

STATE OF MARYLAND
BOARD OF PUBLIC WORKS
GOVERNOR'S RECEPTION ROOM
SECOND FLOOR, STATE HOUSE
ANNAPOLIS, MARYLAND

August 21, 2013

10:25 a.m.

P R E S E N T

GOVERNOR MARTIN O'MALLEY, Presiding;

HONORABLE NANCY KOPP, Treasurer;

HONORABLE PETER FRANCHOT, Comptroller;

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

D'ANDREA WALKER, Deputy Secretary, Department
of General Services;

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

JAMES SMITH, Secretary, Department of
Transportation;

EMILY WILSON, Acting Director, Land
Acquisition and Planning, Department of
Natural Resources;

ZENITA WICKHAM HURLEY, 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: Good morning, ladies and

gentlemen, and welcome to the Board of Public Works. Today is August 21, 2013. We have a number of items on the Agenda today and the first item though we have is the retirement of Marion Boschert. After --

TREASURER KOPP: She's the one with the big grin on her face.

(Laughter.)

GOVERNOR O'MALLEY: After a longer tour of duty by one month than Louis L. Goldstein had.

(Applause.)

GOVERNOR O'MALLEY: So I just wanted to read you a few of the highlights from this proclamation that we will be presenting to you right off the bat here, Marion.

The history of the Board of Public Works would not be complete without reference to the legacy of the unsinkable Marion Boschert. I didn't know they called you the unsinkable.

(Laughter.)

TREASURER KOPP: You didn't see her sink, did you?

GOVERNOR O'MALLEY: The Board of Public Works first encountered Marion Boschert when she showed up as a Kelly girl one day in 1973. Marion Boschert became a full-time permanent

State employee on April 15, 1974. Marion Boschert's length of service is unrivaled at the Board of Public Works, eclipsing even a certain Louis L. Goldstein by a month or two. Marion Boschert in her capacity as Recording Secretary to the Board of Public works diligently and unerringly provided critical support to the Board of Public Works by scheduling Board meetings, preparing agendas, related materials, maintaining Board minutes and records. Marion Boschert particularly enjoyed conflicts over wetlands permits.

(Laughter.)

GOVERNOR O'MALLEY: I'm kidding, I threw that one in. Her perseverance, thoroughness, and most especially her good nature permitted her to chart a steady course of record keeping. And so on and so forth. You'll have a whole --

SECRETARY MCDONALD: A list of seven Governors, four Comptroller, five Treasurers. I just want to make sure that, she served all of those Governors. Including the sixth one at this table, right now. But Marion started with Marvin Mandel.

GOVERNOR O'MALLEY: Wow, so how about that? That's the, and what was that? The tenth anniversary?

MS. BOSCHERT: No, I won some award for a photograph I took.

GOVERNOR O'MALLEY: Well, we're going to miss you.
You've been awesome.

MS. BOSCHERT: Thank you.

GOVERNOR O'MALLEY: Thank you so much and
congratulations to you. Come on up, let's do a picture.

SECRETARY MCDONALD: And maybe, and her daughter is
here, also.

MS. BOSCHERT: My daughter, Christine --

TREASURER KOPP: Yeah --

GOVERNOR O'MALLEY: We're going to push these chairs
back and do a picture right quick.

Come on in, gang. Marion, why don't you take front
and center there?

MS. BOSCHERT: My daughter, Christine.

GOVERNOR O'MALLEY: Hello, Christine.

MS. CHRISTINE BOSCHERT: Hi.

GOVERNOR O'MALLEY: Congratulations to you. Hold on.
Marion, any words of advice?

(Applause.)

MS. BOSCHERT: No. Just thank you all. Everybody has
been very cooperative and friendly, and did what I asked when I
asked them.

(Laughter.)

MS. BOSCHERT: But I appreciate it. I enjoyed working with all of you.

GOVERNOR O'MALLEY: And we enjoyed working with you. Thank you. Make sure you take her out someplace nice today.

(Laughter.)

GOVERNOR O'MALLEY: We'll see you, Marion. Thank you.

MS. BOSCHERT: Thank you.

GOVERNOR O'MALLEY: This is going to be the best meeting ever, Marion.

(Laughter.)

TREASURER KOPP: I have to say, the first time I saw Marion here I was sort of taken aback. Because I knew that I knew her, but I didn't know her from, and it took me a while. I kept looking at her name, and looking at her name. And I said, Boschert? I said, you wouldn't be any relation to a colleague of mine, would you? And it turns out she was. So I think spanning, spanning all these worlds you have been a great force for the good.

MS. BOSCHERT: Yes, it's time for family now.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Yes, thank you, Governor. And Marion, congratulations. I served along with the Treasurer with

Dave. And just, he was a tremendous friend of a lot of us. And I'm delighted you're going to get some time with your family.

Last week, Governor, was Shop Maryland tax free week and it is now concluded. I had the pleasure of visiting several parts of the State: Montgomery Mall in Bethesda; the Target in Easton; Towson Town Center; and the Hagerstown Premium Outlets with local business leaders to promote this great benefit to our citizens. As you know it's the second busiest shopping week of the year because the Legislature and you, Governor, and others created a tax free week for back to school apparel and shoes. So having a break on the six percent sales tax for shoes and apparel makes a big difference. It means a lot to Maryland families and to small businesses. Primarily because we take one of these weeks in the dog days of August and through this innovative law we catapult it so that other than the Christmas week it's the second biggest shopping week in the school year.

And it's hard to believe, frankly, that it is so successful. I would recommend, Governor, if you are considering other ideas to expand it next year to backpacks and other back to school supplies. Other states do that and I think it would be equally well received and successful.

It's hard to believe that we are actually going back to school. Six counties across Maryland are in session this

week. Students in every public school system will be back to class at the beginning of next week. For me, summer is a time for making memories as a family, for developing relationships with neighbors, for kids to learn the lessons that can be learned in classrooms or textbooks. And for the tourism industry, Maryland's fourth largest industry that employs approximately 340,000 of our fellow Marylanders, friends, and neighbors, this isn't just about making memories or being happy, my desire to have school start after Labor Day. It's about, for many families, making payroll and being able to stay open.

So I commissioned the Bureau of Revenue Estimates to conduct a study on the economic impact of starting the public school calendar after Labor Day. And this Thursday we released the report, which indicates that this common sense adjustment would result in a \$73.4 million additional direct economic activity in the State, \$7.7 million in added state and local tax revenue, and perhaps most importantly \$3.7 million in supplemental wages for working Marylanders whose wages have remained -- hello, is that someone in support of my proposal? I know the kids are.

GOVERNOR O'MALLEY: Who's got the whistling phone? Is that you, Ms. Peggy?

(Laughter.)

GOVERNOR O'MALLEY: Ms. Peggy, when did your phone start whistling?

MS. WATSON: When the State gave me a new one and I haven't learned how to program it.

(Laughter.)

GOVERNOR O'MALLEY: We're probably paying extra for the whistle on that procurement. I'm sorry.

COMPTROLLER FRANCHOT: So \$3.7 million in supplemental wages for working Marylanders. Why is that important? Because people's wages have essentially remained stagnant over the last five years. And the study does not include indirect or induced spending, which would make the true impact of moving this date exponentially larger.

Think about that for a moment. That's nearly \$75 million, or \$150 million if you look at indirect costs, injected into our State's economy, back into the pockets of our citizens who have been hammered by a sluggish recovery, and a repeated series of tax hikes, toll increases, and fee increases. And it's almost \$8 million into the State coffers to pay for our priorities, like improving schools, ramping up public safety, cleaning up the Bay, and upgrading our aged transportation infrastructure.

And the best part of this proposal is it doesn't cost a thing. That would be a win for Maryland's families and our economy. It's a win for students who rely on summer jobs to earn money for themselves and their families. It's a particular win for small businesses that won't have to lose experienced staff in mid-August right at the peak of the tourism season. It's a win for Maryland families, who will get the chance to share special moments, create more memories, and enjoy more quality time together.

And if you don't, frankly, need to take my word that it's a good idea, take a look at the online polls. I mean, not that I put a lot of credence in the thousands of people that vote on the *Baltimore Sun*. But I've never seen 88 percent of their respondents agree on anything. And they do agree that summer should be summer.

So obviously the students I mentioned, they aren't voters, I guess, but they will be at some point. They are all in favor of it. And there is a task force that's been legislated, which I applaud. The leadership of Senator Mathias and others. And they are going to be meeting in September. And I really fervently hope that they can work out the logistics so that this common sense pragmatic change can benefit Maryland

families and small businesses and improve the health of the Maryland economy. Thank you very much.

GOVERNOR O'MALLEY: Thank you. I'm for all of that, too. So hopefully the task force will come out our way on it. We've got a packed Agenda --

TREASURER KOPP: Governor --

GOVERNOR O'MALLEY: I'm sorry. Madam Treasurer?

TREASURER KOPP: -- there are a couple of things I would like to mention.

GOVERNOR O'MALLEY: I apologize.

TREASURER KOPP: No, that's all right. I hadn't given you a heads up on it. But there are two people who have passed away relatively recently whom I'd like to mention, because many people here knew them but more did not and ought to have, and then enter something in the record in commemoration of the life and the work of Mike Volk and Mike Yarborough.

Michael Volk was a fellow who came to Annapolis at the same time I did, January, 1971, both working for our General Assembly. He worked for 42 years for Legislative Services. Mike was a staff for a number of committees. He managed staff for a number of committees. He essentially led in the integration of Fiscal Services and Legislative Services. And

was truly an unsung hero whom I would like to just sing for the moment and then put in the record for posterity.

One of Maryland's greatest gems, actually, I believe is the legislative staff. The staff organization and the members of the staff. They are actually uniquely qualified individuals, almost like a gem of a little college campus on our larger campus here. Recognized throughout the nation by their peers as really the exemplars of what nonpartisan, central staff should be. And Mike Volk for all these years was one of the premier quiet leaders. And I would just like to, I know the Senator worked with him, I know the Secretary did, a lot of people here did. And I only wish that more of you had. Because he was really an outstanding man whom we all miss in Annapolis.

And the second fellow did not work here as long, only for a quarter century. Mike Yarborough, who also passed away recently. Mike was a legislative analyst specializing in tax policy for many years for the General Assembly. And also helped create the new computer system to help us track policy and bill drafting. He was a very talented person, a musician, a person who had a strong private life and public. And they are just two guys who were really quite unique and who will be missed in Annapolis.

So with your permission, Governor and Comptroller, I would like to ask the Secretary just to enter into the record the story of these two unsung, but now sung heroes.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And those memorial tributes will be recorded in the minutes of this Board of Public Works. A lot of good people that work for the people.

TREASURER KOPP: Thanks. Really, very.

GOVERNOR O'MALLEY: Okay. We're heading into --

SECRETARY MCDONALD: The Secretary's Agenda?

GOVERNOR O'MALLEY: -- the Secretary's Agenda.

SECRETARY MCDONALD: This morning we have 21 items on the Secretary's Agenda. Item 21 is the hand-carried item that you received and already discussed. We have ten reports of emergency procurements. We are withdrawing Item 18, which will come back later. So if you have any questions on any of the other items, Item 17 is a special African American Heritage

Preservation grant. Mr. Mack is here along with Ms. Raines, I believe.

GOVERNOR O'MALLEY: Okay. Mr. Mack, come on down.

SECRETARY MCDONALD: Item 17 is a grant for the Wilson Farmstead improvements.

GOVERNOR O'MALLEY: Wilson Farmstead improvement in Anne Arundel County. Mr. Mack, you have a packed audience for the Wilson Farmstead improvement today.

MR. MACK: Yeah, I had to use my navigational tracks to get through here.

(Laughter.)

MR. MACK: My name is Theodore Mack, known as Ted Mack, Chair of the Maryland Commission on African American History and Culture. Now wisdom and history tells me that I should not stand in the way of the lynchpin of this team. So I'm going to call Anne Raines from the Maryland Historical Trust to come with the group that will make this presentation.

MS. RAINES: Good morning. I'm Anne Raines from the Maryland Historical Trust. And thank you as usual for giving us a few minutes to show you some of what we've been working on through the African American Heritage Preservation Program. I'm going to introduce Bill Gibbons from the West River Improvement Association. He's part of a great team in Galesville in

Southern Anne Arundel County that's been working on the Wilson Farmstead project and has a lot of other good work under their belt.

GOVERNOR O'MALLEY: We need a bigger State House.

(Laughter.)

MR. GIBBONS: Good morning. Thank you, Anne. As Anne mentioned, my name is Bill Gibbons and I'm with Jack Smith. We are both with the West River Improvement Association, which serves the village of Galesville in the southern part of Anne Arundel County. And we would like to thank you today for you and the State of Maryland's consideration to approve \$100,000 through the African American Heritage Preservation Program. These funds are going to be used to stabilize an historic building known as the Henry Wilson Farmhouse in the village of Galesville. This building is in a state of serious disrepair and has been vacant for over 20 years and it is threatened with basically collapse.

The building was built by a Mr. Henry Wilson in 1871 and has remained in his family up until the year 2012. What makes it unique is Mr. Wilson was a freed slave and was able to acquire the funds to purchase the property and the 27.5 acres on which it sits on. And by you making these, you know, funds available to us it is going to enable us to basically preserve

and save the building, stabilize it for future redevelopment and basically enable us to tell the story of the African Americans' economic, religious, and cultural contributions to the village of Galesville and to all South Anne Arundel County since 1652. So we feel it's a really important project and we really appreciate your consideration for this \$100,000. Thank you very much.

GOVERNOR O'MALLEY: Thank you.

MR. SMITH: My name is Jack Smith. I was born and raised in Galesville. I apologize for not having a necktie on, but between Bill and I we only have one tie and he lost.

(Laughter.)

MR. SMITH: And I was, as I said, born and raised in Galesville quite a few years ago. And this is not just an African American money that we're seeking. We're seeking it for Americans, because that's what we are down there and we fill out the entire range of living with whites, excuse me, and the blacks since 1652 when Galesville was properly founded. And I'm just so very, very proud of Galesville. We have a different brand of people there, we think anyhow. And we've got the people in Shady Side and Deale know about it, too.

At any rate, we were the first people to have an integrated school in Anne Arundel County and that was when they

built a grand new brick school down there. It was Carrie Weedon School. And we became the people who had that privilege, I would say, and pride that we were the first integrated school in Southern Maryland down there. We have a lot to be proud of besides that. We were the first ones with a fire department, etcetera, etcetera, down that way. And I'm not here just to talk about Galesville. It's to talk about the fact that we have been very, very wide open in the way that we have come to fruition and have been very, very good talents with both the African Americans and the white people down there. And we want you to know that we would love to have the money that Bill talks about so we can continue to turn this school down there and property to even higher lengths. And thank you very much.

GOVERNOR O'MALLEY: Thank you. Okay. That's a good one. Thank you. I think we're all in favor. Mr. Mack, anything you want to say in conclusion, sir?

MR. MACK: These projects are sometimes spellbinding because they are, we are discovering so much that means so much to the demographics of the whole State of Maryland. So we just appreciate the opportunity to come before you to make these presentations.

GOVERNOR O'MALLEY: Thank you, Mr. Mack, for your good work. Okay. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. Congratulations. That was a good start. How about the remaining items on the Secretary's Agenda? Mr. Comptroller?

COMPTROLLER FRANCHOT: Items 8, 9, and 10.

SECRETARY MCDONALD: Okay. Mr. Doldon Moore is here. These are the Inner Harbor, piers on the Inner Harbor, it's the new wetlands licenses and recommendations for compensation.

MR. MOORE: Good morning. I'm Doldon Moore, Wetlands Administrator. You had some questions, Comptroller?

