take a step up. Okay, thank you.

GOVERNOR O'MALLEY: Yeah, there's a step up.

MR. BAKER: Okay.

GOVERNOR O'MALLEY: And the Comptroller is watching the --

MR. BAKER: Okay, very good. And let's turn towards the center, turn towards the Governor and staff. Come in close, please. Looks good. Looks great. Okay, we'll take a few pictures. I'll let you know when. Very nice. Okay, looks great, family. We'll take a few pictures. Right this way? Okay, very good. Let's take a look. Okay, you look great. Congratulations, yep, very good. Smile, please? Thank you.

GOVERNOR O'MALLEY: Thank you, Yoders one and all. And all the wannabe Yoders. All right. John, are we, I don't know --

MR. GRIFFIN: There's one more.

GOVERNOR O'MALLEY: Can we, are there others here?

MR. GRIFFIN: But there's no one here to speak.

GOVERNOR O'MALLEY: No one here to speak? Okay, well let's do that one.

MR. GRIFFIN: Thank you very much for your time on this.

GOVERNOR O'MALLEY: This is like the hall of fame of --

MR. GRIFFIN: Yes.

GOVERNOR O'MALLEY: -- people engaged in great work.

MR. GRIFFIN: Thank you so much for your --

TREASURER KOPP: Can I interrupt --

GOVERNOR O'MALLEY: That you wanted to do? You wanted to spend time on this?

TREASURER KOPP: Not to spend a long time, but we only have about ninety seconds.

MR. GRIFFIN: Sure.

GOVERNOR O'MALLEY: So we want to give her, we don't want to rush --

MR. GRIFFIN: Oh, you want to wait? Yeah, fine, sure.

GOVERNOR O'MALLEY: We want to wait.

MR. GRIFFIN: Whatever the Board would like.

GOVERNOR O'MALLEY: In the meantime, John, if you've read any poetry, and you want to share it with us, in a minute and ten seconds --

(Laughter)

GOVERNOR O'MALLEY: All right we are now, you know, did I not read in the newspaper the other day, Madam Treasurer, that in one of the very important votes of late in the United States Senate that they extended this bond program? On the Senate side?

TREASURER KOPP: It has not gone through yet. But it is in the process, yes Governor, it's in the process of being extended but perhaps not at the 35 percent subsidy level. And because of Maryland's outstanding rating and strong fiscal management we do well for ourselves in the public bond market. And so this federal assistance only becomes truly helpful at a certain level. And so we're hoping they keep it at the 35 percent level, where it will help the people of

the State of Maryland, instead of a lower level. But yes, it's going through.

GOVERNOR O'MALLEY: I lost my coffee when the Yoders came up. Is that coffee over there? Thank you.

TREASURER KOPP: We have copies, by the way, of the bond rating agency letters. If anybody wants to see they're out there saying the fine things that we say they say, but you can see it for yourself.

GOVERNOR O'MALLEY: This is the ones that say we have a AAA bond rating?

TREASURER KOPP: Yes. Well, this one does, and this one does, and this one does, too.

GOVERNOR O'MALLEY: So all three of them say that?

TREASURER KOPP: All three of them say that, and all three of them say it's because of a combination of good, strong well-balanced economy, well-trained workforce. I know everyone here is very interested in the educational level of our workforce. And strong fiscal management, and a tradition of fiscal management. They mention our strengths and mention our challenges, which we are well aware of.

And their great confidence that the government of this State will continue to exercise prudent management.

And so we'll have --

GOVERNOR O'MALLEY: Can we get these posted online? Ms. Foster, can you make sure, and Ms. Watson? Can we have an opportunity for citizens to click on this and see it? They hear it from us, but it would be good for the people of Maryland to read what the rating agencies say about their State's management in a prominent way.

TREASURER KOPP: I would point out also, Patti points out, that they are all stable ratings. There are some states that may maintain a rating but not stable. That is essentially negative outlook, not Maryland.

They are in the process of getting ready. Is there anything you wanted to say, Patti?

MS. KONRAD: No.

TREASURER KOPP: Okay.

MS. KONRAD: I just wanted to point out that all three of them have made a comment that they are stable ratings.

GOVERNOR O'MALLEY: So the way this works is our bonds are offered at 11:00 a.m. The various financial institutions put up, in essence bid on how much they will pay in order to, and for our bonds.

MS. KONRAD: That's right. And this particular sale, by the way I'm Patti Konrad, Director of Debt Management for the State Treasurer's Office. You can see we've gotten four bids. This is on Build America Bonds. These were authorized by the American Recovery and Reinvestment Act in February, 2009. The TIC, these are taxable bonds so the TIC is a taxable TIC. To the right is the BAB TIC, and that reflects the rate that, the effective rate for the State. With a 35 percent subsidy from the U.S. Treasury that's what we would be paying. These maturities are from 2019 through 2025. They're on the long end of the yield curve so you would expect the rates to be high and I think that's a great rate, 2.84. And so we will adjourn. And so we will adjourn, verify their calculations, and we'll be back at 11:20 for bids on a tax exempt refundable.

TREASURER KOPP: 2.8 percent --

GOVERNOR O'MALLEY: So what this means is that as we borrow dollars to do important things like --

TREASURER KOPP: Build schools.

GOVERNOR O'MALLEY: -- school construction and other things, that we will be paying an effective rate of 2.8 percent on all of that money we borrowed to make these investments.

MS. KONRAD: Exactly. That's it.

GOVERNOR O'MALLEY: That's good. And it would be a lot higher except that, because we have the AAA bond rating, they know we're good for it.

MS. KONRAD: That's right.

GOVERNOR O'MALLEY: That's great.

MS. KONRAD: And it would be a lot higher except for the federal government stepped in last February and decided to provide some relief for the municipal markets and open up --

GOVERNOR O'MALLEY: Good.

MS. KONRAD: Thank you.

GOVERNOR O'MALLEY: Thank goodness they acted when they did or we'd all be in the Second Great Depression right now.

TREASURER KOPP: Well, this is the stimulus. This is part of the stimulus program and it worked.

GOVERNOR O'MALLEY: Recovery and Reinvestment at work, thanks to your good work, Madam Treasurer, and Mr. Comptroller, and Lieutenant Governor.

TREASURER KOPP: They will be back --

GOVERNOR O'MALLEY: They'll be back?

TREASURER KOPP: -- for the official conclusion.

GOVERNOR O'MALLEY: Okay. They'll be back for one more song, folks. Don't go away.

LIEUTENANT GOVERNOR BROWN: Governor?

GOVERNOR O'MALLEY: Yes, Mr. Lieutenant Governor?

LIEUTENANT GOVERNOR BROWN: Thank you, Governor. It's wonderful, twice in one day I get to acknowledge the good work of so many. If I may, Governor? You know, we're so proud of the AAA bond

rating in Maryland and we've had it for quite some time. We often mention it, I know the Governor and I do, as we go around the State. And so that it's not rote, or taken for granted, I just want to take this opportunity to acknowledge the Governor, the Treasurer, the Comptroller, fiscal leaders in the General Assembly. Because this is a tremendous achievement. And while we are able to do it year after year, it is not easy. This is difficult.

Some of it is due to some naturally occurring characteristics and attributes of Maryland. I'll leave that up to you to figure out what those are. But much of it is due to sound fiscal management. And when we're able to do that, particularly in these difficult economic times with tremendous pressures on our operating and capital budget, this is extraordinary. It doesn't happen by accident or by chance, as the Governor uses it as an important thing. It's because of the choices that you make, Governor, Madam Treasurer, and Mr. Comptroller. So I just want to take the opportunity. I'm one seat removed, so I can congratulate you without it being

self-boasting. Excellent work, and congratulations, and thank you.

GOVERNOR O'MALLEY: Thank you, Lieutenant Governor. Let's go back now to Item 11 on the Secretary's Agenda, with John Griffin, our Department of Natural Resources Hall of Fame nominator.

MR. GRIFFIN: Thank you, Board members. The third item we were asking you to consider honoring the individual with the naming of a facility is an honor of Julie Schweikert. And the proposal before you is to name the Nature Center at Janes Island State Park, which is way down in Somerset County.

GOVERNOR O'MALLEY: Which one is Julie?

MR. GRIFFIN: At the --

GOVERNOR O'MALLEY: There?

MR. GRIFFIN: Yes.

GOVERNOR O'MALLEY: Okay.

MR. GRIFFIN: Julie began her distinguished career with the Maryland Park Service as a park ranger at Smallwood State Park, which is down in Charles County, in 1990. In 1997 Julie assumed the duties as the State Park's naturalist so that she could focus

her passion on providing interpretive programming for local schoolchildren and park visitors. She was selected as the Park manager in March of 2007, where she served until her untimely death on January 12th of last year at the age of forty-three. She was instrumental in the development of many outdoor recreation services at the Park, and especially interpretive programming for youth. She touched the lives of thousands of young environmental stewards through her passion for getting kids in touch with their natural world by offering programs for hundreds of school groups. Governor, as you know, this is the kind of impact we're trying to have around the State under your Partnership for Children in Nature initiative.

Julie's family unfortunately could not be with us today. But they will be attending a ceremony at the conclusion of the Ranger School this Friday at Janes Island State Park, where the official naming of the facility will take place if the Board approves this item. So we would ask you to consider acting favorably on this proposal, and we thank you for all

your time this morning. I know it means a lot to the families of all those involved, and to the Department as a whole, and many people in the State.

GOVERNOR O'MALLEY: Well John, thank you.

MR. GRIFFIN: Thank you very much.

GOVERNOR O'MALLEY: And for appropriately recognizing these individuals. Oftentimes when the debates happen on budget cuts, and layoffs, and furloughs, sometimes in the numbers some of us, some citizens forget that, you know, what a tremendous caliber of human beings we have giving heart and soul through their whole careers, their whole lives --

MR. GRIFFIN: Indeed.

GOVERNOR O'MALLEY: -- to work for the State. We really are fortunate to have such committed and dedicated and good people that do this work day in and day out, and certainly Ranger Schweikert was one of them. So the Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed? The ayes have it. Thank you, John.

MR. GRIFFIN: Thank you so much, Board members.

GOVERNOR O'MALLEY: All right, are there any questions on the balance of the Secretary's Agenda?

TREASURER KOPP: Governor, I would be remiss if I didn't point out Item 14, which is the equipment lease financing. We are continuing with the new way of procuring this, these funds, to allow us to continue the program of modernizing State capital, State facilities with a more open market. And I would simply point out that the MBE participation here, it says zero because there are no certified MBEs in this area. But in fact, the award went to a minority business. It's not zero, it's 100 percent.

GOVERNOR O'MALLEY: Wow, great. Any other questions on the Secretary's Agenda?

TREASURER KOPP: Well I guess we'll have to hold the bonds.

SECRETARY MCDONALD: We're holding that. We're holding that.

TREASURER KOPP: I know.

SECRETARY MCDONALD: We have thirty-three items on the Agenda, and three reports of emergency procurements. We'll hold Item 15 till the Treasurer's Office returns with that item.

GOVERNOR O'MALLEY: So the Secretary's Agenda sans, minus, with the exception of --

SECRETARY MCDONALD: Items 9, 10, 11, and 15.

GOVERNOR O'MALLEY: -- Item 15. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed? The ayes have it. And so we only have Item 15 to come back to.

SECRETARY MCDONALD: And also, I don't know if you wanted to do the climate change?

GOVERNOR O'MALLEY: Do we want to do the climate change now, or are there people standing there that we might be able to get out of this room? Can anybody help me out here? Tom Hickey, are there sections of this that we can dispose of in a similar

way that we don't believe that there's much controversy on?

MR. HICKEY: DBM.

GOVERNOR O'MALLEY: DBM? Okay, let's do

DBM.

MS. FOSTER: Okay. Governor, Madam Treasurer, Mr. Comptroller, Lieutenant Governor Brown, there are twenty-three items on the Department of Budget and Management's Agenda for today. I would like to withdraw Items 15 and 16. And I'll be happy to answer any questions you may have.

GOVERNOR O'MALLEY: Okay. Any questions on Department of Budget and Management? Items 15 and 16 have been withdrawn. The Comptroller has a question.

COMPTROLLER FRANCHOT: Okay, would you just tell me what Item 17 is?

MS. FOSTER: Item 17 is a request to go forward with the discontinuation of the food services at the Upper Shore. As you know, the facility is slated to close on February 28th. So this discontinues the food service for the facility, but it increases the daily food practices at the Whitsitt

Center, which is where some of the patients will be going.

COMPTROLLER FRANCHOT: Governor, I'm going to vote against this item just because I didn't agree with the original proposal. If I could get that one pulled out that would be great. And can you help me with Item 19?

MS. FOSTER: Okay. Item 19 is the modification to extend the contract for six months so that a new procurement can be completed of privatization of child support activities in Baltimore City, and for transitioning Queen Anne's County back to the State. Brian Wilbon is here if you have any questions on behalf of the Department.

MR. WILBON: Good morning.

COMPTROLLER FRANCHOT: Great. Help me understand why we're extending these for six months?

MR. WILBON: The child support agreement has been in place and is set to expire in March of this year. We need the time to do a new RFP to continue the privatization efforts in Baltimore City. We did a cost benefit analysis where we had a consultant come

in, review this contract. And the determination was made that it would be more efficient to continue with the privatization efforts in Baltimore City but bring the staff in house in Queen Anne's. And so we need the additional six months to do the RFP, or put the RFP out, and make award for the new agreement.

COMPTROLLER FRANCHOT: Okay. And I'm sorry to have so many questions on your Agenda.

MS. FOSTER: That's all right.

COMPTROLLER FRANCHOT: But the Item 5 -- thank you for that. Item 5, what are Appliance Rebates/ pass through, \$6 million? Help me understand how that works?

MS. FOSTER: Item 5 is a contract that provides technical assistance to assist the Maryland Energy Administration in accomplishing its energy efficiency goals, and to provide estimates of the cost savings that will be attributable to the program. And Malcolm is here from the Energy Administration.

MR. WOOLF: Hello, I'm Malcolm Woolf, Director of the Maryland Energy Administration. When we started, the federal government under the federal

stimulus program has an appliance rebate program. Maryland's share is \$5.9 million. When we started this procurement we thought we needed somebody who could administer that money for us. Who could literally deal with the rebates process and cut the checks. We've now actually worked out agreements with the utilities for all of the five metered utilities, that we will be able to partner with them with their existing rebate programs. We don't actually think we will need, therefore, to use that task order for this procurement. But it was something that was built in when we did the original RFP. So it would simply be a task order that we wouldn't exercise in this contract. The money will still flow to Maryland residents, it just won't flow through this contract.

COMPTROLLER FRANCHOT: No, I understand that. So why are we approving it?

MR. WOOLF: Excuse me?

COMPTROLLER FRANCHOT: Why do you need it?

MR. WOOLF: We, there, the one thing we will need is the small utilities. The five meter utilities, including Smeco, are running their own

appliance programs. The smaller municipalities, like Easton and Berlin and Choptank, are not. So we are going to use this contract to run the appliance rebate program for those localities.

COMPTROLLER FRANCHOT: And that's the \$3.3 million?

MR. WOOLF: It will be a small portion of the \$5.9 million. The \$3.3 million is for general energy efficiency for the programs that the State is running. We're actually helping every municipality, giving them a small grant, so they can retrofit their own buildings. The \$3.3 million goes to provide them free technical assistance and other services. So this is for all the, technical assistance for all the State is doing on energy efficiency to implement the Governor's Empower Maryland goals.

COMPTROLLER FRANCHOT: And that's a three-year program?

MR. WOOLF: Correct. It's a three-year contract. The program will be continuing even beyond that.

COMPTROLLER FRANCHOT: Okay. And then my final question is, thank you for that, is Item 6. What are we being asked to do here?

MS. FOSTER: Item 6 is a request to exercise the first renewal option for the Glass Health Programs to provide behavioral health services at the Cheltenham Youth Facility. And I think that Deputy Secretary Francis Mendez is here to expand on any additional questions you may have.

MR. MENDEZ: Good morning, Governor, Madam Treasurer, Comptroller, Lieutenant Governor. This is a renewal for behavioral health services at Cheltenham. They provide mental health screenings and evaluation to the youth there. It's a renewal of the contract.

COMPTROLLER FRANCHOT: So the original contract, this is taking an option here, or what?

MR. MENDEZ: Yes. This is an existing provider and we're renewing the contract, I believe.

MS. FOSTER: They have an option to, they have two one-year renewals. They are exercising the first of the two renewals.

MR. MENDEZ: Mm-hmm.

COMPTROLLER FRANCHOT: Is this the school where we had the problem recently?

MR. MENDEZ: Yes.

COMPTROLLER FRANCHOT: And what's being, is this part of the fix for that problem? Or what?

MR. MENDEZ: Well as you know I've been, you know, our agency has been informed by the Maryland State Police that we can't comment on the specifics of the investigation. But I can tell you that mental health staff from Glass are involved in providing crisis counseling to the staff there, and providing counseling to the kids. They're a good provider. They've been with us for a while and, you know, we hope to continue using them.

COMPTROLLER FRANCHOT: Okay, good. Thank you.

MR. MENDEZ: Thank you.

GOVERNOR O'MALLEY: Are you good?

COMPTROLLER FRANCHOT: That's good.

GOVERNOR O'MALLEY: Okay. Are there any other non-controversial items, Hickey?

(Laughter)

GOVERNOR O'MALLEY: All right. So that was Item 17, Mr. Comptroller, on the Upper Shore?

COMPTROLLER FRANCHOT: Yes.

GOVERNOR O'MALLEY: Okay. Let's pull out Item 17, then, and vote on that. The Treasurer moves approval, seconded by yours truly. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: The Comptroller votes no, consistent with his original decision on this matter. Okay, let's go to the balance, now, of the Department of Budget and Management Agenda. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed? The ayes have it. Okay. Do you see any movement in the room here? You're back.

MS. KONRAD: We are.

GOVERNOR O'MALLEY: I apologize, for all of you that are, I mean, it's a big Agenda. We got snowed out, so it's a double Agenda today. And I know that many of you are here on the Sailing Hall of Fame and we will get to you.

MS. KONRAD: We have about one minute until the bids come in on a \$192.9 million refunding. A refunding is very similar to what we all know and experience when we refinance the mortgages on our homes. We're replacing some higher cost debt with low cost debt. And we expect to achieve some debt service savings with this. And we've got one bid in, and forty-five seconds.

TREASURER KOPP: This is carrying on our continuing effort to try to refinance outstanding loans with a lower rate. Would that we could do it for all of them and save.

MS. KONRAD: We had six bids. And the result, Jefferies & Company, with a TIC of 2.96 is the winning bidder. Again, we will go back and recalculate and ensure that that is correct. And then

we'll come back with the motion for both of the awards.

GOVERNOR O'MALLEY: They were all close, huh?

MS. KONRAD: They were.

GOVERNOR O'MALLEY: They're on to us. Who is Jefferies?

MS. KONRAD: They are not a regular bidder, I can tell you that.

GOVERNOR O'MALLEY: Hm. Okay. Jerry? University System of Maryland, come on down.

MR. HICKEY: Governor, actually Senator Rosapepe requests that we do that last.

GOVERNOR O'MALLEY: Oh. Don't start, I apologize, I apologize. Senator Rosapepe wants to be here for this one. Jerry, I was kind of hoping that we could, you know, given that prerogative and the power, that you would call the ones where there's no controversy. Which one? Program Open Space. Come on down. And we are still going to do climate change.

MS. LATHBURY: Good morning. Meredith Lathbury representing the Department of Natural

Resources. We have seven Rural Legacy items on the Program Open Space Agenda this morning. And I'd be happy to answer any questions you have.

GOVERNOR O'MALLEY: They all look great. The Treasurer moves approval, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: Great. Thank you.

MS. LATHBURY: Right on.

GOVERNOR O'MALLEY: That was good, Jerry. Transportation, perhaps?

SECRETARY MCDONALD: Transportation --

GOVERNOR O'MALLEY: Maryland Department of Transportation?

MR. BARTLETT: Good morning, Governor. We have twenty-nine items on the Agenda but we'll only be presenting twenty-seven since Items 5-M and 9-E are being withdrawn. We are also, for the record, Item 10-C-MOD has been previously revised. And Item 29-E-MOD has been previously submitted as a supplemental. We are also revising Item 3-M because there was a typo

on the year for the period of performance and that has been revised.

GOVERNOR O'MALLEY: Okay. Any questions?

The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay." The ayes have it. We move on now to the, how about, anything controversial on DoIT?

SECRETARY MCDONALD: Yeah, we do have something.

(Laughter)

SECRETARY MCDONALD: But I think every Agenda left has some item.

GOVERNOR O'MALLEY: Okay. Well let's go to something absolutely non-controversial and that is climate change. Let's hear the, ready to do the presentation on climate change, and go through the power point? Well, he's very interested in climate change as well. Senator, it's good to see you.

(Whereupon, the Board heard a presentation on climate change which was not transcribed.)

TREASURER KOPP: Governor, Patti, why don't you, she's got good news for you.

MS. KONRAD: As a result of --

GOVERNOR O'MALLEY: No snow?

MS. KONRAD: No snow? I can't guarantee that, sorry.

TREASURER KOPP: But part of the outstanding, let me just say part of the outstanding State Treasurer's Office team.

MS. KONRAD: Thank you. Thank you. As a result of the BAB sale, compared to a traditional tax exempt sale, we saved about \$7.5 million. And as a result of the refunding bid that we got from Jefferies & Company, who is a national and international firm, I learned, we saved \$8.5 million in present value savings on debt service. So our interest payments will be lower in the future by \$8.5 million.

(Applause)

TREASURER KOPP: I just want to thank Patti and her team for the terrific job they do, really. The savings, the last savings, \$8.5 million, truly is

a savings for the taxpayers. And I think it shows good management, and I thank you.

I do have a motion, if we can go back to it?

GOVERNOR O'MALLEY: Sure. We are returning to Item 15, Ms. Secretary?

TREASURER KOPP: This is Item 15 in the Secretary's Agenda. And I would move that the Board ratify and approve the preliminary official statement dated February 18, 2010; the summary notice of sale for the 2010 first series bonds, published on February 11, 2010 in the Bond Buyer; and the resolutions the Board adopted ratifying and approving, the resolutions the Board adopted on January 20, 2010 concerning the bond sale which was simply to establish the bond sale; would be my first motion. We can do them all at once, I think.

GOVERNOR O'MALLEY: Moved and seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay." The ayes have it.

TREASURER KOPP: Secondly, I would move that the Board accept the electronic bids for the first series A bonds, first series B bonds, as provided in the official notices of sale.

GOVERNOR O'MALLEY: Seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay." The ayes have it. You're on a roll.

TREASURER KOPP: For the first series A bonds, those are the Build America Bonds, I move that the Citigroup Global Markets, Inc. be declared the successful bidder for the first series A federally taxable Build America Bonds in the aggregate principal amount of \$400 million, with a discount of \$1,172,219, and a true interest cost of 2.849472.

GOVERNOR O'MALLEY: Seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

TREASURER KOPP: I would simply point out that was all said in one breath.

(Laughter)

TREASURER KOPP: For the first series B bonds I move that Jefferies & Company, Inc. be declared the successful bidder for the first series B tax exempt refunding bonds in the aggregate principal amount of \$192,900,000, with a premium of \$30,002,036.74, and a true interest cost of 2.965152 percent.

GOVERNOR O'MALLEY: Moved by the Treasurer, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay." The ayes have it.

TREASURER KOPP: And I further move that the first series A bonds and the first series B bonds be issued in the amounts and maturities, and at the interest rates and prices set forth in the successful bids for the bonds and that the Board authorize and approve the issuance of the final official statements.

GOVERNOR O'MALLEY: Moved by the Treasurer, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay." The ayes have it.

TREASURER KOPP: You've done it.

GOVERNOR O'MALLEY: Okay. All right. We are going to take a short pause for the cause. When we come back I think we're going to take the Sail Museum first. And I'm sure that in the meantime you all can work that out, if there's any disagreement. And if we could hear, if you could limit your comments either to the person that will articulate the settlement or if you're going to make us take a vote on this, then if you could try to summarize among yourselves a couple of spokespeople for either side of your argument that would be appreciated. We have a matter with DoIT which, I guess, is what, voting machines? And we have Senator Rosapepe who is here, as well as Chancellor Kirwan on the University of Maryland and that item, I think they are the main controversial things. So let's take a short bio break and we'll be right back. Thank you.