COMPTROLLER FRANCHOT: The Governor sat up when he said wetlands, but no, this is a good story. And Mr. Moore I really appreciate what your staff has accomplished with this proposal that's in front of us. As you know, in June of 2012 the same proposal was before us and we were being asked to assess exorbitant levels of --

MR. MOORE: Right.

COMPTROLLER FRANCHOT: -- compensation from three businesses up in the Inner Harbor, Phillips Seafood, Dick's Last Resort and Hard Rock Café, in exchange for rights to expand and improve existing commercial piers situated over the Patapsco River on the Inner Harbor. And with other members of the Board we spoke out pretty forcefully against the directive that would have, I believe is my recollection, taken hundreds of thousands of dollars out of these businesses before they frankly could have sold their first crab cake or cold beer. And that was a time when the economic recovery was particularly sluggish and it was our view, or at least my view, that that amount was really going to get in the way of some needed economic revitalization.

So the revised proposal that's before us now looks a lot more reasonable and for the record, Mr. Moore, could you just remind us as to what these businesses were going to pay a little over a year ago? And how much they are being asked to pay this morning? And what steps were taken to come up with this much more reasonable proposal?

MR. MOORE: The total amount was approximately \$1.5 million for all three. And now currently we are setting compensation for Dick's Last Resort for 3,342 square feet, they are going to pay an annual compensation fee of \$8,335 on it. Again we're asking approval, and that wetlands license was

approved in April 20, 2011, Secretary's Item 17. Before us now are Item 9 and 10, which is asking approval of the wetlands license and setting compensation. For wetlands license 12-0781, Hard Rock Café, they have 2,160 square feet of decking. They are paying a one-time fee of \$20,000. That item, as you said, was withdrawn in June of 2012. The original deck was constructed in 2000. Item 10 is 12-0780, Phillips Seafood. They have 4,453 square feet of decking. They are paying a one-time fee of \$20,000 and then they are being assessed an annual compensation fee of \$2,000. Just this summer they increased their decking by an additional 800 square feet, which was approved by the department. And again, that item was also withdrawn in June of 2012, a Secretary's item. And the original deck again was constructed in 2000.

And what was taken into account here is on the Hard Rock and Phillips deck, that they had already paid mitigation back in 2000 and that the decks had been used for queuing areas. So how the fees came about, it was negotiated with the Cordish Company. And they put numbers on the table, I countered, and we went back and forth for a few months and we came to this conclusion. We do have representatives from Cordish and Phillips if you would like to hear from them on it.

COMPTROLLER FRANCHOT: Well I just want to salute you. I think it's a very responsible outcome. And frankly there is still a lot of difficulty out there in the economy. I was down with everyone else here in MACo for their convention recently. And I spent a lot of time talking to folks that are in the tourist business, and consumers, and retailers. And many of the retailers down there have been clobbered by the rainy weather that we've had this season. And the jobs that we keep wanting to come back to the State just have not appeared. I don't want to stir up DBED and have them send me a bunch of data about how well we're doing but --

GOVERNOR O'MALLEY: You've stirred me up.

COMPTROLLER FRANCHOT: Yeah, yeah --

GOVERNOR O'MALLEY: I'll respond.

COMPTROLLER FRANCHOT: No, well hang on because I'm not picking on Maryland. I'm saying the entire region has had great difficulty in finding, you know, bringing back obviously the kind of economic recovery that we're accustomed to. So it's really Pennsylvania, Virginia, New York, West Virginia, as well as us. The revenue data and wages and salaries are flat and folks are employed but they are having a hard time keeping up with rising prices, which puts a big impact on these businesses. So it just reminds me what you did today is going to permit that

economic investment and expansion to move forward. And they are going to create jobs from it. Obviously we should get compensated under State law where it's appropriate. But I wanted to just really recognize you for being smart enough to recognize that the economy needs careful review of things like this that otherwise would block economic investment. And I think you are going to add to a good climate that encourages businesses to invest capital, create jobs, and generate tax revenue. I am very satisfied with what you have done.

MR. MOORE: Thank you.

COMPTROLLER FRANCHOT: And it's not easy. So I'm happy to support this item today.

MR. MOORE: Thank you.

COMPTROLLER FRANCHOT: These three items.

MR. MOORE: Thank you.

GOVERNOR O'MALLEY: Thank you. We, let me just add by way of point, counterpoint, and punctuation that there is no priority for this administration more important than job creation. Without jobs, there is no progress. The latest jobs report showed that the entire region has been hurt by the short-sighted and reckless sequester that was thrown into place, supposedly against the objections of everyone in our House of

so-called Representatives. However, prior to that point we had recovered 99 percent of the jobs that we lost in the recession.

If you were to factor out those states that have a lot more minerals than they have people, Maryland's leadership and our come back from the recession and this recovery is pretty striking. Last year we achieved the best rate of new job creation of any state in our region. A rate of job creation that was nearly twice that of our neighbors, good neighbors, in the Commonwealth of Virginia.

So while Maryland bashing may be popular in some circles, the fact of the matter is that it was not anyone on this panel that made the determination, but the U.S. Chamber of Commerce who named us the number one state for innovation and entrepreneurship. It was third parties that ranked us in the top three among the 50 states for upward economic mobility for hardworking families. So we do indeed have a long way to go before we restore that balance of a middle class whose wages are growing and whose children's prospects are growing at the same pace as the prior generation. But one should also be aware of the fact that we are a state that is leading in this recovery, not a state that is lagging in this recovery. And it's due in no small part to the better choices we have made together, including the 57,000 jobs that will now be supported rebuilding

our transportation infrastructure in the years ahead, the jobs we supported in the hard hit construction trades all through this recession, in our record investments in public school construction and renovation, and also the big investments we have made in our water and wastewater infrastructure, investments that have been made at both the county levels and also at the State level. So anyway, I just wanted to share that perspective without minimizing the amount of work still ahead of us.

COMPTROLLER FRANCHOT: I'm going to focus like a laser on the Dover Bridge, which Governor you announced, which I think is terrific, the wonderful statement that you made about starting school after Labor Day, and my own upcoming vacation. And so I am delighted to not respond and look forward to --

(Laughter.)

COMPTROLLER FRANCHOT: -- September.

GOVERNOR O'MALLEY: Thank you for that. All right. What do we have now? What's next on the Agenda? We're still on the Secretary's Agenda. Mr. Comptroller?

COMPTROLLER FRANCHOT: Item 13?

GOVERNOR O'MALLEY: This is the Comptroller's favorite part of the Agenda. Item 13?

SECRETARY MCDONALD: Item 13 is the Green Turtle grant of general obligation bond proceeds in Towson. I think Secretary Skinner is here, and Ms. Carol Gilbert from --

GOVERNOR O'MALLEY: Secretary Skinner, last time we were here this issue came up and it was deferred. The Comptroller and the Treasurer had questions about the criteria that HCD uses for its community redevelopment efforts. Some parts of our State have to redevelop their older communities. It doesn't happen simply by wishing that it would happen. Evidence, Silver Spring where this State invested hundreds of millions of dollars to revitalize a downtown center. In this case we have a Maryland franchise, locally owned, called the Green Turtle which has gotten all sorts of attention. And wanted you to tell us what this is about, what the policy rationale is for this program? And why this is an investment that from your perspective as Secretary of Housing and Community Development you believe that this is a good loan.

MR. SKINNER: First of all, let me say good morning, Governor, Madam Treasurer, and Mr. Comptroller. I'm delighted to be here this morning. I'm going to be fairly brief but I really wanted to follow up on some of the issues that the Governor mentioned since the last meeting, and I'd be happy to answer any questions that you have.

First of all, since the last meeting you received a strong letter of support from County Executive Kamenetz. His letter indicates that the Green Turtle is located in one of the county's commercial revitalization districts. That in that area, in particular along York Road, that more than half of the storefronts in the 500 block of York Road where the Green Turtle is located are in fact vacant. And the County Executive also indicated that the loan to the Green Turtle is really a key component of their efforts to stabilize the area, as well as attract new businesses to this particular section of York Road. As you know, there's a lot of new development going on around the area but these particular blocks of York Road have been challenged as indicated by the vacancies there.

Now there are several representatives from the county here today if you have any questions specifically about their revitalization plans and efforts. The county Chief Administrative Office Sam Moxley is here, the Planning Director Andrea Van Arsdale is here, as well as Director of Legislative Affairs Yolanda Winkler.

You also received letters from the owners of the Green Turtle kind of explaining their particular situation and why this loan is necessary as part of the total financing package to expand their business and to attract additional customers. As

their letters indicate, the owners are local residents who are very active in the community. They support numerous local youth athletic teams and other charities in the area. In fact, the three owners, Jill and William Packo and Jeff Guidera are also here today if you have any questions for them.

So, again, in an effort to be brief I just wanted to briefly reiterate why DHCD supports this loan. First and foremost, the Green Turtle expansion is an eligible project and it meets all of the criteria for the Neighborhood Business Works program. It's in what we call a sustainable community area that was recommended by the county government and then approved by the Smart Growth Subcabinet. It will expand an existing business and create an addition 26 jobs, which is one of the criterias of the program. It's part of a financing package that includes private bank financing and a loan from the county, as well as borrower equity, which is again a requirement of the program guidelines. The necessary collateral is provided. The county supports the efforts, as I just mentioned, particularly again the county supports the revitalization of the Towson, what they refer to as the Towson business district, which is a larger area. But specifically the 400 and 500 blocks of York Road are in, you know, very specific need of revitalization and the county is focused on that. And again, the county strongly

supports the project by including its own financial assistance. Finally, the other financing that I talked about, the bank and the county loans, are contingent on DHCD's loan. So but for the DHCD loan this project could not move forward and we could not get the additional job creation.

So in summary we believe that the loan to the Green Turtle is really no different from the other NBW loans that have been approved over the years. In fact, since 2007 we have made loans to about a dozen restaurants in different parts of the State, including Cambridge, and Salisbury, and Silver Spring, Wheaton, Takoma Park, and Baltimore City. And I might add that all of those loans are current on their loan repayment. So for all those reasons stated I believe --

GOVERNOR O'MALLEY: What was the one in Takoma Park?

MR. SKINNER: I'm sorry?

GOVERNOR O'MALLEY: What was the one in Takoma Park?

MR. SKINNER: I believe that was Roscoe's Pizzeria.

GOVERNOR O'MALLEY: Uh-huh. And what was the one in Silver Spring?

MR. SKINNER: Silver Spring, we have Firehouse, we took an old historic fire station and turned that into a restaurant.

GOVERNOR O'MALLEY: That's a good place --

MR. SKINNER: Right.

GOVERNOR O'MALLEY: And what was the one in, what was the other one?

COMPTROLLER FRANCHOT: Wheaton.

MR. SKINNER: Cambridge, we've done a couple of loans in Cambridge. The most recent is the, it's a bistro. In Wheaton we did the, Wheaton was the Limerick Pub, I believe.

GOVERNOR O'MALLEY: Aw hell, I'm in favor of that.

(Laughter.)

MR. SKINNER: And most recently we did, we actually did a loan to a restaurant in Ocean City, which is a part of a mixed use project that includes a restaurant on the ground floor and apartments above for summer youth workers.

GOVERNOR O'MALLEY: Okay.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR O'MALLEY: Any other criteria? Or do you want to go right to questions?

MR. SKINNER: I'm ready to answer questions.

GOVERNOR O'MALLEY: Okay. Is there one slide we should be bringing up here? You have --

MR. SKINNER: No, we just, on some of the slides, on the slides we showed the --

GOVERNOR O'MALLEY: The history? How about, is there any one that has the policy?

MR. SKINNER: There are a couple, go back, Kevin. Go back again. Back again. These are really the things that we look for in approving loans.

GOVERNOR O'MALLEY: Got you. Okay.

MR. SKINNER: Strengthening neighborhoods, significant upgrades, and so forth.

GOVERNOR O'MALLEY: Got you. We'll leave that one up while we have our discussion. Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor. And Secretary, thank you for that presentation. I think my reservations about this particular project are pretty well known. I do, I don't want to go back over what we talked about at the last Agenda, but I would like to ask a couple of follow up questions. One, you mentioned a memo, briefing memo from your agency. My understanding is that in its, I guess, enthusiasm for this project that memo from your Housing and Community Development department happened to paint an exceedingly gloomy picture of downtown Towson. It dismisses most of the economic revitalization that's already well underway in Towson as activity that is happening on the outer edges, characterizes the York Road corridor as something of a ghost

town, and I quote from your memo, "old suburban buildings that have not aged well, absentee landlords, changing markets, and stiff competition from outlying areas."

I guess my first question, given this description of downtown Towson, how have so many other restaurants managed to cut through the apparent economic desolation and emerge as one of the most vibrant dining destinations in the entire Baltimore region? I'm thinking of places that I've visited, like Café Troia, which is located less than a quarter mile from the Green Turtle on Allegheny Avenue. I'm thinking of 7 West Bistro Grille, a wonderful spot that serves up some of the better crab cakes in town from its perch on the West Chesapeake Avenue just about a block from the Green Turtle, or an 18-second drive on MapQuest if you are wondering how quickly to get over there. Other restaurants on Allegheny Avenue less than a quarter mile from Green Turtle. And one that I visited just last week, an opening for the Oyster Bay Grille, a beautifully appointed seafood restaurant on Joppa Road. I was honored to be at that opening. I'm definitely going back with my wife. So sorry about the restaurant reviews.

But here is an excerpt from a story that ran just last month, with the slightly more sanguine headline, "Green Turtle Riding on Wave of Upgrades." That was the title. And the

article goes on to say, "from the roof of the Green Turtle on York Road, co-owners Jill Packo and Jeff Guidera have a great view of the changes coming to downtown Towson. Just a block away to the east the framing for the Cinemark Movie Theater at Towson Square is rising above the building's underground parking structure." This is a quote. "Across the intersection the Towson Road project will replace storefronts and a parking lot with skyscrapers." So I think that the memo may have exaggerated the situation in its desire to be an advocate for this project.

If, I guess if your concern, as I understand it from your comments, is that the renaissance that is going on in downtown Towson will result in an influx of well-heeled national chains that could elbow the smaller, locally owned businesses in Towson out of town, then I can respect that. That kind of makes sense. I've certainly heard those concerns from people up in Towson who are excited about the new restaurants but also concerned about the impact on the local small businesses.

But if the State truly feels that there is an imperative public interest that is served by lending taxpayer money to the Green Turtle, okay, I can see having that discussion. I might even change my mind. It's a plausible project for DBED, the Department of Business and Economic

Development. But it's not a plausible project for your agency and this particular budget. Given the focus that appears to be on the preservation of individual business as opposed to jump starting an economically moribund community, which Towson is not, why wouldn't this be a DBED project rather than a neighborhood revitalization project? Or maybe it should be the Maryland Industrial Development Financing Authority, designed to encourage private sector financing in economic development projects that are located in priority funding areas? Or the Small Business Development Financing Authority, which exists to provide financing for small businesses that aren't able to qualify for traditional financing? Your program is designed historically to provide seed money financing for struggling businesses in struggling downtown communities. The Governor mentioned Silver Spring. That was a blighted area before the State came in.

So I think, I appreciate the investments you have made in Cambridge. I think that is a perfect struggling community that needs neighborhood revitalization. So a few of my favorite things? Terrific. Jimmie & Sook's down in Cambridge on Race Street? Great. Great investments. Desperately needed. Booster shot from the State. But when the Baltimore County Executive calls Towson Baltimore County's Bethesda? Think of

that. Baltimore County's Bethesda. The Treasurer knows very well how successful Bethesda is. Does Bethesda have maybe a 300 block of Cordell Avenue that's a little bit, you know, down on its stuff? That's okay. Yeah, I understand that. Does Towson have maybe a block or two that is struggling? But putting your agency's money in Bethesda or putting it in Towson is just not a good match. And that's why I'm going to vote against this project. You don't have a lot of money. And it's crucial to areas like Cumberland, Cambridge, Elkton, and other areas around the State that are not going through the economic revitalization renaissance that is happening right now in Baltimore County's Bethesda. I mean, we're sending coal to Newcastle here with these dollars. And --

GOVERNOR O'MALLEY: But didn't you object to the one in Cambridge, too?