(Short recess)

GOVERNOR O'MALLEY: All right. We are now returning to order. And during our brief pause for the cause it was brought to my attention that things have been worked out on the matter that Senator Rosapepe and the Chancellor of the University System of Maryland are here for. So I was asked to ask the sailboat folks to hold one second. Still work among yourselves as to who each of your spokespeople will be. I want to hear from Mr. Gaines. I'd like to hear also from the Mayor on behalf of the City. And I see Mr. Israel out there, so maybe he wants to speak for the opponents if there are still opponents. So anyway, but let's do University System of Maryland first, shall we? Come on down.

MR. EVANS: Joe Evans representing the University System of Maryland. We have twenty-seven items on the Agenda today. Item 17-GM was revised and we are withdrawing Item 27-RP. We're here to answer any questions.

SECRETARY MCDONALD: Item 11-RP is the acquisition of property by College Park.

GOVERNOR O'MALLEY: Can I ask, what are the 500 stainless steel oyster cages in Item 8? I thought the --

MR. EVANS: Mr. Stirling?

GOVERNOR O'MALLEY: Mr. Stirling, come on down. Secretary Griffin, you might want to chime in here.

MR. STIRLING: Oyster cages?

GOVERNOR O'MALLEY: 500 stainless steel oyster cages. I thought our inmates made our oyster cages?

MR. STIRLING: They do make a version of the oyster cage. It's a much smaller wire-based cage that's plastic encased. What we're buying is a custom made stainless steel cage that's about ten or fifteen times the size. Totally different kind of use.

GOVERNOR O'MALLEY: Ah. Ten to fifteen times the size?

MR. STIRLING: It's like a forty-eight-inch cube as opposed to something maybe twice the size of these books.

TREASURER KOPP: Forty-eight-inch cube?

MR. STIRLING: Forty-eight-inch cube.

GOVERNOR O'MALLEY: John, are you aware of this one?

MR. GRIFFIN: No, I'm not, Governor.

GOVERNOR O'MALLEY: Huh.

MR. GRIFFIN: Well, I am now, but --

(Laughter)

GOVERNOR O'MALLEY: Okay, so this is what they look like. You want to introduce yourself and tell us about these?

MR. STIRLING: Dave Nemazie from --

MR. NEMAZIE: Dave Nemazie, University of Maryland Center for Environmental Science. These oyster cages are industrial oyster cages, Governor, where they are, we put the empty shell in the tank for which spat will set on that blank shell. Then we can transport that whole cage right onto a vessel, and then plant them on the appropriate bars that we are seeking. These are much different cages than what the inmates are currently making.

GOVERNOR O'MALLEY: Got you. They make the ones for the Head Start for Oysters, on the Pier Program --

MR. NEMAZIE: That's right.

GOVERNOR O'MALLEY: -- where we now are up to how many, how many cages out there on eleven or fifteen tributaries?

MS. WALKER: It's two hundred something.

GOVERNOR O'MALLEY: All right. Darlene, contact the State satellite, give me an exact number, please.

MS. WALKER: Yes, sir. 5,269.

GOVERNOR O'MALLEY: Thank you. Very quick satellite, Darlene.

MS. WALKER: SHA is helping us out.

GOVERNOR O'MALLEY: Okay. So that's what they are?

MR. NEMAZIE: Yes.

GOVERNOR O'MALLEY: All right. Do they put the spat into --

MR. NEMAZIE: Well what, so these are, spat attached to another oyster shell.

GOVERNOR O'MALLEY: Uh-huh.

MR. NEMAZIE: These are essentially empty oyster shells.

GOVERNOR O'MALLEY: Right.

MR. NEMAZIE: We put that whole cage in a tank with oyster larvae that are ready to settle and become spat.

GOVERNOR O'MALLEY: I see.

MR. NEMAZIE: So they immediately go on those shells. And then we can transport them and move them around. I should say, the oyster spat, when they are less than about a nickle in size, are most vulnerable to movement. And we've had a lot of mortality in the past when we've moved these shells around with young spat on them. So what we're trying to do is decrease the mortality that's taking place, and get more into the rivers --

GOVERNOR O'MALLEY: Got you.

MR. NEMAZIE: -- as we can.

GOVERNOR O'MALLEY: All right. Well, those look like they are totally filled with shells.

MR. NEMAZIE: They are, sir. Those are what are called empty shells or --

GOVERNOR O'MALLEY: Okay.

MR. NEMAZIE: -- just dead shell that the spat attach to.

GOVERNOR O'MALLEY: But then there's far fewer shells --

MR. NEMAZIE: No, they attach to that shell, and they stay on that shell for the rest of their lives.

GOVERNOR O'MALLEY: Even as dense as that is?

MR. NEMAZIE: Even as dense as that is, sir, yes.

GOVERNOR O'MALLEY: Huh. Okay. All right. So anyway, this is all a part of our effort, and it was all, I guess, approved in the appropriation back when we did the extended oyster. And we're going to go, what, up to 1 billion or 2 billion?

MR. NEMAZIE: That's right. We're trying to go to 2 billion spat. And it's part of our pier project that we're building on the Horn Point

Laboratory property. And these cages are specific for that pier facility.

GOVERNOR O'MALLEY: And does the spat, the attached spat --

MR. NEMAZIE: Yes, sir.

GOVERNOR O'MALLEY: -- do they then go into the individual oyster cages for the piers?

MR. NEMAZIE: They could go in, they could go there. Or they could be actually just transported, dumped out of that bigger steel cage onto an oyster bed --

GOVERNOR O'MALLEY: Got you.

MR. NEMAZIE: -- in the river itself. Of which last year I think we augmented about 350 acres of oyster bar in the State of Maryland.

GOVERNOR O'MALLEY: That's great. Okay. All right. Well, thank you. So it's all part of the breeding and also the attachment and distribution process. And I can't believe that. I bet you Gary Maynard could have built them for less than \$370,000.

MR. NEMAZIE: The issue there, sir, as we understand it is, and we are working with them on a

number of issues. But is that we have to fabricate this steel. And my understanding is that they didn't have the capacity to do that when we first requested it some time ago. Maybe that's changed.

GOVERNOR O'MALLEY: Okay. Let's have somebody check on that, Liz Harris. Thanks. Just for something different rather than legal stuff, Liz.

MS. HARRIS: Got it.

GOVERNOR O'MALLEY: Anything else on University System of Maryland before we talk about Item 11? Okay. Who wants to tell us about, Senator do you want to talk to us?

SENATOR ROSAPEPE: Sure, thank you. Thank you very much. The good news is that the community and the University have come to an agreement, and so there is no controversy on this. I think it is important, because this is a very big project, it's a game changing kind of project for the City of College Park and for the University. And so it's something that you have dealt with in the past, and you will be seeing over the next couple of years.

Basically, the City has been interested in for a long time, as has the University, as has anybody who visits, in the revitalization of the Route 1 corridor in particular and the area around the University. And there are many aspects of that. Part of that related to smart growth, because we have the Metro stop, we with your support are going to have the Purple Line in the future. It's right there at the College Park campus. Similarly, we've had for many, many years a shortage of undergraduate student housing and graduate student housing. The Comptroller and the Treasurer remember working with our former colleague Delegate Maloney and Delegate Menez working on student housing at the University back in the 1990's. There is still a significant shortage. And this east campus project is part of that revitalization of the whole area.

We were very disappointed in the community when the University had to announce last fall that it was not going to be able to proceed with the original big vision that they had. Now obviously, a lot of that was related to the worldwide economic crisis, it

was related to not coming to an agreement with the developer, or organized labor, or the community. But we're very hopeful that the project will go forward in future years. As the economy improves there will be the opportunity to do that.

And so what you have before you today is creating a place where what is on east campus now, sort of the back forty of maintenance yards and so forth, and offices can be relocated to property now owned by the Washington Post right next to the MARC and CSX line. The University worked very closely with the City to work out an agreement for a pilot. This is one of the largest taxpaying properties in the City and therefore we're going to improve the City and make this a great college town to go with a great University. Obviously, you need the resources to do it. And so, having a pilot when the University takes significant land off the tax rolls is incredibly important to the vision of a great City and a great University.

And I just wanted to come here to thank Chancellor Kirwan, who took a very personal role in

working this out. The Board of Regents took a very personal role in working this out. The Mayor is here and will be able to speak for himself. But I want to thank each of you on the Board because the attention that you paid to this really is what made this work and pulled this together. So I just wanted to come on behalf of the three delegates in the 21st District, Delegate Frush, Delegate Pena-Melnyk, Delegate Barnes, and myself, to thank you. We're ready to roll.

GOVERNOR O'MALLEY: Great.

SENATOR ROSAPEPE: I'm happy to answer any questions.

GOVERNOR O'MALLEY: Mr. Comptroller, any questions?

COMPTROLLER FRANCHOT: What is the payment?

SENATOR ROSAPEPE: What is the?

COMPTROLLER FRANCHOT: What is the payment?

SENATOR ROSAPEPE: The payment will be on real estate tax, real property taxes, not on personal property taxes. And it will be determined every year by the assessment put on that property by the Department of Assessments and Taxation. So basically,

they'll do what they do as owned by any other property owner. It will be a third party, independent professionals making that determination. It will not be a political deal between the City and the University. It will be done by the professionals. And whatever that number is, that number is. If values go up, it goes up. If values go down, they go down. Very fair approach.

GOVERNOR O'MALLEY: Great. Okay.

SENATOR ROSAPEPE: Thank you.

GOVERNOR O'MALLEY: Thank you. The
Treasurer --

TREASURER KOPP: Thank you, Jim, for your
work.

GOVERNOR O'MALLEY: The Treasurer moves
approval of the University System of Maryland Agenda
items, seconded by the Comptroller. All in favor
signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay." The
eyes have it.

MR. EVANS: Thank you.

GOVERNOR O'MALLEY: Thank you very, very much. We move on now to the Sailing Hall of Fame, which is in the Department of General Services --

MR. COLLINS: Yes, sir.

GOVERNOR O'MALLEY: -- Agenda items. What item number is this?

MR. COLLINS: Item 11, Governor.

GOVERNOR O'MALLEY: Number eleven, lucky eleven.

MR. COLLINS: I'm sorry, yes, 5-LL. I'm thinking about --

GOVERNOR O'MALLEY: 5-LL. So let's hear from Michael Gaines first, followed by Mayor Cohen, followed by whoever is opposed. When last we visited this issue, as I recall, there was some question about the degree to which local laws would apply to the revamped Sailing Hall of Fame, and the degree to which those could be spelled out in whatever agreement, contract, lease we're executing here. I think that's where we were. Is that a fair summary?

MR. GAINES: Yes, sir, it is.

GOVERNOR O'MALLEY: Okay. Mr. Gaines?

MR. GAINES: Yes. Michael Gaines,
Department of General Services, Office of Real Estate.
Good morning, Governor, Madam Treasurer, Mr.
Comptroller, and Lieutenant Governor.

In considering the leasing of State property
in this case to the National Sailing Hall of Fame, the
Board did ask us to look at the implications for
subjecting the project to local planning and zoning
requirements. In looking at this effort our attorneys
advise us that only the Legislature has the authority
to waive the State's sovereign immunity. The State is
sovereign in this particular case because the project
is State sponsored, State owned, and will be leased to
a nonprofit organization who on behalf of State
citizens will create a National Sailing Hall Museum
and will be open to the public, will be free to the
public. It serves a public purpose. And for those
reasons the State's sovereign immunity is applicable.

However, notwithstanding that particular
issue, in this process the State has been able to
provide certain protections for both the State and the
City which were included in a memo from Secretary

Collins and Secretary Griffin to you. I'll just briefly look at a few of those.

The Maryland Historical Trust has been involved and will continue to be involved. The Annapolis Historic Planning Commission has continued to be involved and going forward will be involved. There are trigger events over the next two years that are required of the Sailing Hall of Fame to meet before the lease actually becomes effective. In addition to that, the State will have final approval on design and operations. And so we feel that the Board is within its authority to approve the lease as we have presented it.

Also, we have significant support, namely in that of the City of Annapolis. And I would turn to the Mayor at this point.

MR. COHEN: Thank You, Mr. Gaines.

MR. GAINES: Yes, sir.

GOVERNOR O'MALLEY: Mr. Mayor, thank you for your patience.

MR. COHEN: You're very welcome. Thank you, Governor, Comptroller, Treasurer, Lieutenant Governor.

Governor, if I may, real briefly, on the snow, first of all, thank you for your comments, but I also want to thank you for your messaging during the snowfall, because one of the challenges we had at the local level was not just managing the snowfall, but managing expectations. And I heard from a number of local officials around the State, and your appearances on TV and at the EOC's were very helpful in helping citizens have realistic expectations. So I want to thank you for that.

In terms of the Sailing Hall of Fame, there are -- I think there are four general buckets of concerns. One is the issues about state sovereign immunity, which Mr. Gaines addressed. One is community -- general community concerns, parking and that sort of thing. One is the historic preservation

concerns. And the fourth is the business-related concerns pertaining to the boat shows.

In terms of the community's concerns, since the last Board of Public Works meeting, my staff, community members, Sailing Hall of Fame staff, Board of Public Works staff have been engaged in a number of conversations, sending memos, emails back and forth. And we're not going to satisfy everybody, but what we've done successfully, I believe, is thread the needle so that the Hall of Fame can put in writing certain commitments without violating the State's sovereignty from local authority.

And the hammer that the City has to enforce those commitments is the City's lease of riparian rights that the Hall of Fame will then need to come back, if the Board approves this lease. The Hall of Fame cannot operate without the City's lease of riparian rights.

Yesterday, I delivered to each of you a letter, that the Treasurer's looking at right now,

signed by both myself and the president of the Hall of Fame, which contains the -- a proffer of understanding which was the legal instrument that people are comfortable threads the needle. And that addresses payment in lieu of taxes, parking management for events over 50 people, as well as compliance with liquor laws. Those are the three big ones.

In terms of the historic preservation concerns --

GOVERNOR O'MALLEY: And that's all been shared with the opponents?

MR. COHEN: That's been shared with Alderman Israel, with all members of the City Council.

GOVERNOR O'MALLEY: Good.

MR. COHEN: I know they were looking at it out in the hall.

In terms of the historic preservation concerns, I believe those concerns are addressed to the maximum extent possible with the State still retaining ultimate authority. The only next step

would be to -- for the State to make itself subject to City zoning. But absent that, the Hall of Fame has been through a process both with the Maryland Historical Trust, as well as our City's Historic Preservation Commission that people on all sides agree has been very productive and collaborative. So I'm very comfortable with the historic preservation piece.

The final piece is the issue of the boat shows, and I'm hesitant to get too much into it, because in a lot of ways it's a business-related issue between the corporate entity of U.S. Boat Shows and the Hall of Fame. But suffice it to say that the City of Annapolis is not going to let a Sailing Hall of Fame stand in the way of the boat shows continuing to operate. We're absolutely committed to having the boat shows continue to operate.

There are issues about access of public walkways, about relocating electrical service, about connecting to the electrical service, and again, I don't want to speak in too much detail on those other

than to say that my administration is not going to let the Hall of Fame get in the way of the boat shows continuing.

GOVERNOR O'MALLEY: I bet the boat show's the equivalent to like having Preakness --

MR. COHEN: That's right.

GOVERNOR O'MALLEY: -- isn't it? I mean, in terms of its --

MR. COHEN: The patrons --

GOVERNOR O'MALLEY: -- percentage value --

MR. COHEN: The behavior of the patrons may be a little different, but --

(Laughter)

MR. COHEN: -- but yeah. It's a tremendous boost for our economy.

GOVERNOR O'MALLEY: Well said. Touche. All right. Anything else?

MR. COHEN: That's it.

GOVERNOR O'MALLEY: Okay. How about -- I saw Rodney Little out there. Rodney, you have a problem with this, or are you okay with this?

MR. LITTLE: We're fine.

GOVERNOR O'MALLEY: Great. Okay. Mr. Israel, you want to talk to us on behalf of opponents? Or other opponents, you all want to gather around to have your say here?

But we've -- having been through this --

SECRETARY MCDONALD: If anybody else who called, could you just stand up behind Mr. Israel.

GOVERNOR O'MALLEY: I've got them, Ms. McDonald. Rock Toews, Ed Hartman, Gil Renaut, Rebecca Stedman, Herb McMillen, Bill Burtis, Mary Powell.

Yes, Mr. Israel.

MR. ISRAEL: My name is Richard Israel. I live at 61 Shaw Street. I'm the Alderman for the First Ward of Annapolis, which includes the City Dock and the land that is the subject of this lease is adjacent to the City Dock.

I only wanted to address two matters. One of them is the issue of the application of local laws. As a local official, I certainly recognize and accept that the State is immune from our local laws. What I object to is the State's lessee being -- extending this immunity to lessee's of the State.

Now, I understand that the Attorney General has taken the position that that can only be waived by statute. I would point out that the lease itself has certain references to the application of local law and so on, but confuses -- presumably that lease is reviewed by the Attorney General's office.

I would -- I very much commend the Cohen Administration for taking the initiative to address some of the concerns that I've raised in the lease that the City would have with the Sailing Hall of Fame. These are issues that I think can be -- I would point out that the letter -- the document that was given to me this morning is simply a letter of understanding. And I think it's very encouraging. It

seemed to address most of the issues that I have raised, but it is unbinding. And so it would only be binding if it's incorporated in the lease that the City has with the Sailing Hall of Fame.

And -- but I'm very encouraged. I commend the Cohen Administration for taking this initiative. And I think that the City Attorney, Karen Hardwick, has done a very good job of discussing these issues and reducing them in writing. But as I pointed out -- I would point out that it's not binding. There's still further negotiations, and I'm very encouraged by that.

I would also -- I continue my objection as a citizen and a tax payer in releasing this valuable property for one dollar a year. It's not in the financial interest of the State. But that isn't an issue that -- for the local government. That's for -- that's a State issue.

At this time, I would defer to the people who have indicated they would like to speak. Thank you very much for your attention.

GOVERNOR O'MALLEY: Thank you, Alderman.

Yes, sir.

MR. HARTMAN: Good afternoon. My name is Ed Hartman. I'm here on behalf of the United States Yacht Shows.

Very brief, once a year we put on these shows. We bring in about two hundred people to set it up and take it down. It costs us -- we've budgeted this year \$2,070,000 to put this show up. Most of that money is spent -- almost all of it is spent locally.

And the shows themselves, there are approximately -- almost exactly 10,500 people who come to -- who work the shows to man the booths.

To put the show on, we need a certain electrical service which is located on the State property which is about to be leased to the Sailing

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Hall of Fame. If we do not have access to that service, we cannot put the show on. It's that simple.

I have asked that the lease language be amended to require that that service be made available to us, and, further, that if the Sailing Hall of Fame should choose to take it away or move it, that it be done without expense to the boat shows.

I have been assured by Ms. Evans of the DNR that we will get the service, but it won't be put in writing. And I've learned over the years in running a business, that if it isn't in writing, you can't base your whole business model on it. The very simple language that I have prepared and submitted that the DNR has declined to put it in. I ask you to put it in. Absent that language, we have a business which, if Ms. Saunders should get run over by a truck and somebody else takes her place, in short, we have no assurances if it's not in writing.

And I ask that it be put in writing. I have, and I can submit to you, very briefly, that --

GOVERNOR O'MALLEY: Give that to Ms. McDonald, and we'll make sure that the Mayor gets a copy, although I'm sure he probably has already received one. And --

MR. HARTMAN: And that's all I --

GOVERNOR O'MALLEY: -- your testimony is on record here --

MR. HARTMAN: Thank you.

GOVERNOR O'MALLEY: -- before all of us. And we greatly appreciate the boat show. And the Mayor's assured me -- he appreciates how important it is to the economy of Annapolis, as well.

MR. HARTMAN: Thank you.

GOVERNOR O'MALLEY: Thank you, Mr. Hartman. Next.

MS. STEDMAN: Good day, Ms. Kopp, gentlemen. My name is Rebecca Stedman of Maryland and New York. We have family here in Annapolis and in Western Maryland.

I'd like to ask for your consideration in the lease that you require the tenant to -- or the State to go ahead before it leases the property -- the Captain Burtis House and waterfront site, that you file a deed of easement. This would protect the house whether it's a preservation easement, the exterior and interior, or a land conservation easement. It would protect the house regardless of who the tenant is, regardless of the design of the Sailing Hall of Fame. Working with the Historic Preservation Zoning, it is an overlay zoning. It works with the city zoning in order to establish the architectural integrity that has been preserved in this National Historic Landmark.

I think that, you know, especially with the State and the city having arms, branches that specifically oversee preservation needs of this State, that this would set a precedence and a benchmark for how to correctly preserve this waterfront site. There is no other existing waterman's house at the waterfront in the City of Annapolis. And Annapolis

set the standard for other cities, including Charleston and Savannah, as they went forward and did their urban preservation of neighborhoods that many thought should only be, you know, developed with bigger box buildings.

So an easement on the house would permit the adaptive reuse properly, but insure that the house is cared for as it should be.

Thank you very much.

GOVERNOR O'MALLEY: Thank you.

MR. RENAUT: Thank you. I'm Gilbert Renaut. I spoke last time, and I've bored you with two dense letters. I'll try to keep it very brief.

I want to support my Alderman, Mr. Israel. The point he's made repeatedly that, I think, maybe is somehow being missed. When the question went from the last meeting about whether it could be in the lease, I thought the question was could it be in the lease without giving rise to any inference of waiver. But

what came back was an answer that said the Board of Public Works can't waive it.

I don't think that was ever a question. I think there's a -- if I understand correctly from Mr. Israel, who was, after all, an Assistant Attorney General, it's been done in the past successfully without any waiver. And I still think that's the safest thing to do. You know, it sounds like Mr. Israel proposes to put it in the City lease, and that may take care of the problem.

But I -- you know, I'm not an opponent. I'm a yacht club member. I'm the past president of the Chesapeake Bay Yacht Racing Association. I'm for this. I'm just worrying about some of the things that are being done and not being done and how it's all going to play out over the next 50 years. And I think you've probably heard as much from me as you need to.

Thank you very much for listening. I know you're not required to.

GOVERNOR O'MALLEY: Thank you.

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TREASURER KOPP: Thank you for the letters.

MS. POWELL: Good afternoon. My name is Mary Powell. I'm here to speak. My husband is the great-great grandson of Captain William Burtis. The home was essentially taken from the family -- eminent domain -- but it was taken from them. And now we see it being given to a Sailing Hall of Fame that does not honor or represent the true history of that site.

In addition, I'd like to comment that President John F. Kennedy saved that particular area with the request from St. Clair Wright and Marion Warren, because the Naval Academy was taking it over. So that area was saved by John F. Kennedy. And now the State of Maryland is going to demolish part of this history.

I also would -- my last comment, we formed a non-profit. We submitted a proposal to restore the house, and it was my understanding it was to be taken into consideration, but we never received a response, not even a note of thank you. So I don't think the

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process has been open and transparent. We also requested public hearings, and we never got a public hearing. I feel we were denied.

Thank you very much.

GOVERNOR O'MALLEY: Thank you. Yes, sir.

MR. TOEWS: Hi. Good afternoon. My name is Rock Toews, and thank you for listening to us. And I'll be very brief.

I live in Annapolis. I'm a citizen of Maryland. The thing -- the two things that concern me the most about the proposed lease -- and I did send a letter or two, maybe, so you've probably already gotten a sense of my concern. But basically, the -- one thing that will concern every Maryland taxpayer is that I think this is a pretty bad deal, fiscally, for the taxpayers of Maryland.

I don't oppose the idea of a Sailing Hall of Fame. I just don't think it should be on a site where the Maryland taxpayers, essentially, are subsidizing the real estate holding costs for this private entity

which then becomes a little bit more complicated when you remove the jurisdiction of local laws over the same entity.

We really don't know what -- I mean, there's not going to be a lot of control over what they can do. I mean, we can say that they serve a public purpose, but who defines that? Where is that defined? Who monitors it going forward? And if it becomes evident that they are straying from that, who enforces it? Who brings back the controls?