COMPTROLLER FRANCHOT: No, I objected to the misuse of this agency's mission on that agenda item, Governor. I supported strongly a \$500,000 grant for downtown Cambridge on Race Street for a building that was being turned very successfully into a retail operation. I voted against giving taxpayers' money to a Popeye fast food franchise out on Route 50.

GOVERNOR O'MALLEY: That was the one.

COMPTROLLER FRANCHOT: And --

GOVERNOR O'MALLEY: That was in Cambridge, right?

MR. SKINNER: Yes. That was Cambridge.

GOVERNOR O'MALLEY: And the Mayor was here to testify for it.

COMPTROLLER FRANCHOT: Yeah. Yeah. And it was --

GOVERNOR O'MALLEY: So what's the, so what's the --

COMPTROLLER FRANCHOT: -- but let me just repeat because that's a very good point you brought up, Governor.

GOVERNOR O'MALLEY: Is it the location that you, because I've seen you vote for some in some locations, and against some in other locations. Is it the locations? Or is it that you don't believe we should do anything on food franchises? Or is it, I'm just trying to understand what the policy, because it seems that you have not a disagreement with the fact that this one is not out of line with others that we have done in other places around the State. But you seem to have a policy disagreement that focuses on the actual use, like a restaurant. Do you think a restaurant, should they, is that your thrust? I'm just trying to understand. Is it geography or is it the --

COMPTROLLER FRANCHOT: The thrust is, the thrust is we have a mission for this neighborhood business redevelopment program. It's a very important mission to jump start

revitalization in struggling communities. Bethesda is not a struggling community. Towson is not a struggling community. If a business needs some kind of public support they should go to the economic development agency and ask for it. But these are, the total budget is what, Mr. Secretary? Four million dollars?

MR. SKINNER: About four million, yes.

COMPTROLLER FRANCHOT: Yeah. Those are incredibly important dollars for an area like downtown Cambridge. When they are spent on a Popeye's out on fast food mile on Route 50, which technically may be within the borders of Cambridge, that is a misuse of your agency's budget for the mission that it was created. And yeah, I voted against that. And, but I have nothing against restaurants. I have nothing against the Limerick Pub. What my concern is is that this is mission creep, where we are using your money in areas that are underway with their own economic renaissances. And God knows there are dozens of communities around the State that I have visited that have boarded up, vacant stores on their Main Street and have nothing even close to Towson's revitalization on the horizon.

And so it's a vote against mission creep more than geography, Governor. And you know, I don't mean to get hot under the collar about it. But when you go around to these towns in Maryland and you see the impact of this recession on

these Main Streets, and you see what can happen with Cambridge, which is a very successful, revitalization of Race Street, and you see something like this.

GOVERNOR O'MALLEY: So your objection is the but for analysis. You believe that there is no need for this, that it could have happened without any State help?

COMPTROLLER FRANCHOT: No. What I'm saying is that this is an example of a mismanaged State budget that is creeping with its mission into areas that are better left to other economic development funds within the State.

GOVERNOR O'MALLEY: Like which ones?

COMPTROLLER FRANCHOT: I mentioned three or four of them in my questions.

GOVERNOR O'MALLEY: Mm-hmm.

COMPTROLLER FRANCHOT: And it is much, that is a much better fit --

GOVERNOR O'MALLEY: So your objection is not to the State dollars being used, but State dollars being used from this community redevelopment program for redevelopment in communities like Towson?

COMPTROLLER FRANCHOT: Correct. Because --

GOVERNOR O'MALLEY: Okay. So it's not the taxpayer --

COMPTROLLER FRANCHOT: -- it was designed for struggling communities.

GOVERNOR O'MALLEY: -- it's not that it's taxpayer dollars, it happens to be this program?

COMPTROLLER FRANCHOT: Correct.

GOVERNOR O'MALLEY: You wouldn't have an objection were it taxpayer dollars from another program?

COMPTROLLER FRANCHOT: Correct.

GOVERNOR O'MALLEY: Okay. So Madam Treasurer, do you have any questions?

TREASURER KOPP: Yeah, I do. I just want to say I'm the one who stopped this two weeks ago, and I don't know how we all feel about that now.

(Laughter.)

TREASURER KOPP: But I did have, I did have some serious questions. And I must say, if we're going to sit as a sort of an uber Board looking at these projects, it seems to me from the very beginning we should have the information and the context, including the purpose of the program, the process of the program, how a particular project fits in with a neighborhood redevelopment, and not have to pull it out of the county or the State ourselves. If we had had candidly the

information that we now have two weeks ago, I may not have raised my hand.

I did go to Towson and went around the area in the last day, and I really appreciate it. I recognize that that area, the downtown Towson, York Road area, in fact does have serious problems. It is in the midst of large redevelopment projects aided by public and private sources that a good portion of the block, couple of blocks, where the Green Turtle is have vacant storefronts which have been vacant for a long time. It is a neighborhood, I now understand that. I understand. I had exactly the same question the Comptroller had, which is I don't have any problem with aiding a particular, especially if it's a loan and we're going to get money back plus tax spinoffs and employment, from a particular project. But that's an economic development project. This is a neighborhood revitalization program. I now see this project within that context thanks to your department and to the county. But I would ask if we get more of these, let's get this all laid out in the beginning so that we don't have to go through that process.

I have to say that I now understand how this project does meet the criteria. I think it will. I think there is a lot more that has to be done besides that project, and that was one of the questions, of how it fits in with the total

redevelopment. And even things like the timing, whether this is really a bridge for that downtown community to get it through the building of all the huge edifices around it. I was concerned about parking and I now see the county has been active in helping provide garage space which is very needed.

So I now can understand why your department proposed this loan and how it fits in with the private money, the entrepreneurs' money, and the county's. But I just wish we had had this to start with. Thank you.

GOVERNOR O'MALLEY: Okay. This is Item 13. The Governor moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye." All opposed?

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: The Comptroller votes no. Okay. Are there, I'm trying to --

MR. SKINNER: Thank you.

GOVERNOR O'MALLEY: Mr. Secretary, thank you. And I think what the Treasurer said about the clearly articulated program criteria and goals up front would be very helpful to us. Maybe there is a way to consolidate those other programs, I don't know.

TREASURER KOPP: There are a lot of programs. Secretary's Agenda? I would love to call the ones about which

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there are no questions so that people who might be there on those can go back to work.

COMPTROLLER FRANCHOT: Well let's, I have one, two more items.

GOVERNOR O'MALLEY: Okay.

COMPTROLLER FRANCHOT: So then I will defer to you --

GOVERNOR O'MALLEY: Which are they?

COMPTROLLER FRANCHOT: Item 20.

GOVERNOR O'MALLEY: Okay. Item 20 and Item, what is the other one? Item 20 and -- I want to get rid of the other items if we can. And so Item 20 is a matter of controversy and Item?

COMPTROLLER FRANCHOT: Which one? Appendix 7 --

GOVERNOR O'MALLEY: Appendix 7?

COMPTROLLER FRANCHOT: -- and Appendix 9.

GOVERNOR O'MALLEY: Thank you. Appendix 7 and 9. Is that one item --

SECRETARY MCDONALD: No, there's two different ones but they are both Department of Public Safety and Correctional Services for those, Items 7, 8, 9.

GOVERNOR O'MALLEY: Okay. How about, are there any other matters of controversy on the Secretary's Agenda?

SECRETARY MCDONALD: -- somebody has asked to speak on on the Secretary's Agenda is a wetlands license permit that was brought to you at the July 3rd meeting --

GOVERNOR O'MALLEY: And that's item number what?

SECRETARY MCDONALD: And that's Item 7.

GOVERNOR O'MALLEY: Item 7?

SECRETARY MCDONALD: -- if you want --

GOVERNOR O'MALLEY: Is there any questions on the balance of the Secretary's Agenda items? That is, the rest of the Secretary's Agenda not including Item 20, Item 7, or Appendix 7 and 9? Which is part of a public works agenda item. Any questions on those? Any matters in controversy? The comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: And the ayes have it. So anyone that was here on any of those Agenda items, you are free to return to work. Did we get anyone? Okay. Give some people some chairs for the second Mass. What's that? Okay. Hold on one second. Hold on. We're just going to let some people clear

out so maybe some other people get seats. Do we have many matters in controversy on the Budget?

SECRETARY MCDONALD: Actually, we might. Yes, that's for the Legal Aid --

GOVERNOR O'MALLEY: Okay. Legal Aid, what item is that?

SECRETARY MCDONALD: That's Item 7 and 17 on --

GOVERNOR O'MALLEY: Item 7 and 17 on Budget. How about any other items on budget?

SECRETARY MCDONALD: I don't think we have any other requests to speak.

GOVERNOR O'MALLEY: All right.

SECRETARY MCDONALD: And the other request to speak is Item 44 on DGS. That's Frederick County.

GOVERNOR O'MALLEY: Okay. My guess is, do you think we have a lot of people here on Budget?

SECRETARY MCDONALD: I think he probably has a lot of Legal Aid people --

GOVERNOR O'MALLEY: Okay.

SECRETARY MCDONALD: And the Frederick County item on DGS.

GOVERNOR O'MALLEY: Is that Item 44?

SECRETARY MCDONALD: That's Item 44.

TREASURER KOPP: But not Transportation?

SECRETARY MCDONALD: I think Transportation you might be able to slip in and out.

GOVERNOR O'MALLEY: I'm just trying to get a sense for why the other folks are here. All right. Well I'm going to, we're going to hold off on the Secretary's Agenda items one second. Let's go to Budget. And let's, we're going to hold aside Items 7 and 17 which are the Legal Aid items in controversy. How about the balance of the Secretary's Budget? Anything on the Secretary's Budget?

MS. FOSTER: Governor, good morning. There are 21 items. I would like to withdraw Item 14 on the DBM Agenda.

GOVERNOR O'MALLEY: Item 14 is withdrawn on the DBM Agenda.

COMPTROLLER FRANCHOT: What is that item?

MS. FOSTER: That's the taxi access program.

GOVERNOR O'MALLEY: The what access program?

MS. FOSTER: The taxi access program.

SECRETARY MCDONALD: -- Mass Transit Administration. I think it needs to be withdrawn. It will come back later when we've gone into it some more.

GOVERNOR O'MALLEY: All right. Anything else?

COMPTROLLER FRANCHOT: So you are going to, there are people signed up on Item 17 and 7?

MS. FOSTER: It's been withdrawn --

SECRETARY MCDONALD: Seven and 17 we're going to hold right now.

MS. FOSTER: Seven and 17.

GOVERNOR O'MALLEY: Yeah, we're going to hold that right now. Anything else on the balance of the Budget, on the Department of Budget and Management Agenda? All right. Hearing none, the Treasurer moves approval, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. So anybody that was here on the balance of those DBM Budget things can go. This isn't working too well, is it? All right. No, we got a few. Okay. We got a few.

SECRETARY MCDONALD: The other thing is Agenda Supplement A, the Department of Natural Resources has a lot of people here that just wanted to say thank you for Rural Legacy grants. You may just be able to recognize them and get a lot of people going on --

GOVERNOR O'MALLEY: Okay. Department of Natural Resources, we're going to hold the balance of, we're going to hold Items 7 and 17, coming back to that one --

SECRETARY MCDONALD: We're keeping Marion on her toes on the last --

GOVERNOR O'MALLEY: Marion, I'm keeping you hopping there.

SECRETARY MCDONALD: I do want to say since we have a minute that back in the Treasury Building, in the Assembly Room, as soon as our meeting is over we're having a party for Marion. And you can go now, because there's things over there now, or wait for us. But as soon as Marion and I get back we'll start the party in the Assembly Room.

GOVERNOR O'MALLEY: Catered by the Green Turtle.

(Laughter.)

SECRETARY MCDONALD: And everybody is invited. Please come.

GOVERNOR O'MALLEY: For those of you that read the transcript, that was a joke --

(Laughter.)

GOVERNOR O'MALLEY: Maybe I should do a motion to strike, or something. It's not really catered by the Green

Turtle. Okay. Department of Natural Resources Real Property Agenda items?

MS. WILSON: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Emily Wilson with the Maryland Department of Natural Resources. We have 17 items on our Agenda today. If you will bear with me briefly, two I believe merit extra highlighting this morning. Item 10A is the fiscal year 2014 allocation of \$13.5 million for the State's Rural Legacy program. We are very grateful for that funding. And this will allow for funding of 15 Rural Legacy grants in Rural Legacy areas across the State. Others that are also grateful for that funding are here. And that includes about 11 or 12, I think, of our local Rural Legacy Area sponsors from across the State. Those are both local governments and some land trusts, and they are here today to just provide support and to give thanks.

GOVERNOR O'MALLEY: Good. Anybody want to be heard on this one? If you have come all this way to speak on Rural Legacy, or any of these, or are you just happy we are passing over you? Ned Halle, great defender of open space.

MR. HALLE: I just want to thank the Governor for all the work he did to keep the money in the budget. I know it was a big fight. Believe me, it was worth it. And we really appreciate it.

GOVERNOR O'MALLEY: Are there any up in your neck of the woods in this pack?

MR. HALLE: There are a few in my neck of the woods, yes there are.

GOVERNOR O'MALLEY: Good. Well that's a model up there, through your valley.

MR. HALLE: We appreciate all the support.

GOVERNOR O'MALLEY: Mr. Halle, good seeing you again. You look younger than ever.

MR. HALLE: Thank you, Your Honor.

GOVERNOR O'MALLEY: And thank you. Any other questions on the Real Property Agenda items in the Department of Natural Resources Rural Legacy? This is a terrific program. For any of you listening at home, I encourage you to go on to Maryland GreenPrint. And we are the only State in these states that has identified and given an ecological ranking to every parcel of land in our State so that we can preserve our necessary green buffers that are required for this Chesapeake Bay region to survive and for the help of our waters and our streams and the like. Related to that is the AgPrint. And related to both of those are these Rural Legacy dollars, which oftentimes overlap the two and allow us to preserve terrific corridors. I know that former County Executive Jim Smith, who

is now our Secretary of Transportation, was so very proud of the land preservation in Baltimore County which has become a model, really. What is that valley called, Jim?

MR. SMITH: Well we've got Greenspring Valley. Help me out here, Ned?

MR. HALLE: Worthington Valley.

MR. SMITH: Worthington Valley.

MR. HALLE: My Lady's Manor.

GOVERNOR O'MALLEY: Worthington Valley, Greenspring Valley, and My Lady's Manor, that whole corridor up there is just --

MR. SMITH: -- plus the local government has invested a lot --

GOVERNOR O'MALLEY: Pull that mike over there with you.

MR. SMITH: Plus the local government has also invested a lot and has on their part preserved about 60,000 acres.

GOVERNOR O'MALLEY: And in planning, when people go for degrees in planning all across the country one of their, one of their examples that they study is how Baltimore County, and the State of Maryland, through the good people up in that part

of our, beautiful part of our State, have managed to come together to bring forward this new land ethic. It's very cool.

MR. SMITH: It's recognized nationally.

GOVERNOR O'MALLEY: Aldo Leopold would be proud. All right. Thanks. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by -- do we have one more?

MS. WILSON: Well we do --

GOVERNOR O'MALLEY: Why are you making faces?

MS. WILSON: If you wouldn't mind, please, I think we would like to maybe get a picture with the sponsors that are here that came up today to support?

GOVERNOR O'MALLEY: Sure.

MS. WILSON: And then there is another item that I would like to highlight, if you wouldn't mind?

GOVERNOR O'MALLEY: Okay. What is the other item?

MS. WILSON: The other item is 14A.

GOVERNOR O'MALLEY: 14A?

MS. WILSON: It's known as the Lake Easement. This is one of DNR's first coastal resilience easements in that there are climate change adaptation measures that are incorporated into the easement to account for predicted sea level rise in this area. This is also of historic significance, as it was part of the Brodess Plantation in Dorchester County where

Harriet Tubman was once enslaved. It's along the Harriet Tubman Underground Railroad National Historical Park and Scenic Byway. We worked in conjunction with the Eastern Shore Land Conservancy on this easement as well as descendants and members of the Lake family, whose descendants were also slaves on this Brodess Plantation around Harriet Tubman's time. And we are pleased that we have both Eastern Shore Land Conservancy members as well as representatives and members of the Lake family here today. They are sitting in the back there.

GOVERNOR O'MALLEY: Great. Would anyone like to be heard from the Lake family? Anyone? Okay. Come on down. Come on up to the microphone. Does that Savage River property actually border the Savage River anywhere? Or is it at the headwaters? Or where is that? We'll come back to that. Yes ma'am, and tell us who you are?

MS. LAKE: My name is Bronte Lake and I'm a fourth generation Lake. My great-grandfather actually owned the farm. My great-great-grandfather purchased the farm after he became a freed slave and he moved back to the Bucktown area, where Harriet Tubman was born. This is my father, Benito Lake. And so it's certainly an honor to be here and to have the easement hopefully approved. We are indeed just a few of, my father is a grandson. There is a sibling. Well, actually a great aunt, his

aunt, that wasn't able to make it here today. She's 92 years old. But she is honored as well to reserve and preserve part of the natural history on the Eastern Shore.

GOVERNOR O'MALLEY: That's great. What is that body of water there?

MS. LAKE: It should be off of the Transquaking.

GOVERNOR O'MALLEY: Got you. Mm-hmm.

MR. LAKE: And the Nanticoke.

GOVERNOR O'MALLEY: And the Nanticoke?

MR. LAKE: Yes.

GOVERNOR O'MALLEY: Got you. Well, thank you both for coming all the way here and thank you for preserving this piece of important Maryland history. Mr. Lake, anything you want to say?

MR. LAKE: Not really.

(Laughter.)

GOVERNOR O'MALLEY: Would you like to join the Board of Public Works?

(Laughter.)

GOVERNOR O'MALLEY: Okay, that's a good one. All right. We're going to, we're going to have a picture up here --

TREASURER KOPP: I just --

GOVERNOR O'MALLEY: Madam Treasurer?

TREASURER KOPP: -- before we do, could we hear like two and a half minutes, maybe, of how this fits into, how this fits into Maryland's effort to imbue in all of its programs, but particularly these important preservation and infrastructure programs, what we are learning about climate change and mitigation?

GOVERNOR O'MALLEY: And sea level adaptation?

TREASURER KOPP: Yes.

MS. JOHNSON: Thank you, Madam Treasurer. For the record, my name is Zoe Johnson. I work in the Department of Natural Resources and I oversee their climate change policy. Under the Governor's great leadership and Madam Treasurer's leadership we are working to integrate consideration of climate adaptation principals into all of our land resource, land investments, resource management, as well as our assets. The executive order that the Governor signed at the end of December requires us to begin to look at climate adaptation principals in how we design and site our infrastructure investments.

So but beginning with the land investment piece, about three years ago we began to incorporate consideration of sea level rise into the land that we analyze for purchase or through our easement program. So the GreenPrint program now incorporates what we call our wetland adaptation areas. Those

are areas where we have mapped that wetlands would migrate inland as sea level rise occurs over time. And so that data and that information, the highest ecologically ranked lands includes lands where we can protect. And we are targeting to acquire lands that can serve these key features that we will need to better adapt to climate change in the future.

So the easement, this first climate resilience easement is the first in its kind. You know, a number of easement programs are beginning to incorporate specific language that relates to climate change, both from a mitigation perspective as well as an adaptation perspective. But what this does in particular on the Lake easement is it does a number of things. It protects the wetland migration corridors, so the wetlands will be able to migrate inland as sea level rise occurs and it maintains a buffer around those key wetland adaptation areas. And it allows us to, the other thing is it restricts development in areas that would be vulnerable to sea level rise over the next 50 years and it increases the impervious surface limitations on the site to reduce environmental damage due to higher intensity rainfall events so it can better protect water quality as climate change occurs.

So it's just a matter of, this is one particular easement, but we are working to incorporate language and

consideration of a number of climate change adaptation issues into all of our investments at the State level here in Maryland.

TREASURER KOPP: Thank you. This is, this is really a landmark move here. I really appreciate it. This is another one of the unsung heroes.

COMPTROLLER FRANCHOT: Thank you.

MS. JOHNSON: Thank you.

COMPTROLLER FRANCHOT: What is your name again?

MS. JOHNSON: My name is Zoe Johnson.

COMPTROLLER FRANCHOT: And your position?

MS. JOHNSON: I work at the Department of Natural Resources. I'm the Program Manager for Climate Policy.

COMPTROLLER FRANCHOT: If you see a project called the Four Seasons on our Agenda, would you please come back and just --

TREASURER KOPP: Don't --

(Laughter.)

MS. JOHNSON: I understand that Four Seasons was before you last session. That's another area obviously we need to spend some more time thinking about how to incorporate sea level rise issues into our regulatory programs. But we're trying to, from a broad umbrella with respect to climate adaptation, incorporate issues within all our programs and all

the activities we do within the State. So thank you for your leadership on this issue, Governor and Treasurer.

GOVERNOR O'MALLEY: Thank you.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: Is there any public access to the Nanticoke down there? I'm curious. Through the woods? That's the public access? I'm inclined to go check that out sometime. All right. Any other questions on Open Space DNR? Treasurer? Yeah, we're going to do a picture. We're going to approve this and then we're going to get a picture so if you're here for the picture, don't go away. Come on up right after. So we, moved by the Treasurer, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: And the ayes have it. Any nos? None. It was unanimous. So could anyone who is here for the pictures for the Rural Legacy, the Open Space, any of those Agenda items, come on down and thank you for being part of this program. Or come on up.

How are you doing? Good to see you. What's your name? Good to see you, man. Good to see you. How's it going, good people? Everybody squeeze together. It will feel unnatural, it will look good. Come on.

(Laughter.)

GOVERNOR O'MALLEY: Everybody, if we do kind of side to side, do you think we need to do two, Tom? We need some more people around the other side. Good. How about you?

All right. Here we go. We're going to do a wide angle, folks. Everybody smile. Look like you're happy to be here. Look happy.

Are you really getting everybody?

Thank you. And that will be online shortly. Thank you all. Thank you. Good to see you. Thank you all. Thanks a lot. See you. Thanks for your patience. Sorry, I wish I'd called this earlier. Thank you. See you. Thank you. Thanks for being part of this program.

Mr. Lake, come on up. Good. Come on, why don't you stand right in the center? I want to get the Lake family.

SECRETARY MCDONALD: Are you with -- you're part of this. Yes, you are. Be in the picture, why not?

GOVERNOR O'MALLEY: -- group together. This is the Lake. See you, thank you.

MS. WILSON: Thank you very much.

GOVERNOR O'MALLEY: Thank you. All right. Do we have anything on the Transportation Agenda of note? Not aware of

any? Nobody signed up? Okay. We're on Transportation Agenda items. Secretary Smith, any thoughts?

MR. SMITH: Just good morning. And we have 22 items on our Agenda. This is Jim Smith, MDOT Secretary.

GOVERNOR O'MALLEY: And everybody was applauding the building of the Dover Bridge.

MR. SMITH: Yes, they were.

GOVERNOR O'MALLEY: Rebuilding of the Dover Bridge.

MR. SMITH: That certainly got a lot of very positive reaction.

GOVERNOR O'MALLEY: That's good. And bipartisan. All right. The Comptroller moves approval --

TREASURER KOPP: Oh --

GOVERNOR O'MALLEY: I'm sorry?

TREASURER KOPP: -- and the 301 overpass.

GOVERNOR O'MALLEY: And the 301/304 overpass.

TREASURER

MR. SMITH: This is a great job.

TREASURER KOPP: -- the Governor --

GOVERNOR O'MALLEY: It got better after the last session. All right. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. How about the Department of Information Technology? Mr. Schlanger, do you have anything of controversy?

MR. SCHLANGER: Of course not, Governor.

GOVERNOR O'MALLEY: Okay. Well we'll let the Comptroller be the judge of that. Mr. Comptroller, any questions?

MR. SCHLANGER: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Elliot Schlanger, Department of IT. Five items on the Agenda this morning, I'll be happy to answer any questions.

GOVERNOR O'MALLEY: Madam Treasurer, concerns?

TREASURER KOPP: Not a question, but a concern. I understand this is the Secretary's last meeting, the Secretary of DoIT. Is that right?

MR. SCHLANGER: That would be true. But I'm not leaving to go very far.

TREASURER KOPP: Is that why you are smiling? And you are going to be a cybersecurity guru?

MR. SCHLANGER: I am going to take on the fight of helping Maryland be cybersafe. So I'm not going very far. And I enjoy the new role.

GOVERNOR O'MALLEY: Elliot, thank you. Mr. Schlanger is the very first IT, Secretary of IT that our State has ever had. And you have done an outstanding job. And thank you for being willing to stand up and step up to the big cybersecurity needs that we have and for grooming such a good successor in your job as well. So Treasurer moves approval, not only on these Agenda items but on the job you've done.

TREASURER KOPP: Yeah.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. How about University System of Maryland. Any questions, University System of Maryland?

MR. STIRLING: Good morning, Governor, Madam Treasurer, and Mr. Comptroller. Jim Stirling for the University System. We have nine items on today's Agenda. I'd be happy to address any questions you have.

GOVERNOR O'MALLEY: 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?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And how about we got to DGS, with the exception of Item 44? Anyone have any questions on the Department of General Services Agenda items with the exception of Item 44? No? The Treasurer moves approval, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And now we return to matters in controversy. How about, we had kind of a due process issue on that wetlands permit. What item was that?

SECRETARY MCDONALD: That is Secretary's Agenda, Item 7.

GOVERNOR O'MALLEY: Secretary's Agenda, Item 7.

SECRETARY MCDONALD: Mr. Moore is here, he's ready to take up, the Board listened to testimony on July 3rd.

GOVERNOR O'MALLEY: Could you please, would you please, come on up and update us. I know that the concern that we had on this Agenda item was that perhaps affected neighbors

were not sent notice of the hearing and given an opportunity to be heard once again here. And we agreed, as I recall, at that time to defer this, to mail out notices, and to give anybody that hadn't been heard an opportunity to be heard that had not already been heard. So can you update us? Where are we? What did you do?

MR. MOORE: Okay. Good morning, Governor, Comptroller, Treasurer. For the record, I'm Doldon Moore, Wetlands Administrator. And again, before you today is Queen Anne's Landing Marina, Case No. 11-WL-0208. And again, the Board did defer on July 3rd and requested that I do a wider distribution of Maryland Department of the Environment's report and recommendation. Again, this was due to the two different public information notification processes that are set out, one in the law for the Department of the Environment and the other in regulations for the Board of Public Works.

On July 15th we mailed out 452 packets by U.S. mail. The mailing was comprised from a number of different sources. The 349 Queen's Landing community units condominium list that was provided by the applicant; MDE's interest file database from its public process; a petition which was received from MDE and I was provided a copy of during its March 15, 2011 public hearing notice; a hearing roster from my April 7, 2011 public hearing;

and interested persons that contacted my office directly. A petition that was submitted to my office during the first two review of MDE's report and recommendation was also included. And again, any people who signed up to speak on July 3, 2013 Board meeting. And we also included all State and county elected officials that represent Queen Anne's County.

The comment period ended on July 30th for that supplemental public review, which was the third one. I received during that 15-day period eight comments. Four were for, and four were against. I did not learn anything different than what I had known before.

GOVERNOR O'MALLEY: Okay.

MR. MOORE: And again, I support, you know, my prior recommendation that the Board issue the wetlands license for this minimal scope of work.

GOVERNOR O'MALLEY: Okay.

MR. MOORE: Which includes, the elements are two pier extensions, three new finger piers, one support pile, and eight mooring piles.

GOVERNOR O'MALLEY: Got you. Madam Treasurer?

TREASURER KOPP: Governor, I again was the culprit. I was concerned because my understanding was, and we did see that Secretary Summers had made one statement about public

dissemination of information and the Board had done another. I hope that we can get those coordinated in the future so it doesn't happen again. I appreciate the fact that you did it. We also got copies of the responses and ours, too, were 50 percent for, 50 percent against. But I appreciate very much the fact that the process, that the problem was brought to our attention and the process was created --

MR. MOORE: And I can say the department and I, we have started taking steps to coordinate and make sure that, you know, I receive copies of their interested persons list and so forth so that my distribution can be wider than what is required by my regulations.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: So did anyone show up here today that hadn't already been heard? Yes, ma'am. I recognize you very well. Tell me your name again?

MRS. ELASIK: Yes. Good morning --

GOVERNOR O'MALLEY: Hi.

MRS. ELASIK: -- Governor, Comptroller, Madam Treasurer. It's Suzi Elasik. And I --

GOVERNOR O'MALLEY: And we heard from you last time --

MRS. ELASIK: Yes, you did.

GOVERNOR O'MALLEY: -- at great length. Three times I think during the course of that hearing.

MRS. ELASIK: Thank you. Yes. Yes.

GOVERNOR O'MALLEY: So we are hearing from you one more time?

MRS. ELASIK: Yes. This will be brief, sir.

GOVERNOR O'MALLEY: Okay.

MRS. ELASIK: Thank you very much for seeing that all the homeowners received it. That was very important. We have one little question today, if we may? After the comment period closed on July 30th Mr. Moore sent us, I suppose everybody, a comment that Condition L had been changed in the MDE report. Now when MDE puts out its report, it has certain conditions the marina has to abide by. And the old Condition L in the May report was absolutely perfect, because it said no outside boats could be in the marina. Now no one had a chance to comment after the new Condition L came out and we're very concerned about one word in there if we could just briefly go over it, and I put these together for each of you of the statutes so they are all on one sheet. But basically the May report and recommendation agreed 100 percent and it concurred with the Queen Anne's County Code that says a community pier is for the benefit of the residents. It agreed with the Maryland Annotated

Code that says one of the requirements of a community marina is that a community own and establish and operate it for the benefit of the residents in a platted subdivision.

Now the new change which you have there says this. It says that, I need my copy back to read it, but basically it says that, they changed the whole thing completely and only quoted part of the definition of what family means. They didn't put the word resident in there. And all of the statutes, excuse me, say that it should say resident. The new Condition L that is not correct says slip ownership or leasing in this community shall be in accordance with the Queen Anne's County critical area program and the policies and administrative decisions adopted by Queen Anne's County planning and zoning. Slip owners or lessees may include Queen's Landing Condominium residential unit owners or tenants or family members of the Queen's Landing Condominium resident unit owners or tenants.

So two things are wrong in the new condition. One is it doesn't state that if you are a family member you should be a resident of the community and conform with the statutes. The second thing here, it says that tenants and family can purchase slips and this is not according to the declaration. Only unit owners can purchase slips in the marina. So where this got messed up is when the county attorney approved the 2009 marina

declaration it said outside boats could be in the marina. Now that's still what is recorded in the land records. The marina folks have not changed that. So I guess MDE saw that when they approved everything. But actually it is against the statutes if you allow outside boats in the marina.