So I don't want to take up any more of your time, but those are basically my concerns -- fiscal, and the local control. And I know that there have been attempts to address at least the local control part of it. But I think that it's still a very nebulous thing. And, you know, I could donate my house to the State and say, you know, "You pay my property taxes for the next 50 to 70 years, and I'll just live here and do whatever I want, you know."

I mean, I think that sets a bad precedent. We talked -- in the last meeting it was brought up about a precedent. I think this is a precedent that deserves some consideration, as well.

Thank you.

GOVERNOR O'MALLEY: Thank you. Okay. Are there any fireworks?

MR. COHEN: I'll be happy to answer any questions you may have.

GOVERNOR O'MALLEY: Do you have any questions, Mr. Comptroller?

COMPTROLLER FRANCHOT: I have a question. Is the AG representative here?

SECRETARY MCDONALD: Mr. Walchak? All right. Did you have the Attorney General -- J.P. Howard's here along with a counsel of General Services, Mr. Walchak, and a counsel of Natural Resources, Ms. Lowe. So I think all three -- between one and of the three of them, one of them can probably answer your question.

And you have the piece of advice that Ms. Lowe wrote?

COMPTROLLER FRANCHOT: Yeah. I know. That's what I want to ask about.

SECRETARY MCDONALD: Okay.

MR. HOWARD: Good morning, Mr. Comptroller, Governor, Madame Treasurer. J. B. Howard, Deputy Attorney General, for the record. With me is Sally Lowe, Assistant Attorney General, Department of Resources -- Natural Resources and Scott Walchak, Assistant Attorney General at the Department of General Services. And depending on the question, we'll know who comes up and answers, but it's --

COMPTROLLER FRANCHOT: Thank you. Thank you for being here. And last time we talked a little bit about the broader issues, the financial viability of this project, et cetera. But I do want to kind of focus in on your opinion here, because I'm concerned that we really are establishing a precedent that we're going to potentially regret down the road.

We asked you at the last meeting to go back and see whether there wasn't some waiver of this sovereign immunity in this specific case. And then, Ms. Lowe, you wrote in this memo on February 2nd, that, "DNR does not have the authority to waive the State's governmental immunity" --

MS. LOWE: Yes.

COMPTROLLER FRANCHOT: -- that's a quote -- "without legislation to that effect."

Now, I can see what you're driving at, which is us trying to, in effect, grant itself new or expanded authority by our, you know, getting involved with this lease, but I guess -- and I can see your point. I understand that whole concept of sovereign immunity. What I don't understand is why we can't voluntarily cede some of our prerogatives in this case.

MS. LOWE: Well, I think that State can waive sovereign immunity. It does waive sovereign immunity in cases.

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COMPTROLLER FRANCHOT: I'm not -- hang on a minute. If I could just --

MS. LOWE: I'm sorry.

COMPTROLLER FRANCHOT: -- get to my question, if I could. In other words, in this lease that we're looking at now, it says -- or whatever it is -- this memorandum of understanding I was given, I guess, this morning -- there are all sorts of clarifications and confirmations that the sailing hall museum is entering into, I take it, with the City of Annapolis' laws and rules and regulations, et cetera.

MS. LOWE: Well, the lease stipulations that the Sailing Hall of Fame has to abide by all applicable laws. And I believe that language is in that letter. So that whether a law is applicable or not applicable would depend on whether it would require a waiver of sovereign immunity or not as to whether it would apply.

COMPTROLLER FRANCHOT: Yeah, but what, I guess, interests me is, short of an act of the

legislature, doesn't the State have the right to grant something that it believes would be advantageous to itself, particularly if it shows that it was the right thing to do?

MS. LOWE: Well, I believe the waiver of sovereign immunity is a legislative function.

COMPTROLLER FRANCHOT: Okay. So --

MS. LOWE: The State can waive --

COMPTROLLER FRANCHOT: Okay. Let me ask this. Suppose we -- wild leap of logic -- all of a sudden have all sorts of excess property that the State was -- had a burning of public interest to get rid of, and we decided in our collective wisdom to place a pawn shop down there on that site, and lease it to a pawn site with a big neon sign, because we need to get revenue for our programs. Are you contending that the -- that we could do that on State property and not run afoul of local zoning or local requests for calming down and doing the right thing?

MS. LOWE: Well, I assume we wouldn't do that, but if it's within our sovereignty to do it, I believe we could with -- I mean, the Legislature could decide to delegate that authority to somebody. They could decide to delegate that authority to DNR that -- to waive sovereign immunity in cases where they believe it's appropriate. But I couldn't find anything that actually did that.

COMPTROLLER FRANCHOT: So you're -- I mean, I find it just remarkable. We've got this opinion, which I take it goes back to a 1977 case. That's what you're basing this on? I mean, it's a question about --

MS. LOWE: Well, it's pretty -- I think it's settled law that --

COMPTROLLER FRANCHOT: -- it would be --

MS. LOWE: -- that the State is not subject to local laws unless the State absolutely binds itself and makes it clear that it's bound itself. And I think that's pretty settled law in Maryland.

COMPTROLLER FRANCHOT: So this paragraph here, really, at the end of Paragraph H, here, we might as well just "X" that out, because it doesn't mean anything.

MS. LOWE: What paragraph?

COMPTROLLER FRANCHOT: When you say -- you take it that the word "applicable" basically --

MS. LOWE: Well, there are laws that would be applicable. Laws that apply to the user rather than the property, law -- then those would certainly be laws that the Sailing Hall of Fame would have to abide with. It would have nothing to do with the State waiving its sovereign immunity. Any laws that go to the user -- maybe a liquor law goes to the user and not to the property, then they would be subject to it.

COMPTROLLER FRANCHOT: Well, I mean, my problem -- if I have a problem with this -- can be summarized in two structures -- so -- within a half a mile of where we're sitting right now. One is the

County Courthouse on Church Circle where the County, I take it, waived its sovereign immunity somehow --

MS. LOWE: Possibly by the County Council which is their legislative branch.

COMPTROLLER FRANCHOT: I don't know whether it was the County Council or not. I understand it was the County Executive. But in any event, they waived their sovereign immunity, and they allowed the historic preservation group to have approval over the design. And as a result of more than 17 different public meetings, they ended up with an award-winning, spectacular design. And it's functional and historic and -- I'm not an architect, but everybody says it's aesthetically about the best you could have gotten. Kind of a messy process. Nobody wanted to go through 17 meetings.

But that stands in stark contrast to this edifice that I pass every day on Rowe Boulevard which did not go through that process, the District Court Building, where we shielded everybody with all this

State immunity. And the upshot of that is something that we'll regret -- or most people will as they drive by -- for the next 50 years, because it doesn't fit, doesn't look right. I don't mean to be an art critic here, I'm not competent to do that, but you get what I'm driving at.

The review and the approval of these local bodies has a purpose. And I'm just -- I don't mean to get hot under the collar, but when I read this opinion, I just took it as a -- it's just an unfortunate position. Maybe you guys are forced to be in that and can't see any flexibility. But --

MR. HOWARD: Mr. Comptroller.

COMPTROLLER FRANCHOT: Go ahead. What do you

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MR. HOWARD: Well, I wanted to confirm this, but counties do not have sovereign immunity. The State does. So that would have been a different situation. Presumably a county can waive the applicability of its own zoning laws. But this is a

very different situation. State sovereign immunity goes back to the colonial days, and it is well established since then that only the General Assembly can waive it.

So this happens all the time. I realize this is a particularly controversial application, but it's something that happens all the time.

COMPTROLLER FRANCHOT: Oh, and I forgot to mention, both of these buildings, which I think contrast greatly in their appropriate design, they were designed by the same architect -- the same individual.

But it's the process that produces the product on one hand and on the other hand. And I'm afraid that, I guess, what we're doing here is approving something that has a process attached to it, but it's already been stated that the process, at least as far as the design, is very limited.

I thought Mr. -- was it Mr. Renaut -- is that who testified up here. I thought that that was a

really excellent statement. I'm pretty impressed with his legal statements.

So if I could ask the Mayor, are you aware that this paragraph here -- "NSHOF fully intends to construct and operate its facility conforming to applicable City of Annapolis Laws, Rules, and Regulations", that that does not -- if you object to the ultimate design, you basically are -- I take it that the testimony of the Attorney General is you don't have any control over that.

MR. COHEN: Help me out. What document are you looking at?

COMPTROLLER FRANCHOT: The memorandum of understanding between you and Mr. Franyo --

MR. COHEN: Okay. The --

COMPTROLLER FRANCHOT: -- dated February 23rd, 2010, paragraph -- Item H -- oh, I'm sorry, Item I. It's a long sentence that starts off, but the part in there about the sailing hall museum fully intending to construct and operate its facility in conformity

with your laws, rules, and regulations. That basically doesn't really mean a lot, because the State -- this is a State project, and we have sovereign immunity.

MR. COHEN: That's correct. And if you look at the next page, which is the proffer, Number 3, Paragraph D, it talks about the "plan shall conform to" -- and I'm skimming over -- "the applicable laws, statutes, ordinances", et cetera. And there is question about what does the word "applicable" mean, like was mentioned previously.

I mean, what could be determined to be applicable given the State's sovereign immunity? So -
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COMPTROLLER FRANCHOT: So your testimony is that if it's something that applies to the individual operating facility, you may have some authority, but otherwise, you're just -- you're just on the wrong side of the legal argument.

MR. COHEN: Right.

COMPTROLLER FRANCHOT: I find that to be just amazing.

MR. COHEN: Well, given the State's sovereign immunity, that's the position the City finds itself in. And like I've said earlier, I'm very comfortable with the process that has been followed despite the fact that at the very end, if push comes to shove, the City does not have the authority to require compliance with our local zoning.

COMPTROLLER FRANCHOT: Okay. And I just want to thank Mr. Israel. You know, I've gotten a whole pile of mail from people that lambast him for opposition to this. I don't -- I have not seen him in opposition to this. I have seen him in an effort to try to improve what's being put down there and applaud him. There's all kind of boiler plate language, but it all roundly criticized him.

Since this is, I take it, a State project, we're going to have MBE requirements as we do for any State project?

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MR. COLLINS: Yes.

COMPTROLLER FRANCHOT: Is that in writing?

MR. GAINES: It is in writing. We have a letter from the Sailing Hall of Flame -- Fame --

(Laughter)

MR. GAINES: -- sorry about that -- slip of the --

GOVERNOR O'MALLEY: Pinky Stewart lives.

MR. GAINES: Right. We do have a letter indicating that they are voluntarily committing to include minority participation in the design and construction of the facility as we indicated to you at the last Board we would get.

COMPTROLLER FRANCHOT: Okay. And then the State's prevailing wage law since it's a State project?

MR. GAINES: The State's prevailing wage law?

MR. WALCHAK: No, there won't be any --

COMPTROLLER FRANCHOT: I mean, this is a State -- this is a State project.

MR. WALCHAK: This is actually not a State project. It's a project with a public purpose. A State project is a project funded with State funds. There's no State funds going into this project, State real estate only.

COMPTROLLER FRANCHOT: Aren't we forgiving all of the tax payments and stuff?

MR. WALCHAK: We don't pay tax on that property. It's a State-owned property.

COMPTROLLER FRANCHOT: Okay. Final question to Mayor Cohen, if I could. The February 16th -- John Guild, who's the CEO and President of the Historic Annapolis Foundation wrote to us and said that he would like to have approval of the NSHOF project. So that's something that you think is not necessary?

MR. COHEN: Correct. I think it's not necessary. And another preservation group wrote a letter requesting the same thing, to require -- not necessarily Historic Annapolis Foundation approval,

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but local zoning approval for the preservation part of it.

COMPTROLLER FRANCHOT: Okay. I'm finally done.

GOVERNOR O'MALLEY: Yes. Come on down. And then this really has to end.

MS. FLIGSTEN: Okay. I'm Ann Fligsten. And I wasn't really going to speak, because you asked for opponents and supporters. I haven't been involved in this, but I'm not either, really.

I am here representing the point of view of Preservation Maryland. And you should have received a letter from Preservation Maryland. And I think in -- it went to all of you.

We don't want to lose track of the long term here. Everybody's excited about the Hall of Fame. They don't want any roadblocks. I think they're all getting along well. As far as the review process, everybody seems happy.