And then he went on to say after he received a little bit of static from the marina folks, said hey, it said outside marina, you approved outside boats, you approved it. Then he came back and said, okay, I'll make an administrative decision and say family can be in the marina. The problem is he didn't use the whole definition of family. Mr. Drummond went on to say that family is defined in Title 18 as one or more persons related by blood, marriage, adoption, or guardianship. He left out the rest of the definition. And the rest of the definition says very simply here that one or more persons so related occupying a dwelling unit and living as a single housekeeping unit. So he accidentally left off the rest of that. But the problem is it left the door open for outside boats in our community marina. That I guess makes it a commercial marina. But over the years there have been outside boats. And just in, on July 3rd DNR confirmed six boats in that marina that do not have Queen's Landing addresses. One of even the brother of the owner of all the slips in the marina, Mr. Turlington, who lives

in Baltimore, who does not live in Queen's Landing. And the problem comes in, is not only is it against the statutes, but they use our facilities, our pool, our landscaping, our parking, our trash.

So basically when MDE says in their report, on page two, paragraph four, the marina has no unresolved zoning issues or violations with Queen Anne's County, which is not true. Because we turned in, QLHFT turned in to the county a report of these six boats which they had at their commissioners' meeting. And we received a letter from the County Administrator, Mr. Greg Todd, on the 15th that said, you know, we're having our attorneys look into this. So we don't know whether they are going to issue citations against those four boats, or what they will do. But there is an issue of course now with the county.

So here is what we are looking for you to do today. We all want this to get approved and go to bed. As the Governor said, this is really the mother of all wetlands licenses and I'm sure we are all tired of hearing about it. But prior to approving it today would you please use the statutes for the purpose for which they were written? All the State and county statutes clearly say that anyone who leases a slip at the community marina, be it owner, tenant, or family, must be a resident. The word resident is what is really important here.

So here are some options maybe if you can think about these? One, require MDE to go to that special Condition L, which was in the May report that we all approved. Or two, if they want to use the new definition of family in their new Condition L, which was just changed last week, put in the word resident. Or use the whole definition from the Code of what family is, that they must be a resident. And also MDE needs to correct the error in Condition L, that tenants and family can own slips.

So thank you again. Oh, the other thing is the marina still has the recorded declaration that says outside boats. Now they changed it on the website to say family but they didn't use the whole definition. But it's not concurrent and should be filed in the land records properly and not be violating the statutes where it says outside boats.

Thank you again for your patience and time. We are not opposed to the approval of the wetlands permit. Our community is just looking to you, the Board, to see that the MDE report and recommendation is compliant with the State and county statutes. And that's the marina comply with the fact that family must be a resident per the statutes. And then we can all move forward. Thank you.

GOVERNOR O'MALLEY: Thank you. Mr. Moore, why did you change the definition from May 8, 2013 to a new definition on August 9, 2013? Ma'am, you can have a seat now. Very eloquent and concise, thank you very much.

MR. MOORE: We had, I had spoken with the Department of the Environment that the language that was used was very, was unclear and confusing. And who I would like to come up was Emily, the Attorney General's Office, to explain a little better that there was some confusion here.

GOVERNOR O'MALLEY: Ms. Jones?

MS. VAINIERI: Hello, good morning, or good afternoon, almost. My name is Emily Vainieri, I'm an Assistant Attorney General for the Maryland Department of the Environment. I guess the, I mean, I agree that the first condition in the original May report and recommendation was confusing. It was talking about transient boaters and it just didn't, it wasn't clear. So the reason that we recommended the revision that we did in our second letter was simply to be consistent with county law. And that's really all the condition is saying. Is that the use of the slips, which has clearly been controversial given the history of this marina and the transactions that occurred throughout the history of the development of the condominium, given all of that it's important to include a condition in here

that talks about the use of the marina and acknowledges that fact that it is a community marina. So all that the condition says is the use of the marina should be guided and directed and be consistent with Queen Anne's County critical area program laws.

GOVERNOR O'MALLEY: So it wouldn't, what would it hurt to put in the language that everybody already approved in addition to that saying the use of this community marina by transient boaters or rental of boat slips to boaters other than residents in the community is prohibited?

MS. VAINIERI: The problem, well for me the problem there is that transient boaters are people who can, I mean, a transient boater is not necessarily someone who owns a slip or rents a slip. It can be someone who, you know, might be visiting their friend in the development for an afternoon or something like that. That person who is just visiting, who is a transient boater, there is no requirement in county law, or State law, or critical area program law that that type of boater or visitor needs to be a resident of Queen's Landing Marina, a family member of Queen's Landing Marina, or anything like that. So that was my issue with the original condition.

GOVERNOR O'MALLEY: Do you believe that the language that you have there prohibits the rental of boat slips to boaters other than residents of the community?

MS. VAINIERI: This, the revision of the slip? Does it prohibit --

GOVERNOR O'MALLEY: Right. The one you did after the public process that the Board --

MS. VAINIERI: Does it prevent the rental of slips to someone other than --

GOVERNOR O'MALLEY: Residents?

MS. VAINIERI: -- residents or family members of residents? I think that the rental can also be to family members.

TREASURER KOPP: But isn't that, I thought the question was family members who live in Boston, for instance.

MS. VAINIERI: Uh-huh.

TREASURER KOPP: The definition of family members.

MS. VAINIERI: I mean, the definition of --

TREASURER KOPP: Why isn't it constrained?

MS. VAINIERI: The definition of family is what I would go to Chris Drummond's letter in his decision on this issue. And that was, I think it was Chapter 18. And Chris Drummond looked into the issue. Looked, I mean, it started as a

zoning violation. So he looked at it, did the investigation. The planning and zoning folks did the investigation, determined that there was no issue here, and decided that the interpretation could include residents or family members of residents under Chapter 18. And that was an unchallenged decision. It was an administrative decision. He gave 30 days to challenge it and no one did.

GOVERNOR O'MALLEY: Questions? Concerns? Treasurer Kopp? And recommendations?

TREASURER KOPP: I'm still confused. The Queen Anne's County Code limits it to residents. Residents, right?

MS. VAINIERI: The Queen --

TREASURER KOPP: And then the question is the definition of residents, how broad that is?

MS. VAINIERI: I mean, the Queen Anne's County Code, if, for community, I mean just if you start with the definition of community pier in the Queen Anne's County Code it says a community, a boat docking facility used by owners and tenants or guests of owners or tenants of condominiums. I mean, it leaves it very broad. So it can be tenants, owners, guests for what the definition of a community pier is. And then the county lawyer made an interpretation of county law and the requirements and criteria of community pier for the county's requirements and

the recommendation of the department for Condition L is just to be consistent with how the county is going to interpret its own laws.

TREASURER KOPP: I'm sorry, I'm still confused between what you say, what we said last time, and what this piece of paper says.

MS. VAINIERI: What we said last time? What the original --

TREASURER KOPP: The way we first saw it.

GOVERNOR O'MALLEY: Do you have a copy of this that you can give to, do you have a copy of this that you can give to the attorney who is being questioned about --

TREASURER KOPP: It's our copy. It's not your copy, it's our copy.

MS. VAINIERI: Okay, so you are asking about the first bullet?

GOVERNOR O'MALLEY: Yeah. I mean, what it looks like is that somebody, I mean the allegation is clearly that the language was changed after the public process in order to allow people who don't live there to be able to rent boat slips.

TREASURER KOPP: Right.

GOVERNOR O'MALLEY: And it would seem that your definition opens the door to that whereas the prior one did not. And so the question is why?

MS. VAINIERI: I guess from the definition in the Queen Anne's County Code has been the same all along. It says that a community pier shall be for the benefit of the residents. That doesn't say, I mean, it's incredibly broad. It doesn't say that what benefit of the residents actually means. It doesn't say that that person has to live there. Or family, you know, it doesn't specify. For the benefit of the residents is all it says. So the way that the Queen Anne's County lawyer then interpreted that through his decision was that for the benefit of the residents for this community marina can be a resident of the condominium or a family member of a resident of the condominium.

TREASURER KOPP: And then there is the definition of the --

GOVERNOR O'MALLEY: Regardless of whether or not they live there?

TREASURER KOPP: Right.

MS. VAINIERI: Yes.

GOVERNOR O'MALLEY: Well then why do you go through the ruse of saying single housekeeping unit as if they have to live there, if they don't have to live there?

MS. VAINIERI: That's on --

GOVERNOR O'MALLEY: Occupying a dwelling unit and living as a single housekeeping unit.

MS. VAINIERI: That's from the Queen Anne's County Code. I mean, that's not what's in the special condition.

GOVERNOR O'MALLEY: That's not what's in the special condition?

MS. VAINIERI: No. The part, are you looking on here where it says incorrect? With the red?

GOVERNOR O'MALLEY: Show me what page it is. Right, correct.

MS. VAINIERI: Okay. That is from, that's not on the condition, in Condition L.

GOVERNOR O'MALLEY: Read to me the condition. What bullet number are we on here, by the way? Thank you. So where is the condition, here? What page is it on? I've got a whole raft of stuff here on --

MS. VAINIERI: Okay. The condition that MDE recommends, if you look, MDE's August 6, 2013 letter.

GOVERNOR O'MALLEY: August 6, 2013? I'm sorry, I've got 100 pages here of stuff.

MS. VAINIERI: Right. I, I know. I left my box at home on this file.

GOVERNOR O'MALLEY: Uh-huh. Got you. The one that has the date right down there at the bottom. Okay. Okay. The revised recommended Special Condition L is as follows. This is like, this is why I didn't attend class in law school. Slip ownership or leasing in this community marina shall be in accordance with the Queen Anne's County critical area program and the policies and administrative decisions by the Queen Anne's County planning and zoning. The owners and lessees may include Queen's Landing Condominium residential unit owners or tenants or family members of Queen's Landing Condominium unit owners or tenants. And that was changed from your prior one that said the use of this community marina by transient boaters --

MS. VAINIERI: Right.

GOVERNOR O'MALLEY: -- or rental of slips by boaters other than residents of the community is prohibited?

MS. VAINIERI: Right.

TREASURER KOPP: So the first one you were, caused you concern. So I'm not a lawyer. The first one caused you concern

because of the initial phrase the use of the marina by transient boaters --

MS. VAINIERI: Transient boaters, right.

TREASURER KOPP: -- because that might interfere with residents' guests? That's what you said?

MS. VAINIERI: Right.

TREASURER KOPP: So in order to take care of, but the ownership is limited to residents of the community. So in order to take care of that we have changed it to say that families of residents may own it and be silent on the use. Is that right?

MS. VAINIERI: I mean, yes. Because the, I mean --

TREASURER KOPP: I'm confused. I don't, it doesn't change the use. The use is silent. It can be used by anyone now.

MS. VAINIERI: Right.

TREASURER KOPP: Whether they are transient or non-transient. So it doesn't take care of your problem. No one is prohibited from using it. But the ownership has been expanded from residents to families of residents.

MS. VAINIERI: The ownership is consistent with Chris Drummond, the Queen Anne's County attorney's interpretation of community marina requirements and who may own slips at Queen's Landing Marina.

TREASURER KOPP: But the State law says that a community marina is for the benefit, whatever that means, of the residents.

MS. VAINIERI: Right. It says it is community owned and established and operated for the benefit of the residents. That's all that it says. Which to me is very broad.

TREASURER KOPP: It doesn't say anything about families. It doesn't say anything about families.

MS. VAINIERI: Right. But for the benefit of residents it could be --

TREASURER KOPP: But anything could be the benefit of the residents. It doesn't say anything, you are right.

MS. VAINIERI: Right. Exactly.

TREASURER KOPP: As long as it's --

MS. VAINIERI: Right.

TREASURER KOPP: So we're doing this, whatever it is that brings this before us. And I thought everybody thought this was to be a community marina to be used by the residents.

MS. VAINIERI: Use, I mean there's a good, you said use --

TREASURER KOPP: And leased by the residents, the slips.

MS. VAINIERI: Owned and leased by residents or family members of residents, which is what --

TREASURER KOPP: No, that's the thing. That's what I don't understand.

MS. VAINIERI: Which is what Chris, I mean, that is --

TREASURER KOPP: That was not before us before.

MS. VAINIERI: I guess it's, I mean, from the department's perspective that, as far as we understand, has been the way it's been since at least Chris Drummond's letter in 2011. And that was part --

TREASURER KOPP: -- not what was before us. What was submitted to us --

MS. VAINIERI: In MDE's report and recommendation on May 3rd, is that what you mean?

TREASURER KOPP: Yeah. Yeah. Yeah.

MS. VAINIERI: You are right. We had a different, we did, yes, we had a different condition. But that condition was not accurate or correct at the time.

TREASURER KOPP: Well it would have been accurate if we had voted then. It would have been what we did. I'm sorry. I'm not an attorney. I'm just a confused layman.

GOVERNOR O'MALLEY: Well it sounds like you did a bit of a bait and a switch here. I mean, you ask us to -- sir, do you want to be heard?

MR. ELASIK: Yes.

GOVERNOR O'MALLEY: Yeah, come on up. By all means. We love wetlands permits.

MR. ELASIK: Good to see you all again.

GOVERNOR O'MALLEY: It's great to see you.

MR. ELASIK: Thank you. I think with what's going on here as far as statutes are concerned, and definitions of statutes, and it very clearly states in the interpretation statute of 14.1.6 of the Critical Area Commission Code of Queen Anne's County. And I'll read it for you. Determine the actual impact of various proposed interpretations permitting flexibility and design but prohibiting an interpretation that lowers the protection afforded to the public and would be inconsistent with the goals and objectives of the program and the requirements of Chapter 18.1 of the DNR Annotated Code of Maryland. So what that says is that the most restrictive statute takes precedent. So whatever Chris Drummond writes, or whatever DNR interprets, MDE interprets, it's the most restrictive statute that must be imposed. The most restrictive statute says that you must be a resident and a unit owner in the

community in order to have a slip in that community. You must be a unit owner, or a resident, or a tenant, a tenant being a resident, in order to least a slip from that community.

And one more thing. As far as the, I'll repeat what the definition of family is right here. It says one or more persons related by blood, marriage, adoption or guardianship, or not more than five persons not so related occupying a dwelling unit and living as a single family housing unit. If you are a family member you must reside in that unit in the community. That's Queen Anne's County Code 18.1.

TREASURER KOPP: And is that the definition of family members in this paragraph we are reading with the new --

MR. ELASIK: Ma'am --

TREASURER KOPP: -- it's not defined --

MR. ELASIK: It's defined in the Queen Anne's County Code, is the one I read to you right here. It's 18.1, definition of family code.

TREASURER KOPP: Right. So is that what is incorporated in this? Is that the family, is that the definition that this? Then there is no issue.

GOVERNOR O'MALLEY: Except owners --

MR. ELASIK: The problem, excuse me, the problem with Special Condition L is that it is inappropriate. It doesn't

comply with any of the statutes. That's the problem. You know, it sets a dangerous precedent for every community marina in the State of Maryland. You know, the legislation comes up with these laws and it's I guess the governing bodies to make sure they are implemented.

GOVERNOR O'MALLEY: Why don't we just add the words living in --

TREASURER KOPP: Yeah.

GOVERNOR O'MALLEY: -- living in said owner's unit? How about that?

MR. ELASIK: Governor, that's excellent. That's exactly what we've said --

GOVERNOR O'MALLEY: Okay. Are we okay with that? Are we okay with that? Madam Treasurer?

TREASURER KOPP: Okay.

GOVERNOR O'MALLEY: Are you okay with that? We are going to add the words living in said owner's unit.

SECRETARY MCDONALD: Ms. Vainieri, do you need to be heard on that?

MS. VAINIERI: Just a quick question. I mean, there are owners who own but don't actually live there. Right? So that wouldn't, I mean, doesn't matter? I mean, we could just --

TREASURER KOPP: They still own it.

MS. VAINIERI: We could just take it out.

MR. ELASIK: No problem, own or live.

GOVERNOR O'MALLEY: What's that?

MR. ELASIK: That's the own or live. You can be an owner or live in the residence.

MS. VAINIERI: There are a number of, from my understanding of the community, there are a number of people who own but do not live there. So if you, I believe if you added that language that you just suggested it would prohibit people who own but live somewhere else from owning a slip or renting a slip at the condo.

MR. ELASIK: No, that wouldn't --

MS. VAINIERI: I would just say that this condition consistent, the way that MDE wrote it, wrote it to be consistent and it's my opinion that it is consistent with Queen Anne's County critical area program law.

GOVERNOR O'MALLEY: Mm-hmm.

MS. VAINIERI: As the county interprets its own critical area program requirements.

MR. SETZER: Governor, if I may?

GOVERNOR O'MALLEY: Yes, sure.

MR. SETZER: Gary Setzer. I'm the Administrator of the Wetlands and Waterways program. Condition L was originally

proposed to try to address the concerns of the community about the use of the marina. It was meant to be consistent with the State critical area statute and the county's critical area program and their regulations. The Elasiiks and some of the other commenters in the last go round brought up concerns about its consistency with those State law, County Code, State regulations. So the changes that we are offering to Condition L were meant to address the inconsistencies that were brought to our attention. As it's written, it's consistent with the State critical area law. And in fact, Ms. Vainieri and I were at the Critical Area offices when we wrote that condition. It's consistent with the critical area law. It's consistent with county ordinance. It's consistent with the administrative record that the county attorney offered in his letter of March 9, 2011. And to change Condition L haphazardly could end up with unintended consequences. My recommendation would be either keep it as it is or drop it. It was only there to support the county's regulation of the marina. Thank you.

GOVERNOR O'MALLEY: But if you drop it, then it's open to as many people as --

MR. SETZER: Well then it's open to the county, whose program and whose ordinance it is.

GOVERNOR O'MALLEY: But you know, the cleaner way to do this with only one word would be to insert the word resident in front of family members of Queen Anne's.

MR. SETZER: If you are going to add resident in front of family members, then there is no reason to even have it. It basically says you have to live there to own or rent.

GOVERNOR O'MALLEY: Right. I think that's their point, and that's what was in the original L. Right?

MR. ELASIK: Right.

MRS. ELASIK: Yes.

MR. SETZER: That is the Elasiks' point, that is correct.

GOVERNOR O'MALLEY: Right.

MR. SETZER: But it is not consistent with county ordinance or the county attorney's 2011 letter.

GOVERNOR O'MALLEY: Mm-hmm.

MR. SETZER: And what we were going for was consistency with State law, State critical area law, and the State and the county ordinance.

GOVERNOR O'MALLEY: I'm inclined to put in resident. Do you all want to put in resident?

TREASURER KOPP: Mm-hmm.

GOVERNOR O'MALLEY: Okay. The Comptroller moves that we insert in the Condition L --

MS. CHILDS: There are other people who would like to speak, sir.

GOVERNOR O'MALLEY: Oh, goody. How about -- look, I'm just trying to send you all to court because that's where you are going anyway. Okay? And this is, you want to be heard? I don't want to cut off due process. Lord knows we've been rolling in it on this one for months and months and months. Please, by all means, come on up sir, and identify yourself for us.

MR. MULFORD: Good morning, Governor. At least I think it's still morning.

GOVERNOR O'MALLEY: It's afternoon now.

MR. MULFORD: Governor O'Malley, Treasurer, Comptroller, my wife and I are full-time Queen's Landing residents and I am now, I think about a year ago I became the Treasurer of the horrible boat slip unit at Queen's Landing.

In December of 2009 in order to prevent the marina from becoming a commercial marina the former owner deeded the boat slip unit, which is the equivalent of the condo that I live in, it's treated the same. That consists of the docks, the piers, the pilings, the bulkhead, and the walking path. That

was deeded to an entity named Queen's Landing Community Marina, LLC, which is, who is really before you today on this application. Because Queen's Landing did not have a million and a half dollars to buy the slips, the seller retained the right to sell 69 [sic] of the 62 approved boat slips. Again, approved boat slips. But only to owners of condominiums in Queen's Landing. And I'm using that term loosely and not getting in this legal argument that is going back and forth here that, quite frankly, I find a little absurd. But only to owners of condominiums in Queen's Landing. The 62nd slip was donated to the Kent Island Volunteer Fire Department to dock their fire boat. The boat slip owners absorbed the cost of the Fire Department's share of the operating costs of the marina.

The former owner of the marina was in the business to make a profit and reinvestment in the marina docks and walking path was minimal. During the approximately three years and seven months of its existence, the boat slip owners have spent over \$40,000 on maintenance and improvements, paid over \$27,000 in dues to the condo community, spent over \$37,000 on insurance to protect the members of the council of unit owners from any marina liability, and paid all of the other costs of operating and maintaining the marina. In addition, the boat slip owners have accumulated over \$60,000 in reserves to protect the

community from future repair expenses. The boat slip owners have also arranged with the Natural Resources Marylanders Grow Oysters program to host six oyster cages in our marina this fall. If that proves to be successful we will increase the quantity in subsequent seasons. All of this is a major improvement from what the community had before the transaction.

As part of the transaction the board of Queen's Landing required the seller to do the following. And this is what we are here about. Finish the partial C dock T-head and add one pile under a weak section of that T-head; relocate slip C-13 so that the bulkhead space that was slip C-13 could be made into community access landing and small boat access by all of the community members. And that has been done. Slip 13 is pulled out --

GOVERNOR O'MALLEY: How about to the point that we are, I'm sorry, I thought you wanted to talk about whether or not you all should, whether it should be restricted to people that actually own units there or not.

MR. MULFORD: Well --

GOVERNOR O'MALLEY: Are we getting to that one?

MR. MULFORD: I wanted you to hear that there are real live people that we are talking about here.

GOVERNOR O'MALLEY: Oh, yes sir. Oh, I know. I've met many, many, many of the over the course of this. Why don't you continue? You seem intent on reading this to us, so you go ahead. How many more pages is it?

MR. MULFORD: I, I --

GOVERNOR O'MALLEY: And I feel very badly for all of you who came here early to have your matters heard. And now we are at 12:30. I feel badly. I wish there were a better way to manage this. Sometimes when the docket comes up, there is more controversy and more contest. So I thank you for bearing with us. Sir, you go ahead.

MR. MULFORD: Governor, I've been standing against the back wall since well before 8:30 --

GOVERNOR O'MALLEY: Well, I appreciate that. So I'm so sorry to interrupt you. You go ahead.

MR. MULFORD: All right. So C-13 has been removed --

GOVERNOR O'MALLEY: C-13? Tell us which one C-13 was?

MR. MULFORD: It's on the bulkhead in the corner. I'd be happy to show you if you have a diagram. I don't have one --

GOVERNOR O'MALLEY: I've got it right here. Which one is C-13? Do you want to see which one C-13 is? Great. You go ahead. Keep telling us about C-13.

MR. MULFORD: So we have created benefit there for the community, in addition to all

the financial investments the boat slip owners have made. The other requests are to, and I won't, you have obviously had enough hearing from me, I'll skip a little bit.

GOVERNOR O'MALLEY: Well I just thought you were going to speak to the issue in controversy, which is whether or not we should put the word resident in there or not. And maybe you could help enlighten us.

MR. MULFORD: Well, I'll tell you.

GOVERNOR O'MALLEY: I don't see what C-13 has to do with that issue.

MR. MULFORD: Well I'll give you an example of what we need to be careful doesn't happen on that issue. In April of 2004 my wife and I purchased an interest in Queen's Landing and we lived in New Jersey. We were full-time residents in New Jersey. We docked our boat in Queen's Landing Marina. In July of 2011 my wife and I retired and moved in, and so now we are owners and residents. We have about a third of our community where the unit they own in the community, they are not primary residents in. They have, a lot of them live in the general, Baltimore/D.C. metropolitan area. We, I ask you please to be careful that you don't create wording so that the people --

TREASURER KOPP: It doesn't say that. It wouldn't say that. It says owners already.

MR. MULFORD: Well, I want to make sure. Because they keep stressing residents. They want it to be an owner leased, the way I interpret it, they might want it to be an owner and a resident.

GOVERNOR O'MALLEY: No. They, the conjunctive, it's a disjunctive.

TREASURER KOPP: Or. We agree with you.

GOVERNOR O'MALLEY: It's or. We agree with you.

MR. MULFORD: Okay. Well I, if you would make that, make careful that we don't end up in court on that issue later I would appreciate that. All right. I'll withdraw the rest of my comments.

GOVERNOR O'MALLEY: Okay, thank you. So the Treasurer moves the insertion of the word resident between or and family on Condition L, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: Now we're on this Item 7 for final consideration. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: And we now move on. Thank you all very, very much for your patience. We move on now to Item, Secretary's Agenda Item 20.

SECRETARY MCDONALD: Dr. Lever is here and prepared to answer any questions.

DR. LEVER: Good morning, Governor.

GOVERNOR O'MALLEY: Good morning, Dr. Lever.

DR. LEVER: Madam Treasurer, Mr. Comptroller. I'd be glad to answer any questions you might have.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor. This item is adding \$18.1 million in new air conditioning projects in several public schools across the State. Obviously my interest in this issue is well documented. I do want to thank Governor O'Malley and the legislative leadership and the Treasurer and others for their commitment to providing our children, educators, and volunteers with air conditioning dollars so they can have a safe, comfortable learning environment. My understanding of this program is the Legislature appropriated \$25 million specifically for air conditioning projects such as this. We approved \$400,000 back in the spring. We're going to

approve \$18.1 million today. That's a total of \$18.5 million.

Dr. Lever, where is the list of proposals for the remaining \$6.5 million? What jurisdictions do you think that money will be invested?

DR. LEVER: There were no applications for that money. So we will have that money revert to the statewide contingency account to be applied in the fiscal year 2015 CIP, the upcoming CIP, with a preference given to air conditioning projects. But we don't know what air conditioning projects we might receive.

COMPTROLLER FRANCHOT: Okay. Then since you are a tremendous leader in this area, my question is I understand 86 of the 172 schools in Baltimore City lack air conditioning. At least they did several, a year and a half ago according to the latest memorandum from you. Given that we have gone through two public school construction program funding cycles, what is the current number and percentage of schools in Baltimore City that still lack air conditioning? I think that was a 2011 memorandum. So we're talking three, two years. What, how many schools in Baltimore City lack air conditioning?

DR. LEVER: I don't have those figures with me now. We can get that information for you.

COMPTROLLER FRANCHOT: Okay. It does surprise me a little bit that there's only one application from Baltimore City if they have 86 schools that lack air conditioning.

DR. LEVER: There were two applications. One of them was not eligible.

COMPTROLLER FRANCHOT: Okay. Then the Prince George's applications I see are eight public schools for a total of \$2.5 million. That amounts to about \$300,000 per school. Baltimore County is \$11.7 million for five schools. That's an average of \$2.3 million. What is the explanation in the disparity, \$300,000 versus \$2.3 million?

DR. LEVER: The Baltimore County projects are for the entire facility. And these are for elementary schools, five of the requests are for elementary schools. Total cost for an elementary school air conditioning is about \$5 million to \$6 million. One of the is a middle school. Total cost for a middle school is about \$7 million or \$8 million. The Prince George's projects are partial air conditioning projects at the school. For example, the first two, Melwood and Allenwood, the rest of that school is being, those two schools, are being air conditioned under separate projects that were also approved by the Board of Public Works in fiscal year 2013 and fiscal year 2012. Duval High and High Point High, it's only certain wings

in the school that are being air conditioned. There are gym air conditionings in Largo High, Potomac High, and Thurgood Marshall Middle School. Those run to about \$200,000 total cost. William Smith is being entirely air conditioned but that's a very, very small facility.

COMPTROLLER FRANCHOT: Okay. Terrific. And I have great respect for you and your remarkable Deputy Ms. Schaefer. I have every confidence in the IAC that you have the appropriate criteria for these projects. I'm happy obviously for the students who are not going to have to work, study in a greenhouse in triple digit heat in the schools that are on this list. But here is my question. How does the IAC determine who picks the winners and the losers in this selection process?

DR. LEVER: The IAC --

COMPTROLLER FRANCHOT: Do you have criteria that, you know, is an objective, fact-based system that basically decides or looks at which of these schools receive air conditioning assistance?

DR. LEVER: Well we have, are recommending approval of 19 out of the 20 applications. The only one we are not recommending approval of is the one I mentioned in Baltimore City, which is not eligible this year. We have no control over what is submitted to the IAC. The applications come from the local jurisdictions. They make their own determination, as long

as there is agreement between the local government and the school board, the school board setting the priorities.

COMPTROLLER FRANCHOT: Mm-hmm.

DR. LEVER: Then we review for eligibility according to very strict criteria.

COMPTROLLER FRANCHOT: Okay. But you don't have those objective criteria? You assume that's being done, there is some kind of clinical model down at the local level that's doing it?

DR. LEVER: I think it varies from jurisdiction to jurisdiction. There is no one set methodology for determining priorities in the whole universe of capital improvements.

COMPTROLLER FRANCHOT: Okay. Well let me just get to what I see is the problem here. We've got five schools in Baltimore County: Parkville, Featherbed Lane Elementary, Woodlawn, Scotts Branch Elementary, Wellwood International, Hawthorne Elementary. All of them are aging schools. They are situated in economically, socially diverse communities. And obviously the news today for those schools is good. People are happy the investment is going to be made. It's a shame that they won't be in place by next Monday when school starts, but I'm pleased to see an investment being directed in that way.

But here's my question. You've got in Baltimore County Westowne Elementary in Catonsville. It was built in

1951, earlier than any of the five schools that are on the list for getting money. It's older than all those schools. It doesn't have any special logistical or architectural impediments. It's located in the largest Title I population of any school that still lacks air conditioning up in Baltimore County. It's a wonderful school. I've been there several times, got a tight knit group of parents. Today for me, inexplicably, they are not on the list. They are not discussed in the background materials.

So my complaint is that I think of Denise Avara, and other parents up there, the PTA, their community volunteers that have been advocating this issue for as long as frankly I've been Comptroller. She has to go home and tell her kids and her PTA members, gee, sorry, some of the schools in Baltimore County were taken care of. But ours, the oldest without air conditioning, right in the middle of a critical Title I area, our school is not one of them.

So I don't know how you tell your kids that. You know, our school just didn't make the list. I guess somehow she screwed up because she moved into that school district. And you know, it's her kids that are at the school. And my concern, of course, is that we end up with this really unfortunate political game that affects the safety and health of innocent people. And

we are picking winners and losers. There is no plausible or credible or clinical rationale.

So I'm just repeating what the County Exec said some time ago, which is, you know, I'm giving this money out to people where, who have representation that voted for the, I think it was the alcohol tax increase then. My concern is there is nothing there that is objective that these parents can hang their hat on.

Let me just get your sense while you are here, why doesn't the IAC support portable box units, cost effective alternatives to this incredible glacial progress being made to put central air conditioning in these dozens and dozens of schools?

DR. LEVER: Can I just add, there are currently 23 projects in Baltimore County that are in various stages of being air conditioned. There are 12 projects that were approved in the fiscal year 2014 CIP including three major renovations, the five projects under consideration, and six projects that have no State participation which are being done through an energy performance contract.

COMPTROLLER FRANCHOT: So how many tens of thousands Baltimore County kids are going to show up next Monday, God forbid that there is a hot day. But what exactly, how many tens

of thousands of students in Baltimore County are going to have triple digit temperatures in their classrooms starting Monday if the climate doesn't cooperate?