What I think we are concerned about is having the highest level of scrutiny for something as important as the front door of the historic district. And this is a National Landmark District. So I think that if you voluntarily -- if they voluntarily will follow MBE and they'll voluntary do other things, they can voluntarily subject themselves to the Historic Annapolis Preservation Commission.

And I also say, I was the president of Historic Annapolis for eight years. And we have a number of leases with the State of Maryland. We always took every project to the Historic Preservation Commission. I don't -- I hope we weren't messing up your sovereignty, but we felt that was our duty.

So I don't think that such an important site should be exempt. And I think if we start exempting properties owned by the State operated by others, we have a bit of a problem.

So thank you very much.

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GOVERNOR O'MALLEY: Thank you. And, yes, sir.

MR. GUILD: I'm John Guild, and I'm the president of Historic Annapolis Foundation. I had not planned to speak today.

The point of -- on your comments, we are actually not asking HAF to be part of the approval process. We are asking that they comply with the laws and consult with and obtain approval of the Historic Preservation Commission here in Annapolis.

So a side comment, we continue to take our projects to HPC for approval, even though they involve State properties. Thank you.

GOVERNOR O'MALLEY: Thank you. And anybody else? No? Yes? Sir.

MR. MCMILLEN: Hi. I'm Herb McMillen. I'm the president of the Maryland Taxpayers Association. And I'm here because -- I'm not opposed to the sailing center at all. As a delegate, I supported it. As an Alderman, I've worked with the boat show.

To me, it seems like there is a way to do both of these things. I think it's important to listen to some of the other considerations, but with respect to the lease, I think that the electric services are something that can be negotiated. The State could ensure directly that the boat show will be able to utilize. If the boat show doesn't have access to those services, they're going to have a very big problem putting the show on.

And why is that important? Well, first of all, one of the reasons why Annapolis -- we can claim to be such a center for sailing, is the boat show. The boat show has brought Annapolis to the forefront over the last quarter century with respect to sailing and boating. And it's important.

And I guess one other aspect that I think needs to be considered is these days people talk a lot about jobs and how important they are. The boat show, it was estimated about a decade ago, pumped in about

\$51 million into the local economy over the two weeks that it's here. They provide 200 jobs.

The notion that you can just continually not treat a business well and that there won't be ramifications -- they might not go to, say, Norfolk, for instance -- has been disproved time and again. The way we treat businesses matters. And the reason it matters is because those businesses provide jobs and ultimately they provide revenue to the State.

So I would ask that when you take a look at this lease -- I'm all for the sailing museum, but let's put some concrete things in there that will protect the boat show so that both can exist and both will be jewels of the community. I think that can be done, and I would ask that you do it.

Thank you so much.

GOVERNOR O'MALLEY: Okay. Thank you.

MR. COLLINS: Governor, not to prolong the discussion, but can we respond to that one issue? Please, Mr. Gaines.

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GOVERNOR O'MALLEY: Sure. Sure.

MR. GAINES: There have been a number of comments about protecting the boat shows' interest, the access to electricity and all of those things. Kristin Saunders Evans has negotiated in good faith with Mr. Hartman. All of the things that they have asked for are included in the lease. He has the protection for the access to the electricity, the sidewalks. We have met his demands. And we just wanted to get that on the record.

GOVERNOR O'MALLEY: Anybody else?

MR. ARNETT: Governor, Treasurer, Comptroller, Lieutenant Governor, I'm Ross Arnett, Alderman from Ward 8. And to some extent you can blame me for this, because I authored the legislation to sponsor the Sailing Hall of Fame.

You've seen a number of people here before you, and, in fact, I would submit you've seen virtually all of the people who have some negative concerns about the Sailing Hall of Fame, but you

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haven't seen the vast plurality of the City Council who do support it and who want it because of the good that it will bring to the City nor the literally thousands of city residents who support it. So I would hope you would keep in mind the balance of the people who are not here and would really like to see this go forward.

I would finally say that I do appreciate and have participated with Mayor Cohen in all of the processes which I think are going to make it possible to reflect the concerns of the citizens that live in Ward 1 and actually the other Wards, Ward 2, and my own Ward that surround the downtown harbor area. And I think we can -- within our own jurisdiction -- resolve those issues pretty satisfactorily.

Thank you.

GOVERNOR O'MALLEY: Thank you. All right. If there's nothing else, unless anybody wanted to be heard? Comptroller, Treasurer?

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Okay. Treasurer moves approval, seconded by

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COMPTROLLER FRANCHOT: I'm going to second this. I don't agree with the AG's opinion. I think it establishes a bad precedent, and I'm sorry we couldn't have a little more flexible process there. But I think that the project, conceptually, is a good one, and I will second the motion.

GOVERNOR O'MALLEY: All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed. The ayes have it. Thank you very much for your patience. We now --

MR. COHEN: Thank you very much.

GOVERNOR O'MALLEY: That was 5-LL.

MR. COLLINS: Yes, sir.

GOVERNOR O'MALLEY: And we'll now move on to the balance --

MR. COLLINS: Yes, sir.

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GOVERNOR O'MALLEY: -- of the Department of General Services. Is there any -- are there any questions on the balance of the Department of General Services Agenda? We've had ample time to review it.

All right. Comptroller moves approval. Seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

MR. COLLINS: Governor.

GOVERNOR O'MALLEY: The ayes have it.

SECRETARY MCDONALD: He needed to withdraw two items from his agenda before you --

GOVERNOR O'MALLEY: Even though we just approved them?

SECRETARY MCDONALD: Yes.

MR. COLLINS: Can't use them.

SECRETARY MCDONALD: Just tell them what items you want to withdraw.

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MR. COLLINS: I need to withdraw, Governor, items 28-RFP and 34-LT.

GOVERNOR O'MALLEY: All right. So he wants us to reconsider that last vote. A motion was made by the Treasurer. Seconded by the Comptroller. All in favor signify by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: And there are -- no. The ayes have it. We are now on that --

SECRETARY MCDONALD: Secretary Schlanger.

GOVERNOR O'MALLEY: -- on that original motion. And now we are withdrawing from our consideration Items No. --

MR. COLLINS: 28-RFP -- 28-RFP and 34-LT.

GOVERNOR O'MALLEY: 28-RFP and --

MR. COLLINS: 34-LT.

GOVERNOR O'MALLEY: 34 LB.

MR. COLLINS: LT.

GOVERNOR O'MALLEY: LT -- 34-LT. All right.

I just made that motion, seconded by --

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TREASURER KOPP: Can I just ask a question?
There's only one "34". Why do we have to --

SECRETARY MCDONALD: Because it's a type of
an item, and it does help with our record-keeping --

TREASURER KOPP: All right.

SECRETARY MCDONALD: "LT" stands for
"Landlord/tenant".

TREASURER KOPP: All right.

SECRETARY MCDONALD: You immediately know
that it's real property, landlord item in which we're
a tenant. And it does help sort our database out.

GOVERNOR O'MALLEY: All right. So --

MR. COLLINS: Twenty-eight --

GOVERNOR O'MALLEY: We have removed those
items. I don't think we need a motion for you to
remove items from the agenda. So we're now back on
doing everything except for those last two.

Comptroller moves approval, Treasurer
seconds. All in favor signal by saying, "Aye."

THE BOARD: Aye.

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GOVERNOR O'MALLEY: All opposed, "Nay." The ayes have it. We now move on to the Department of Information Technology.

MR. SCHLANGER: Good afternoon, Governor, Madame Treasurer, Mr. Comptroller, Lieutenant Governor. Elliot Schlanger, Department of Information Technology. We do have four items on the agenda today. We would be happy to discuss any of those items at this time.

SECRETARY MCDONALD: Okay. There was one speaker request on Item 4-IT. So if you want to hear that speaker, who I think is opposed to the Item -- I don't know if you want Mr. Schlanger or Ms. Lamone to explain Item 4 first.

MR. SCHLANGER: Item 4-IT -- we're asking the Board to consider approval of a contract to provide IT project management and support services for the existing Statewide system -- it's a voting system. And today I have colleagues from the State Board of

Elections that will be able to give us some background on that contract.

VOICE: He's coming in. He just went out to get him.

MR. SCHLANGER: Okay. Are there any questions that you have, or would you just like some general background on the contract itself, or what --

GOVERNOR O'MALLEY: You want to encapsulize it for us?

MS. LAMONE: Good afternoon. For the record, it's Linda Lamone, Administrator of the State Board of Elections. It's been a long day for you all.

The agenda item is the contract to provide information technology project management support services to support the statewide voting system. Now, this contract is a contract for the normal support services that we have in place for -- regardless of the voting system that we use.

The contract covers a lot of different services related to the voting system. Because we

thought we were going to be going with a new voting system, it covers the implementation of that, which we apparently are not doing; it provides the staff support to administer the election; to implement early voting, which we will be doing for the first time; and support for the electronic poll books, which we will be using in an entirely different setting with early voting.

The base period of the contract is for the 2010 gubernatorial primary, and general; the 2011 Baltimore City Mayoral primary, and general; and then the 2012 Presidential primary, and general.

As I said, now that we're not implementing a new voting system, there are many aspects of the contract that we will not be using. And since this is an indefinite quantity/indefinite deliverable contract, that's not a problem. It's an al la carte, to use another way of describing it. So we won't have to do, for example, system integration, integrating a new voting system with our existing systems; all the new documentation that would have been required,

obviously, won't have to be done; training on using the new system for the local election boards and the poll workers; and voter education. Obviously, when you introduce something new like that, you want to make sure your voters know how to use it.

However, there are a lot of really essential services that we do need in this contract to support the things that I just enumerated -- the poll books, early voting, and regular election operation. It includes things, as I said, the support services, but it also includes things like transportation -- getting the poll books and the voting equipment out to the polling places and back to the warehouses in the counties. And that might sound trivial, but it's not. It requires a lot of security and effort. We are very careful in who is selected as the transporter, because we do not want voting equipment sort of wandering around the State, not to be facetious.

And this is a State-wide implementation, and, as such, it's like any other major IT program, it

requires a great deal of planning and coordination among a lot of folks.

The contract for the three years that I just mentioned is a total of \$20.8 million. Of that, we are anticipated using for those three years roughly around \$12 million or \$6 million cost to the State, 'cause under the law, the counties have to pay for half.

If we had -- even if we were implementing the full system with the new voting system, there probably would have been some of the services that we would not have had to use. And we are looking still at ways to reduce the services, much to the chagrin of the contract awardee. The estimated cost for fiscal 2010 is roughly \$760,000, and for FY '11, \$5 million. And again, those are costs that we share with the counties.

The -- there's been a lot of discussion about the cost of the optical scan voting contract that was -- that is not on the table, but I'd just

like to give you a brief little background. The Maryland contract has -- the bid came in. We only got one bid. In essence, it was for \$32 million over 16 years. The out years primarily includes your warranty support.

Now, there's been a lot of comparison to other jurisdictions, one of which I think you'll hear of today, or you've already been -- heard about, is a comparison of Maryland to Cuyahoga County in Ohio. And when we were made aware that we were being compared to this county in Ohio, we called the county to find out exactly what the situation is with their recent voting contract.

As I said, the Maryland contract was for 32 million; Cuyahoga County was for 16. Our contract was for 16 years; theirs is for five. The number of registered voters, we have approximately 3.4 million, and they have approximately one million. The cost per voter for Maryland was 56 cents; the cost for Cuyahoga County was \$3.25. That, I think, shows you that when

you're trying to compare apples and oranges, you need to get the information in order to make it an apples to apples comparison. And the amount of support services that Cuyahoga County is considerably more than any of the counties in the State of Maryland have.

Just to give you that brief comparison so that you know what we are talking about with the voting system contract, which we're not doing today.

We have worked very closely with both the Attorney General's Office, the Department of Budget and Management, and especially with the Department of Information Technology to come up with a services contract. And it's been a great partnership, very collaborative. And we also worked with DOIT and made a determination that the existing service contract is in line with the prior spending for similar services over past elections.

As you may or may not know, we only received one bid for this contract even though we advertised it

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on Emaryland Marketplace. The solicitation notice was mailed to 15 perspective offerors. It was also advertised on the Governor's Office of Minority Affairs. And I must say we were shocked when we only got one bid.