DR. LEVER: We don't have that kind of information. We can ask them how many classrooms will not be air conditioned and then perhaps extrapolate that to the number of students who would occupy those classrooms.

COMPTROLLER FRANCHOT: I would appreciate it if you would send back to my colleagues on the Board, but particularly to me, how many tens of thousands of Baltimore County students are going to school August 26th in un-air conditioned classrooms. Not the number of classrooms. Not the number of schools. The number of students. If you would that would make, that would be terrific. I'm told by Baltimore County we can't possibly move to box units or any kind of interim air conditioning because that creates a safety problem for the kids. I'll tell you what a safety problem is: 110 degree temperatures in a classroom with very little air circulation.

DR. LEVER: Is your question about why, the IAC's position on box units, the IAC supports investments that have a 15-year life. That has to do with the life of the bonds. Box units have less than a 15-year life. They are temporary installations. They are not energy efficient. They create a

building system which cannot be balanced, which means that certain areas become cool, other areas are not air conditioned. It's, they also, there are some incidental implications like noise and so forth. Some systems have used them. They have certainly installed them. You know, they get the cool but they also have the problem, with the other associated problems.

COMPTROLLER FRANCHOT: Well --

DR. LEVER: But the determination was made that because they don't have a 15-year life that they would not be eligible items.

COMPTROLLER FRANCHOT: Right. I understand that. And I just refer you back to that wonderful gentleman with the unpronounceable name in Anne Arundel County, Alex --

DR. LEVER: Szachnowicz.

COMPTROLLER FRANCHOT: -- S-Z-A-C-H-N-O-W-V-I-C-Z. An extraordinary COO. I just call him Alex. I mean, he did the entire county, you know, average cost \$125,000, \$250,000 for a larger school. I hear what you are saying about the capital, the life of these. But I would really importune you to go back and once you get us the figures, on August 26th how many tens of thousands of students are going to be in un-air conditioned classrooms in Baltimore County. And why don't you, while you're at it, give us the tens of thousands of students on August 26th

in Baltimore City that will be sitting in triple digit temperature if the temperature goes up. And if you could, ask the IAC to reconsider its concern about the 15-year life. Frankly, the ones in Anne Arundel have already been there 11 years. So four more years, and they are working real well, no problems. Nothing untoward. See if the IAC would not consider something on an emergency basis. Because these kids are dripping in sweat. They put their heads down. They fall asleep. The teachers faint. It is a public safety issue. And it's not getting done. It is not getting done. And you know, some of these kids in Catonsville, my God, they will be getting senior meal discounts before they get air conditioning at the rate we are going. So let's go back and be creative. Because it's, well, it's very troubling to me that there is so much resistance to solving this problem when it could be done quite quickly and quite inexpensively.

DR. LEVER: I'll take that request to the IAC.

COMPTROLLER FRANCHOT: Yeah. But I'm really interested in the information about the 40,000, 50,000, 60,000 kids that are going to be wringing their jeans and their socks out when they get home because there is so much sweat in them after sitting in these classrooms. Thank you.

DR. LEVER: You're welcome.

COMPTROLLER FRANCHOT: Thank you, Governor.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We move on now to --

SECRETARY MCDONALD: Secretary Maynard is here. I think there were a couple of questions on Appendix items, emergency reports --

GOVERNOR O'MALLEY: Appendix No. 7 and 9. That was Item 20 we just approved?

SECRETARY MCDONALD: You just did Item 20.

DR. LEVER: Right.

GOVERNOR O'MALLEY: Okay. We're done with Item 7. Now we're on, did we do DGS Item 44 or no?

SECRETARY MCDONALD: You did not. Those are two of the big ones. I think the Secretary can probably answer the questions.

GOVERNOR O'MALLEY: Okay, Appendix No. 7 and 9 on the Secretary's Agenda.

COMPTROLLER FRANCHOT: And I apologize for asking questions on these things. But for the record, I didn't ask anything on Queen Anne's Marina.

(Laughter.)

COMPTROLLER FRANCHOT: That's going to be a chapter in someone's book down the road. Queen's Landing, I guess. Mr. Secretary, thank you. Item, is it an appendix item? Is it nine?

SECRETARY MCDONALD: Seven and nine. Seven is the substance abuse treatment and nine --

COMPTROLLER FRANCHOT: Okay, great. Okay, great. Thank you. Item 7 is a \$395,000 award Interdynamics. Apparently Second Genesis, the incumbent, had performance issues?

SECRETARY MAYNARD: Yes, sir.

COMPTROLLER FRANCHOT: What were these performance issues?

SECRETARY MAYNARD: Very briefly, Mr. Comptroller, they were issues of MBE compliance and also issues of licensing. And I have with me Ms. Sandi Davis-Hart, who is the chief of our substance abuse, and she can speak more clearly to the particular issues.

MS. DAVIS-HART: Good afternoon. Again, my name is Sandi Davis-Hart. I'm the Chief of Substance Abuse Treatment Services for the Department of Public Safety and Correctional Services. In terms of the noncompliance issues, the contract with Second Genesis required them to have licensed clinical counselors as part of the COMAR requirements for treatment programming. And in the past year they had performance issues providing those counselors. And in addition to that there was also a ten percent MBE requirement to their contract. And they were having issues paying the MBE sub-prime.

COMPTROLLER FRANCHOT: Okay. So the losing bidder on this contract, which was necessitated by this lack of performance, was Gaudenzia. And apparently you turned them down, and I'm delighted that Interdynamics won. They are a Maryland company, that's great. But you turned down the low bidder, Gaudenzia, because you said they have performance issues relating to a separate contract where they provide substance abuse treatment at four other institutions within Maryland.

MS. DAVIS-HART: That's correct.

COMPTROLLER FRANCHOT: What's going on there?

MS. DAVIS-HART: Some of the same issues. There have been MBE issues as well. Not with them paying the sub-primes but with them meeting the ten percent contractual requirement

for their contract as well as finding qualified licensed clinical professionals to provide the services.

COMPTROLLER FRANCHOT: Okay. So the MBE to me is obviously something we want to hold everyone's feet to the fire. But I don't see it as breaking a contract in an emergency action.

MS. DAVIS-HART: Well --

COMPTROLLER FRANCHOT: But this other, to the extent that folks are bidding low on contracts and getting them and then not performing? That definitely catches my eye. And so I'll wait to hear what the status of these other institutions are, I guess.

MS. DAVIS-HART: And the addition I would add that Second Genesis also provided us a letter with intent to cease treatment with less than 30 days notice.

COMPTROLLER FRANCHOT: Yeah, no, that's, well you see what the problem is. If the low bidders are winning these things, and then you are not able to get performance out of them, that obviously is of concern. But it sounds like you are on top of it. If I could ask the Secretary while he is here on Item 9, if I could, Governor?

GOVERNOR O'MALLEY: Yes, sir. Item 9.

COMPTROLLER FRANCHOT: This is a \$3.9 million system that will prohibit the use of cell phones by inmates at the Baltimore City Detention Center. Obviously that strikes everybody as a good idea.

SECRETARY MAYNARD: Sure.

COMPTROLLER FRANCHOT: What is the system?

SECRETARY MAYNARD: The system that Tecore has is one that captures the radio signals, the radio frequencies that come in, analyzes those signals to see if they are authorized or not authorized. Those that are authorized would be numbers like 911 or official numbers within the facility. If it is an official number, it's allowed to go through. If it's not, it's stopped there and that number is captured and we can analyze it later to see where it came from. There are systems that jam signals. This is not a jamming. Jamming is only authorized for the federal government and not the State agencies. This one is successfully deployed at the Metropolitan Transition Center. It's been in effect for about a year. And it is effectively stopping all the radio transmissions, which are phone signals, coming in.

COMPTROLLER FRANCHOT: Oh, so that is blocking all the signals?

SECRETARY MAYNARD: In the Metropolitan Transition Center --

COMPTROLLER FRANCHOT: And that's --

SECRETARY MAYNARD: -- where we started that. That's a prison in Baltimore, the old penitentiary. This is for the jail, the 3,000 bed detention center --

GOVERNOR O'MALLEY: The BCDC. The one that's --

COMPTROLLER FRANCHOT: Yeah, no I, I'm very sensitive, I know everyone is very sensitive about this.

GOVERNOR O'MALLEY: If I could just back up here?

COMPTROLLER FRANCHOT: Please, go ahead.

GOVERNOR O'MALLEY: Mr. Secretary, we started with the Maryland Correctional and Training Center as the initial sort of test site, correct?

SECRETARY MAYNARD: Yes. The old penitentiary, or the MTC, they call it downtown.

COMPTROLLER FRANCHOT: Mm-hmm.

GOVERNOR O'MALLEY: And it was only after their proof of technology --

SECRETARY MAYNARD: Right.

GOVERNOR O'MALLEY: -- because there is only one other system in the country that's using this technology.

SECRETARY MAYNARD: Right. We set a standard in the contract originally with Tecore on MTC that it deflect or capture 98 percent or better of the signals. They exceeded that. We awarded the contract to them last year. That one is working well. There are other, California has a system they are trying to put online, a different company, Texas has a system. Mississippi has this system but it's in a rural area, at Parchman. This is the only system that works, operates in a city. This will be the first jail that has managed access. And obviously jails are a problem because people come in, they go out, cell phones are smuggled in.

COMPTROLLER FRANCHOT: So the, just to keep my things straight here, the earlier one that was tested, is that also, are guards and administrators allowed to receive cell phone messages?

SECRETARY MAYNARD: Official numbers, yes, official numbers can come through, 911, emergency numbers can come through. Those that are not authorized cannot. They cannot go out and they cannot come in.

COMPTROLLER FRANCHOT: Okay. So the appeal of this technology is that you are not blocking everything.

SECRETARY MAYNARD: Right.

COMPTROLLER FRANCHOT: You are, I guess, allowing certain calls --

SECRETARY MAYNARD: Right.

COMPTROLLER FRANCHOT: -- and everything else you are blocking.

SECRETARY MAYNARD: Right.

COMPTROLLER FRANCHOT: Okay.

SECRETARY MAYNARD: And that's the major concern with jamming, because it jams everything. This does not. It's selective about what it jams.

COMPTROLLER FRANCHOT: Okay. That makes a lot of sense to me. I'm going to vote for this. But let me just ask you while I've got here here. Apparently a lot of concern that there are employees, managers and others, that are in these prisons that have been compromised as far as their honesty. Where are we in saying everyone who works at this facility needs to have a polygraph test as a benchmark so that we can know who is, I mean, it's a relatively small number I agree.

SECRETARY MAYNARD: Right. Right.

COMPTROLLER FRANCHOT: But it's, if there are a lot of them still why don't we give everyone a polygraph and make sure that, you know, everyone is honest who, for example, allowed to

have a cell phone and take messages? And where are we in that? Is that a strategy?

SECRETARY MAYNARD: Yes. We have polygraphed the top administration of the Baltimore City Detention Center. The jail administrator, the security chief, the assistant jail administrator. The security chief did not pass. She has been terminated. She is facing federal charges. The others did pass. We are doing integrity interviews on majors, captains, lieutenants. Polygraphing every 700 employees would be extremely expensive. So we are looking at, we are asking for capability to polygraph new employees that come into the system and also polygraph them as they apply for promotions later on. So --

COMPTROLLER FRANCHOT: How expensive?

SECRETARY MAYNARD: How expensive?

COMPTROLLER FRANCHOT: 700 people, polygraphs. Trust me, the black eye we've got would be much improved if you found the money, and I'm happy to vote for it, just put everybody through a polygraph. It's not perfect. Make sure you've got the right criteria. Make sure everyone is included so it's not just the top management. And then you would at least have some confidence that who is there is on the level.

SECRETARY MAYNARD: Right. I'm pretty confident that we are through the integrity interviews and through some of the phone intercepts that we have made where individuals, inmates' families are calling other correctional staff. We are making some cases on those. And if I could just take a moment to run through some of the other --

COMPTROLLER FRANCHOT: I'd love that. Other strategies, I'm sure you are, I'd like it.

SECRETARY MAYNARD: We, first we are doing electronic identification of all visitors that come in. So we run a background check when they come in to see if they have a criminal history. If they do, then they have to get permission to visit. In some cases we do allow it if it's a family member, but in most cases we don't. We developed a computer system that randomly, it takes a system of 700 employees, it randomly selects 30 of those each day. Those individuals randomly are subjected to intensive search. It also selects 30 or more cells and 30 or more detainees and randomly searches those. We are doing the internal investigations unit, we are revamping it. We are making the intel side of internal investigations, putting them in the same unit so they communicate better together. We also upgraded the camera system throughout the Baltimore City Detention Center and several other facilities that will allow us

to look at 45 days of recordings of activities that take place in the jail. So --

COMPTROLLER FRANCHOT: I support all of those strategies. I think they are terrific. I would strongly recommend, you are the expert, not me. But boy, it sure makes sense, given the publicity that this has gotten. I can't imagine it's more expensive than this Tecore system. Give all 700 employees a polygraph, and here's why. When our law enforcement folks go to national conventions? There's a lot of talk about Maryland. And you know, we need to really show, in addition to these strategies, that this is, and I would also recommend it for the hundreds and hundreds of corrections employees who are absolutely honest. Because they are all stigmatized now. Who is honest? I mean, you are telling me that -- well, you're the expert. If you want to do polygraphs, go for it. Because I think that would be an enormous improvement and you know, what's the worse that we could find? That there are another 20 or 30 people that don't pass? That would clear everybody else.

SECRETARY MAYNARD: Thank you.

COMPTROLLER FRANCHOT: Thank you, Governor.

GOVERNOR O'MALLEY: Sure, thank you. The Comptroller moves approval of these two Agenda items, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. Secretary Maynard, thank you for your leadership. All right. We move on now to, where the heck are we? We have two remaining items. It's the Frederick one and --

SECRETARY MCDONALD: We've got two. One is Children in Need of Assistance, Legal Services. And the other is the capital grant and loan for the Frederick County nursing home. It's Item 44 on DGS and Items 7 and 17 on DBM.

GOVERNOR O'MALLEY: I don't suppose either of these matters have settled?

SECRETARY MCDONALD: I think they are both pretty --

COMPTROLLER FRANCHOT: Which are they?

GOVERNOR O'MALLEY: All right. Anybody have any pleasure, which one of these we want to take first? Yes? No? Maybe? I think the Frederick one seems simpler. Yes?

COMPTROLLER FRANCHOT: Yes.

GOVERNOR O'MALLEY: Okay. Let's do the Frederick item, Item 44 on DGS.

SECRETARY MCDONALD: Ms. Walker, do you want to explain the item --

GOVERNOR O'MALLEY: This is a continued item.

MS. WALKER: This is Item 44-CGL on the DGS Agenda. It is a request by the Board of County Commissions of Frederick County that the BPW Board approve the selling of real property located at 1910-20 Rosemont Avenue, as well as retaining the sale of the proceeds to pay down the outstanding construction debt. We're prepared to answer any questions.

GOVERNOR O'MALLEY: And when we broke last time, when we deferred this last time it was for the purpose of what?

MS. WALKER: So that you can give the attorney for BPW an opportunity to give some feedback on whether or not BPW had the authority to stop the sale.

GOVERNOR O'MALLEY: So where is, is Greg not here? Oh, he's on vacation?

MS. CHILDS: Yes, sir.

SECRETARY MCDONALD: He's on vacation. He prepared a memorandum that is I think in all of your piles, in which he concluded that the Board of Public Works has authority to go ahead and act now on this part of the case, even though the

legal cases on other parts of the case are pending. That the Board can act on this at this point if the Board wants to act on that. He is aware that another lawsuit was filed on Friday and he said that that did not, as he left on vacation on Monday, that that did not alter his advice that the Board has the authority to act now if the Board wants to act now. The Deputy Attorney General J.B. Howard reviewed the memorandum and did send us a communication that he agreed with the conclusion of General Counsel Greg Bedward.