We had separated the voting system contract out from the services contract in the hopes that we would get more bidders on both, because there are some small voting system manufacturers that would be able to supply the equipment but not necessarily able to supply all the services that we require for statewide implementation.

The interesting thing was when we reached out to the non-bidders, some of the comments was that this wasn't something they ordinarily provided. They had other commitments that precluded their participation. The scope of the work was beyond their capability. And, lastly, that the requirements were too risky. I think a lot of people realize that

implementing a new voting system in -- on a statewide implementation schedule is, indeed, a risky situation.

The solicitation was developed in collaboration with, as I said, some of the other State Departments, but most importantly, with the local Boards of Elections. We felt that those were the ones that had to actually run the system, and that it was necessary to get their input into both RFP's so that we could meet their needs.

And additionally, several of the counties, as you may know, had optical scan voting systems before we went with the touch screen. So several of the local election directors and their staff were very familiar with what they needed with regard to both the voting system and the services that are in the contract.

There's been a lot of issues that have been raised about the cost of the peripheral supplies if we had gone forward with the voting system. Again, we asked the vendor to tell us what they recommended that

we should go forward with. We had no intention whatsoever of accepting that proposal wholesale.

And, again, we -- one of the things is that the vendor proposed using sturdy polling booths for the -- that the voters would stand up and use in the polling places. And the advocates are saying, "Well, no, you can use paper that you set on top of a table."

What we did was we surveyed the local Boards of Elections to find out what their response was to using a disposable -- in essence, disposable voting booth, and most of them objected, because would have -- for several reasons. They would have to go out and buy tables and chairs, because a lot of the polling places didn't have them. It would add to the cost of the transportation of getting the table and chairs to the polling places. And many of -- and most importantly they were concerned about voter privacy.

That is about all I have for -- in my presentation, unless you all have any questions. And I'm sure you do.

GOVERNOR O'MALLEY: Questions?

COMPTROLLER FRANCHOT: I have, I think, for the Secretary or maybe Secretary Foster. We're being asked to approve a \$43.1 million contract over seven years. And I guess I'm a little bit frustrated with this item, because everybody supports the underlying issue of trying to move from touchscreen voting to the paper ballot, I guess, optical screening. And I appreciate the fact that that's underneath all of this contract. And then the bidder, even though there's only one bid -- which I do have a question about -- it turns out to be a Maryland-based MBE, which I think is terrific. I think that's excellent.

But I'm probably going to vote against it, and I'm pretty frustrated, because here we have an acceptable contract that's for a good purpose, but we have no money appropriated to pay for it.

And according to the briefing materials, the notice to proceed under the contract decision will be issued when funds are appropriated. And in my

experience this is now the third time in three meetings that we've been asked to approve a contract - - one of them is retroactive -- that had no identified source of funds. And probably my vote in opposition will be misinterpreted as voting against transparency in elections. It isn't the case.

And gosh knows I want transportation provided for the Board of Election. If you recall the primary in 2006, Montgomery County failed to have the whatever it was delivered to them that allowed the machines to operate, or at least they didn't arrive until 11 or something.

MS. LAMONE: Yeah. The cart.

COMPTROLLER FRANCHOT: But I am compelled -- 'cause I just think this is a bad fiscal habit we're getting into that allows us, basically, as a Board to preempt the spending authority of the Legislature. And I think at some point, it's going to arrive with considerable fiscal and legal liability for the State, something that we regret.

And Secretary Foster, I understand you're processing a budget amendment for \$616,000 for fiscal year 2010 with the State's portion coming via 2010 supplemental deficiency.

MS. FOSTER: Well, essentially, Mr. Comptroller, what you did today on Item 23 on the --

COMPTROLLER FRANCHOT: No. I noticed that. The hundred and seventy-five thousand. But that's a small amount of money compared to a \$43 million contract.

MS. FOSTER: If I could finish?

COMPTROLLER FRANCHOT: Go ahead.

MS. FOSTER: Today, what you did was you approved taking a hundred and seventy-five thousand dollars out of the Contingent Fund. The counties, of course, will have a matching amount. So essentially, what we're doing is we're providing \$350,000 so that the State Board of Elections can begin what we believe are the most sensitive portions of the contract, and that they can start that in March.

The plan is that additional funding is going to be provided through a deficiency appropriation. As you indicated, the General Assembly is in session. So we have an opportunity to go before them during this legislative session and request deficiency funding for fiscal year 2010.

COMPTROLLER FRANCHOT: Okay. So you're comfortable with approving a \$43 million contract over seven years, which I thought was to bring in the new optical scan voting system. But now, for budget reasons, we're not going to have that new optical scan voting system. But we are going to have a \$43 million service contract.

MR. SCHLANGER: We need to support whatever system that we use. And the way this contract is set up, we pay for services that we use. And all the unit costs have been worked out. So essentially, it is a time and materials contract where the unit rates have been set.

COMPTROLLER FRANCHOT: Okay. So the six hundred and sixteen plus the hundred and seventy-five we approved earlier, that's going to get us through the election?

MS. FOSTER: Essentially, I think what the administrator indicated was that she needed 760,000 for the current fiscal year, essentially, with the items approved today, plus the balance that they had on hand -- that's the three fifty -- we'll be going forward with a deficiency appropriation for the balance.

COMPTROLLER FRANCHOT: For what balance? For the rest of the 43 million?

MS. LAMONE: No.

MS. FOSTER: For the rest of what they need to get them through '10. I guess the issue here is we're addressing right now the most sensitive portions of the contract that Ms. Lamone feels that she needs to go forward with at this point in time.

COMPTROLLER FRANCHOT: Yeah. I'm just wondering since we're not spending the 30 million on the new system that this contract is partially designed to support, why do we have to approve a \$43 million contract? Why don't we approve whatever is necessary to get us through the election? What is that dollar amount, please?

MR. SCHLANGER: There was a very, very negligible part that was related to the new system. As a matter of fact, the contract that would have hypothetically been proposed for the new system would have covered costs associated with having to deliver it and to set it up.

The costs, again, that are covered in this contract, generally apply to any system that we use. It is a myriad of services with respect to movement of equipment, set up of equipment, actually being on the floor when, in fact, these elections occur. And we're only going to consume and pay for those services that

are going to be required, regardless of what the equipment is.

COMPTROLLER FRANCHOT: And what, if I could ask, what is that amount to get us through the next election in September and November?

MS. LAMONE: Approximately six million dollars, half of which the State will pay and half of which the counties will pay.

COMPTROLLER FRANCHOT: Okay. So you need six million approved, I take it, and half of which you bill to the locals for the -- to get us through the next election? Why is that not a prudent course, given the fact that we don't -- I mean, you say it's just a little bit of this support services is used on the new system, but we don't have the new system in place. So why don't we just approve what the Elections Administrator says she needs for this year?

MR. SCHLANGER: Well, I think historically, and we did this as a sanity check. We took a look at how much we spent on, really, previous elections. And

so in terms of the length of contract and the funds that were allocated for it, it is right in line. So again, you know, the term of the contract is for three years with options. And we've always proven to be able to build the contract that has some sort of connectivity to it and out-use, so, in fact, we have a good price so we didn't have to through all the -- to having to go to transition between, say, vendors.

So we think the term of the contract is appropriate, and, hence, that's why we have the contract today for the period that we suggest.

COMPTROLLER FRANCHOT: Okay. Let me just -- it's nice to hear that.

If I could just ask you, while I've got you, on the RFP, the fact that we only got one bid, does that indicate that there's some flaw in our RFP process, because, you know, these requirements too risky, scope of work beyond capacity, things like that. Does that cause you any concern?

MR. SCHLANGER: Well, Mr. Comptroller, as you know, part of the role that we play is we get involved in the front end. When, in fact, an agency comes and puts together an RFP, we examine the scope of work, and we make sure that it is reasonable, not ambiguous, happens to reflect the needs of the agency. We spend much time in having to make that as good a document and artifact as we can. In this case, that's exactly what we did. So when that RFP went out, and there was sure an expectation that there would have been a more significant response than we got.

You know, it's hard to figure what's in the heads of the vendors out there, but we were as shocked as you are today, perhaps, that there was only one bid that came back that was acceptable for award.

What I would also tell you, is on the back end, the DOIT also happens to review the recommendation of the Procurement Officer, because, you know, we want to come forward and to be able to

say that we are confident that the process was valid, and, in fact, it makes sense for the State to proceed.

In this particular case, there is a question that we'll always have. Why did only one particular firm come forward? The firm did a credible job in terms of the proposal. To what we can see, there are no flaws. They are capable of having to do the work.

So to be honest with you, we're comfortable with the process. But even though, I cannot answer the question why, in fact, we're here today with only one firm that happened to come forward.

GOVERNOR O'MALLEY: Is -- did the -- if I can interject in here.

COMPTROLLER FRANCHOT: Sure.

GOVERNOR O'MALLEY: I don't mean to mess up your line, here, but the -- did the Attorney General - - didn't the Attorney General's Office have some problem with this?

MS. LAMONE: John Tennis from the Attorney General's office is here from the anti-trust division.

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He -- their concern is with the voting system company merger. And he's happy to address any questions, if you have them.

GOVERNOR O'MALLEY: And can I just -- I mean, explain to me what we're -- what we're being asked to vote on here.

MS. LAMONE: You're being asked to vote on a contract to support the running of the election this fall, next year for Baltimore City, and for the presidential election in 2012.

GOVERNOR O'MALLEY: With the current systems, not the --

MS. LAMONE: With the current --

GOVERNOR O'MALLEY: -- new system?

MS. LAMONE: That's correct.

GOVERNOR O'MALLEY: Got you. Okay.

MS. LAMONE: So all we're asking --

GOVERNOR O'MALLEY: So a vote in favor of this -- I was confused. So if we vote in favor of

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this, what we're voting for is to keep the current system for the short term --

MS. LAMONE: Correct.

GOVERNOR O'MALLEY: -- while you all work on the other stuff to figure out whether there's an anti-trust violation or --

MS. LAMONE: That's correct.

GOVERNOR O'MALLEY: -- whether we're getting, you know -- whether the price being offered is fair and reasonable, or whether we're being held over the monopoly barrel here.

MS. LAMONE: On the voting system, correct.

MR. SCHLANGER: That's right.

MS. LAMONE: This is simply the contract to run your election next fall.

GOVERNOR O'MALLEY: Okay.

COMPTROLLER FRANCHOT: If I could just ask the Secretary to revisit this -- I'm probably going to vote against it, as I said. But if it is approved, if you could revisit in whatever way is appropriate to

find out why we have such a high-dollar contract getting basically one bid from a field where there's a huge vendor force, as far as I know, of people that are potentially competent. And why we didn't get more bid competition. I'm not sure whether that's something you can do, but I'd like you to look at it, and maybe get back to us at some -- send us something in writing to --

MR. SCHLANGER: Okay.

COMPTROLLER FRANCHOT: -- to help us understand why we're not getting more bids.

And the Governor mentioned the anti-trust. Is there someone here from the AG's office on this?

GOVERNOR O'MALLEY: Seems to be up your alley.

MS. LAMONE: Yes. This is John Tennis. He's with the Attorney General's Office, Anti-trust Division.

MR. TENNIS: Yes. My name is John Tennis. I'm with the Attorney General's Anti-trust Division.

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We got involved in this investigation because of the fact that six days before bids were due here, ES&S bought its closest competitor, Premiere, which was the incumbent.

We're interested at this point in the new implementations, not the service contract. But we've been investigating the ES&S acquisition of Premier in conjunction with the U.S. Department of Justice. We believe that the acquisition violated State and Federal anti-trust laws, because ES&S and Premiere were each other's closest competitors before the acquisition. They were the only two companies, also, with optical scan voting systems to bid on our newer implementation that were certified under Maryland's rules and regulations. We think the merger made the - - may mean a decline in the quality of voting systems, because there will be no competition in the future, lead to higher prices, and less invasion.

We're working with DOJ this time, now, towards a remedy that's going to restore competitive

balance so that if there is a new RFP issued by Maryland for new implementation for the 2012 election, there will be more than one bidder. The idea here is to replace Premiere, which has disappeared from the marketplace and absorbed by ES&S, with one of the other competitors that's out there. And we believe we're close to a remedy that's going to effect that.

I'm constrained from talking too much, because all this information is kind of confidential. We've been investigating this issue with subpoenas, and we've worked with DOJ, which is asked us to keep any details confidential at this point. But we expect to have a resolution in this soon.

COMPTROLLER FRANCHOT: I have a question for the Secretary, and please stay up there so we don't say something proprietary. But is Cirdan the winner of this \$43 million dollar contract?

MR. SCHLANGER: They are.

COMPTROLLER FRANCHOT: Do they have any relationship, direct or indirect, with ES&S and Premiere and or whatever happened to Premiere?

MR. SCHLANGER: We have someone from Cirdan here if you'd like to ask questions directly.

COMPTROLLER FRANCHOT: Yeah. Sure.

MS. VATZ: Hello. I'm Joanne Vatz from Cirdan Group. Thank you for having me.

You asked me the question if we have a relationship with ES&S or -- and Premiere. Originally, when we put our first proposal together, Premiere was one of our subcontractors to help us with hardware, installations, and acquisition. When ES&S bought Premiere, which was the first of September, bids were due on September 14th. So essentially, ES&S acquired Premiere's bid with us.

So ES&S is one of our subcontractors and one of our team and partners.

COMPTROLLER FRANCHOT: And how big a subcontract are they? What are they going to be

doing? What are they going to be doing under this \$43 million contract?

MS. VATZ: I would say it's probably about 20 percent.

COMPTROLLER FRANCHOT: And you guys are doing the other 80 percent? Or do you have other subcontractors?

MS. VATZ: We have a total of five subcontractors. Three of the other ones are minority businesses, Signature Space, out of Silver Spring, Maryland, that is going to be doing the transportation work; and we have two other minority businesses, Right Solutions and OpTech, and they are providing search staffing work. We also have a fifth partner, GKV, which originally was expected to provide the voter outreach work and advertising.

COMPTROLLER FRANCHOT: Okay. I have a final question for the Budget Secretary. Secretary Foster, could I ask that you voluntarily or I'm happy to have the Board support me on this, that on future contract

awards where there's no active appropriation, could you please advise us of that? I mean, Mr. Klasmeier's terrific, but as far as I understand, he's -- he has to kind of --

MS. FOSTER: I'll be happy to --

COMPTROLLER FRANCHOT: -- he has to do his own kind of homework to find these things out. And if I'm correct -- and I think I am -- that it's not a great habit to get into. If you could alert us so that we don't feel as if we have to pester the agencies with these questions.

MS. FOSTER: I'll be happy to do that.

COMPTROLLER FRANCHOT: Okay. Madame Treasurer?

GOVERNOR O'MALLEY: What is it that you want to do?

COMPTROLLER FRANCHOT: I want any future contract awards that are coming before us where there's no active appropriation, like this, that we be alerted to that and, you know, most of them are going

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through, but I think it's a -- not a positive habit to get into.

GOVERNOR O'MALLEY: But actually there is an appropriation for this running of the upcoming elections under the same machines, right?

COMPTROLLER FRANCHOT: Well, there's a hundred and seventy-five thousand dollar item we approved an hour ago. And then there's a pending budget amendment.

GOVERNOR O'MALLEY: Budget amendment for the new machines or budget amendment just to do the same election?

MS. LAMONE: Budget amendment for the support services.

GOVERNOR O'MALLEY: For the support services. And that -- there's nothing in the budget for that?

MS. LAMONE: Not until today. No. It was all taken out in the cost containment.

MS. FOSTER: We were working on this as it was -- as the item --

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GOVERNOR O'MALLEY: I see. So we've got to do a supplementary thing for this.

MS. FOSTER: We'll be following up with a deficiency appropriation while the General Assembly is here.

GOVERNOR O'MALLEY: Can't cancel elections, because of snow, can we?

MS. LAMONE: But you could.

(Laughter)

MS. LAMONE: I vote for that.

GOVERNOR O'MALLEY: No. No. No. All right. Are there advocates here? I know that there's a lot of people around the state who had been advocating for the optical scan who would like to be heard on this before we --

MS. LAMONE: Thank you all very much.

GOVERNOR O'MALLEY: -- vote on this item?

MR. FERRARO: Thank you, Governor, Comptroller, Madame Secretary, Treasurer.

GOVERNOR O'MALLEY: Pull that mic right down to you. There you go.

MR. FERRARO: All right. Thanks for allowing me to speak on this issue. I represent -- I'm Robert Ferraro with SAVE our Votes. We're a citizen's group that represents citizens who have been concerned about the integrity of our elections as well as the cost of our elections ever since we got, you know, touch screen system. And I think the discussion you had just now gets to the problem with what I have with this contract. And that is how much is it going to cost to run the election with the present system?

Up until this point, we had many different estimates and projections about what the opscan system would cost, but when the funding was taken out of the budget for the purpose of the opscan systems, our first question was, well, how much is it going to cost to run our elections with the present system, because that -- those estimates have never been put forward. And we keep hearing different estimates.

And so what we would advise -- ask you to do with this contract is to defer this contract until the Board of Elections can present you with contracts that reflect the cost-effective approaches of the opscan system and relate it to some of the costs moving forward. And work on the true cost of the services to run the election with the opscan system versus the touch screen system.

Now, because that's the only way we can evaluate whether we're actually saving money. The idea was that we were not going to buy this new opscan system, because SBE estimated that it would cost \$18 million this year to run the election with the new system. And so that's why we thought it would be the only figure we were going to get. And that would be the savings this year.

But we don't know how much it's totally going to cost, as you were asking, Mr. Comptroller, how much is -- will these total services for, related in the present system.

Now, in 2006, which was the last gubernatorial election, the total cost for operation and maintenance of the election system was just over \$13 million. And this year, we're going to be implementing early voting, we're going to have a additional cost. Now, I wouldn't expect with an aging touchscreen system that the total cost of the services would be less than the \$13 million it was in 2006. Ms. Lamone just said that it was only going to cost six million.

But, I mean, this is the problem we have as a citizen's group trying to evaluate which way we should go and whether we should defer this opscanning purchase, which we don't think we should. Or how can we have an understanding of where the true costs are here?

I mean, the Department of Legislative Services, when they give their analysis of the budget, said the base contract for this contract is 20.9 million for three years. SBE advises that the cost of

the first year of the contract is 10.5 million, for the second year of contract is 2.5 million. The same portion of both the first and second year contract costs will incur in fiscal 2011. SBE has not yet determined the costs per fiscal year but notice that it is likely that the majority of the cost for the contract will occur in fiscal 2011.

Whatever the actual cost represented by this services contract, no funding is available in fiscal year 2010 or fiscal year 2011 allowance. SBE should comment on the adequacy of the fiscal 2011 balance to support normal use of the existing touch screen system that the 2010 elections will generate. SBE should also comment on how it intends to pay for the contract costs, so by -- that is the Department of Legislative Services.

So the cost of this contract in fiscal year '11, may be about 13 million. Please note that when you add to that, the five million for the capital lease payments on our old system, the total is more

than 18 million. So that comes to what we were supposed to save by not purchasing the opscan system.

Now, on Page 13 of the packet that I gave you, there is an estimate presented in the budget hearing in the legislative hearing room where the State Board of Elections said that the cost of using the touch screen system in fiscal year 2011 would be about \$4 million -- okay, that's Exhibit 9 on Page 13 -- yet the support staff's positions in the contract alone would total more than \$5 million. You can look at exhibit three on page three or four.

Please note that this does not include all of the costs. This contract is -- that you've been asked to approve, is not all of the cost of running the system for the touch screens. There will be other costs and that's why there's been a need for supplementals.

This support services contract is for highly paid positions. At a time when State and county employees have been experiencing layoffs and

furloughs. This contract proposes one position at more than \$300 (sic) per year, four or five positions at \$250,000 per year, six positions at about \$170,000 per year. SBE says, Maryland has always had this kind of contract of staff support since switching to the touchscreen system. In fact, this kind of highly-paid staff support has been a major factor in the cost of the touchscreen system, and why our costs have been spiraling ever since we got it.

SBE says the county election offices don't have the staff quantity or expertise to support the voting system without this kind of contracted support. And they are absolutely right. Without this it would be impossible to operate 20,000 highly complex and vulnerable touchscreen machines, any of which -- any one of which could potentially invalidate a close election if it experienced a problem with lost votes. In fact, such problems have occurred in state after state causing several to abandon the touch screens and switch to optical scanner voting.

Now, one thing I'd like to say here, when you're evaluating the cost of the services, and you just heard that this contract will be for either system, that the touchscreen system has about five times as much -- as many machines as the opscan system. Now, as a citizen, it just doesn't make sense to me how to support services for a system with five times as much equipment would cost the same as the opscan system with five times less. I just don't understand that.

And that's why we think that you should defer this approval of this contract and really get an honest accounting on what the cost would be for each system. An average-sized county like Charles county would replace its 500 touchscreen units with just 50 opscans.

GOVERNOR O'MALLEY: Why is it that they can do fewer machines?

MR. FERRARO: Well, because with the touch screens, you have to have a machine to vote. You

can't vote without a machine. There's an average of about -- there's about 20,000 machines, about 2,000 precincts. So there's an average of about 10 touch screens per precinct. And so that's why you need so many machines.

GOVERNOR O'MALLEY: But I guess when you fill out a paper ballot --

MR. FERRARO: Right. And with an opscan system, you can fill out a paper ballot anywhere, and you could do it while you were standing up.

GOVERNOR O'MALLEY: Then they get deposited into the machine?

MR. FERRARO: Right. You only need one machine per county and that's it.

GOVERNOR O'MALLEY: Okay.

MR FERRARO: So the State Board of Elections says it would cost more to move to an opscan than to use the current system. But other jurisdictions all over the country have found that opscans are so inexpensive to operate that the savings in labor costs

alone more than offset the purchase price. And that was what our analysis showed early on when we advocated for the legislation which moved us to opscan.

So just to finish up. SAVE Our Votes urges the Board of Public Works defer a decision on this contract at the present time until the following conditions are met: That the State Board of Election gives a detailed and clear accounting for all the costs of this contract indicating which would be needed to continue using the existing equipment and which would be needed for moving to the opscan. And the State Board of Election bring forth the optical scanning contract for simultaneous consideration with this one with two proposals for services.

Thank you very much for your consideration.

GOVERNOR O'MALLEY: Thank you. Okay. Mr. Schlanger, anything else?

MR. SCHLANGER: Well, I would just like to say that we need to run the election. There is no

doubt about that. And, although we could pontificate and argue, perhaps, about what the benefits would be in many ways over a new system, the fact of the matter is that we can deal, and have to deal with the system that we have.

And so going forward, all the planning that has been done to date, the procurement that has been executed to date, is gearing us up for an election which is right in our faces. And we need to start now.

GOVERNOR O'MALLEY: Yeah. I'm afraid so.

COMPTROLLER FRANCHOT: I know you weren't referring to me when you were talking about pontification.

MR. SCHLANGER: No, sir. No, sir, Mr. Comptroller.

COMPTROLLER FRANCHOT: I -- Governor, I'm going to vote no on this.

GOVERNOR O'MALLEY: Okay. The matter is before the Board. I move acceptance, seconded by the Treasurer. All in favor signal by saying, "Aye."

GOVERNOR O'MALLEY: Aye.

TREASURER KOPP: Aye.

GOVERNOR O'MALLEY: All opposed, "No."

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: The ayes have it.

Anything else from this agenda? What are we

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SECRETARY MCDONALD: "No" on four, right.

GOVERNOR O'MALLEY: Pardon?

SECRETARY MCDONALD: "No" on four.

COMPTROLLER FRANCHOT: Thank you. No on four.

GOVERNOR O'MALLEY: I'm sorry. Comptroller votes no on 4. Is there a balance to the DOIT?

MR. SCHLANGER: Well, three other items on the agenda.

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GOVERNOR O'MALLEY: Okay. Now we go to the balance of the DOIT agenda. Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay." The ayes have it.

Anything else?

MR. SCHLANGER: That's it. Thank you, sir.

GOVERNOR O'MALLEY: That concludes our Board of Public Works agenda -- a long one.

(Whereupon, at 1:50 p.m., the meeting was concluded.)

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