GOVERNOR O'MALLEY: Mm-hmm.

TREASURER KOPP: That we have the authority to act now?

SECRETARY MCDONALD: Correct.

TREASURER KOPP: If we think it's appropriate to act now.

SECRETARY MCDONALD: If you think it's appropriate. That's exactly right. That you could act if you want to. These judicial proceedings do not stay the Board's authority in any event, but the Board can determine when it wants to act.

TREASURER KOPP: I have some questions about the contract and our legal authority, and I'm troubled by the fact that neither the Attorney General nor our attorney is here. But what are the criteria on which we would not?

SECRETARY MCDONALD: What is your question, Madam Treasurer?

TREASURER KOPP: The basis for not approving? I mean, what, it, this is another one of these issues where the Board of Public Works is acting as an uber county council, or board of zoning appeals, or whatever. What are the criteria? I am, in substance I'm sorely troubled by this whole thing. But I don't know what authority I have to vote. For instance, I'm told that we should forgive this money because Aurora will continue to operate the facility as skilled nursing and assisted living home. But I don't have anything that shows me that that will in fact happen. Or that that should be of significance to us.

SECRETARY MCDONALD: Madam Treasurer, I can --

TREASURER KOPP: Meaning that that is enough to hang your hat on not approving it. I don't mean to say it shouldn't be of significance.

SECRETARY MCDONALD: Having served many years ago as a general counsel --

TREASURER KOPP: As an attorney, yes.

SECRETARY MCDONALD: -- and having transitioned into this position, but worked with the bond person and Ms. Ensor for many years on this. My interpretation is that the Board's authority to approve or not approve is limited to what your

interest is here is the general obligation bond proceeds as the superintendent of State debt. That is your authority here. And because this is a matter of general obligation bond proceeds that were granted to a nonprofit and a county organization the Board is probably, yes, it is given great authority to superintend what happens with the proceeds. But in fact it should probably be limited, just as we saw in the wetlands case, it should probably be limited to what the implications of the State debt is here. And that is \$200,000 out of a \$10 million project. The State gave \$200,000 and you just want to protect the taxpayers' investment and that's where your authority comes from.

MR. YOUNG: It's actually \$30 million.

SECRETARY MCDONALD: \$30 million. But the original bond bill said, application said \$10 million. I have a copy of that in my records.

MR. YOUNG: And we are not looking for forgiveness.

SECRETARY MCDONALD: Okay. That, do you want to go ahead and introduce yourself for the record and maybe make the statement about the \$200,000?

MR. YOUNG: President of the Board of County Commissioners of Frederick County Blaine Young here to just follow up and be available for any questions. But we are not

looking for forgiveness. As a matter of fact, I've got a check, I've got a \$200,000 check right here that I can hand over today. So I'm not looking for forgiveness. I brought check in hand.

SECRETARY MCDONALD: Currently the recommendation in your book from the Department of General Services is to approve the transfer and also to forgive the debt. And Mr. Young is saying that he can, he can ask for the second part --

TREASURER KOPP: So if the debt is not forgiven then the whole paragraph, we forgive it because it's going to continue to provide services is not of significance and therefore our doubt about whether services will be continued to be provided is not relevant? Is that --

MR. YOUNG: Actually I think your, is it DGS told us, I think it's actually \$191,000, we just found out today. But I'll gladly give them \$200,000 and we'll get the \$9,000 back at a later time. I trust you.

COMPTROLLER FRANCHOT: Everyone is always asking me when I go out, where's the check? They want me to --

MR. YOUNG: It's in hand.

COMPTROLLER FRANCHOT: How did you do that?

MR. YOUNG: I told them, I told the Board I want a live check. It's in hand.

COMPTROLLER FRANCHOT: Well.

GOVERNOR O'MALLEY: And is David, Commissioner David Gray here?

MR. YOUNG: Yes, he is.

GOVERNOR O'MALLEY: Do you want to be heard, Commissioner?

MR. YOUNG: And he was, you know, the vote was four to one, I do want to, you know, point that out. So he is not in favor of any action that we are doing on --

GOVERNOR O'MALLEY: Right. So I assume the Commissioner was the one?

MR. GRAY: I'll speak to what I --

GOVERNOR O'MALLEY: How are you doing, Commissioner?

MR. GRAY: I have here with me three people who were unable to sign on but have experience and comments and haven't spoken before that bear on this issue. Dr. Joe Verman, Leslie Powell, and former County Commissioner James Garden, who was President last term and has considerable experience on the Montevue issue. If I may, I'll introduce them, but if I may I have a short five-paragraph thing I would like to read to you because I think it sums it up nicely. I also corresponded with you after the last hearing. I watched it on the TV version, and so I was aware of the different things you had in your mind. And I forwarded the DVD of the public hearing that we had. I

know you don't have a lot of time but maybe your staff had a chance to look at it. I think that hearing tells you a lot about the process that's happening in Frederick County. But for today I want to just deliver this set of thoughts to you.

It all started with a deed in 1828 which transferred the property on which Citizens Nursing Home and the Montevue Assisted Living Facilities now stand from Elias Brunner to Frederick County. This deed stated that the property was to be used for the benefit of the poor of said county and for no other use, intent, or purpose whatsoever. This was entered into the court records and is there to this day.

Since then that land so dedicated has been utilized by Frederick County in accordance with the deed. The sale of the property to an outside for profit entity will break that pledge that has been kept for more than 180 years.

In early June of this summer the Frederick News Post editorial board interviewed the Citizens-Montevue board of trustees, of which we have two members here today, three members, pardon me. The board of trustees was in opposition to the sale. They had indicated by then that they were prepared to go to court because they believe that the deed binds the county to ownership of those facilities. The opposition of the trustees to the sale was called an impediment by some members of

the board to the sale that needed to be eliminated. Even the county attorney admitted that the sale of the facilities was an area of the law that was vague and could lead to a court challenge. Well the way that those who wanted to sell could get rid of the impediment the board of trustees was to abolish the board of trustees. Never mind that the trustees had much more management savvy, were much closer to financial and other issues of the facilities, and had the passion and affection for the patients. The education level and experience of the trustees was and is exceptional.

On June 25th a large public hearing was held, that's the DVD I sent to your offices, the largest in this present board's term. Virtually all the testimony was in opposition. There were hundreds of people there. The hearing was also to consider an alternative management proposal by the board of trustees. The commission chairman did not even open time for any testimony regarding the board of trustees' proposal. After all had spoken he summarily called for a vote on the sale and on abolishment of the board of trustees. Both motions passed with little comment.

I'm asking this Board of Public Works to postpone any further action on this issue until the court challenge to the sale is settled and the dust is on the ground and we know where

we are legally. And also I would hope that this Board or the next Board during this time would reexamine the public process. Because I feel it was quite deficient. And the public comments and concerns to a large extent were ignored. So.

GOVERNOR O'MALLEY: All right. Thank you.

MR. GRAY: If I may introduce the members that I brought with me?

GOVERNOR O'MALLEY: Sure.

MR. GRAY: Oh yeah, I need to say this. There was no meeting of the county commissioners to cut a check, too.

TREASURER KOPP: Pardon?

MR. GRAY: There was never any meeting, there was never any proposal for the county commissioners to meet on and vote to allow Blaine to hand you a check today.

MR. YOUNG: That's part of the overall vote that we took. The county attorney is here and can verify that --

MR. GRAY: I don't think that was clear in the minutes.

GOVERNOR O'MALLEY: Okay. Who else is here? Do you want to introduce your panel?

MR. GRAY: Leslie Powell, I'll start with her. These four, these three --

MS. CHILDS: Excuse me, may I ask, if you are speaking to the Board could you please make sure you are in front of the microphone so we can get it recorded?

MR. GRAY: I beg your pardon. I've said those words myself. Yeah, these four here are from Frederick County. Don spoke to you last time, Don Linton, CPA, and was on the first board of trustees. He's been an advocate for the seniors and for the good management of these homes for years. His skills are well honed in the management of these facilities.

GOVERNOR O'MALLEY: And are these matters in court right now?

MR. GRAY: Yes. Leslie can speak to that. That might be what you want to talk to first.

GOVERNOR O'MALLEY: Sure. That's, I think, as I recall from our conversations the last time that the Board members were reluctant to vote on a matter that has litigation around it.

MS. POWELL: Thank you very much.

GOVERNOR O'MALLEY: And your name is?

MS. POWELL: My name is Leslie Powell. I'm the lead attorney in both litigation matters that have been filed in the Frederick County Circuit Court addressing the action of the Board of County Commissioners in its decision to sell the

Montevue Home to a for profit entity without ensuring that the existing needs of the indigent elderly in Frederick County are being addressed. And this is a very serious issue. We take it obviously to heart.

Aurora has made clear that it will only provide care to full pay residents in the private assisted living facility. It's abundantly clear, it's been stated. This property was sold at a loss, a substantial multimillion dollar loss, which will affect the citizens of Frederick County. And it's going to affect our taxes as well as the human cost of no longer having a facility that's available to meet the needs of the poor that cannot provide for it. There is no funding for this. Frankly what is happening here, it's a rearrangement of tax obligations. Tax obligations are going to increase and perhaps it's just get it off my bottom line and we'll put it onto the State's. But certainly these people need to be taken care of. It's part of our obligation as citizens of this country.

This facility was sold in direct opposition of the board of trustees of the Citizens Nursing Home. It was sold without regard to the opinions of the Commission on Aging for Frederick County. And at least one commissioner at the public hearing acknowledged that there was a need for more services, not fewer.

The hearing, frankly, was a complete sham. The vote was in, the evidence frankly didn't exist. No studies were undertaken to address the public need or public use component of this facility. And when one sells public property, certainly that is an issue that needs to be addressed. Is there a need for the public use property? And that didn't happen here. Frankly this is less than one percent of the Frederick County budget when it's not operating, well, when it's not operating with the subsidization that can come from the nursing home side to pay for the assisted living facility side. Less than one percent. It's not a lot of money.

What we are asking this Board -- I'm sorry, sir?

COMPTROLLER FRANCHOT: I'm going to make a motion. I appreciate what you are saying. It pains me because I'd like to take the \$200,000 check, but I think until litigation is resolved the Board should defer action on this item. And I would so move. I take it you would support that?

MS. POWELL: Thank you very much.

TREASURER KOPP: Second.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We're going to postpone this, Mr. President, until the court actions are complete.

MR. YOUNG: I appreciate that. I just wish someone would have told me that, to save me my time and trouble. But we will be moving forward --

TREASURER KOPP: We don't make the decisions before the meetings.

MR. YOUNG: I understand that. But we will be moving forward towards a close, regardless, in December. And I will be transferring the employees to the private company. The private company is already running that facility and we will be moving forward. Thank you.

GOVERNOR O'MALLEY: Thank you. Thank you for your patience today. All right. Final matter in this long Agenda item, I mean long Board of Public Works Agenda item, are the items on 7-S and 17-S, is that right?

MS. FOSTER: Yes.

GOVERNOR O'MALLEY: On pages 19B and 56B, just to thoroughly confuse you.

MS. FOSTER: Governor, these two items are related.

Item 7 --

GOVERNOR O'MALLEY: I'm sorry. Secretary Maynard, you wanted to correct something for the record back on, this was back on, what was the appendix?

SECRETARY MAYNARD: A-9, I believe.

GOVERNOR O'MALLEY: On seven and nine? Was it Appendix Item 7 and 9, or was it just Item 9?

SECRETARY MAYNARD: Just nine, I believe.

GOVERNOR O'MALLEY: Just nine. All right, Secretary Maynard?

SECRETARY MAYNARD: Governor, my apologies to the Board. I made a statement that was not correct. I said that the security chief at BCDC was terminated and facing federal charges. I don't have any knowledge that she is facing federal charges. I just misspoke and I wanted to correct the record.

GOVERNOR O'MALLEY: Got you. Okay. So how do we correct the record here? That corrects it? That corrects, right? Do we need to do any motion to correct the record?

MS. CHILDS: Sir, the emergency reports are just reporting to the Board and then accepting the report. So we can put a note in the record just as clarification.

GOVERNOR O'MALLEY: On the item, did you hear what Secretary Maynard just had to say?

MS. CHILDS: I just caught the very tail end of it, I'm sorry. I was --

GOVERNOR O'MALLEY: Yeah. Okay. All right. Well this was back on nine --

MS. CHILDS: The emergency report?

GOVERNOR O'MALLEY: 9A, Secretary Maynard just corrected his record. If there needs to be a motion, I'll make the motion. Seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: The record is corrected. And the prior, the statement that the Secretary just underscored, I direct it to be corrected on the record and removed from the record.

MS. CHILDS: Thank you, sir. We will.

GOVERNOR O'MALLEY: Okay. Thank you. We now move on to, we are on --

MS. FOSTER: Budget and Management. We're on the Department of Budget and Management.

GOVERNOR O'MALLEY: Budget and Management. Secretary T. Eloise Foster.

MS. FOSTER: So Governor, good afternoon. Just to kind of rehash, for Item 7 and Item 17 they are connected. Item

7 awards multiple contracts to multiple vendors to provide statewide legal representation services for children and adults who are involved in the Maryland Legal Services Program. Within Item 7, the contract recommendation that impacts ten jurisdictions across the State has been appealed to the Board of Contract Appeals. And in light of that Item 17 then provides for legal representation services to be extended while the appeals process is underway. Secretary Ted Dallas is here from DHR. He'll answer any questions. And then we have multiple individuals who have asked to speak on this item.

GOVERNOR O'MALLEY: Okay. Mr. Secretary, why don't you tell us about this?

MR. DALLAS: Sure. It's, these contracts are the result of an RFP we had for legal services for vulnerable adults and children in need of assistance.

GOVERNOR O'MALLEY: How much do we spend on that annually?

MR. DALLAS: About \$13 million to \$14 million.

GOVERNOR O'MALLEY: And who are the people that do it?

MR. DALLAS: They are providers throughout the State. Their contracts are awarded by jurisdictions.

GOVERNOR O'MALLEY: Contracts awarded by jurisdictions, \$13 million to \$14 million. And in Baltimore City, who provides those services?

MR. DALLAS: Right now there are I think seven providers. The proposed contracts that are under protest would take it down to four.

GOVERNOR O'MALLEY: Okay. Keep going.

MR. DALLAS: Sure.

TREASURER KOPP: Well let me just ask, in most of the jurisdictions, the large jurisdictions, Montgomery County for instance --

MR. DALLAS: Mm-hmm.

TREASURER KOPP: -- there are multiple providers?

MR. DALLAS: Yes, in the four largest jurisdictions there are multiple providers. So the matter before you today is to, we're asking that all 24 jurisdictions be awarded for vulnerable adults, and 14 of the 24 jurisdictions for children in need of assistance are awarded today. There are ten jurisdictions for children in need of assistance that are under protest. We are not asking the Board to take action on that other than to extend the existing contracts for six months to allow adequate time for the protest to be resolved.

GOVERNOR O'MALLEY: Does anybody here on these matters have any objections to that?

MS. FOSTER: There are, well there are numerous --

MS. CHILDS: Yes, sir. We have numerous speakers for and against. Perhaps you would like to hear the opposition first? Since there is kind of an accommodation to resolve the protest, perhaps you want to hear the people that are opposing the accommodation?

GOVERNOR O'MALLEY: Sure. I mean, what I'm hearing is that nobody is objecting to the ones that you are asking be approved today?

MR. DALLAS: There is no protest on the ones we are asking to be approved today.

GOVERNOR O'MALLEY: Okay. And --

MS. CHILDS: That's Item 7, is the one that's just the award for the non-protested contracts.

GOVERNOR O'MALLEY: All right. Well let's take that one off the table, shall we?

COMPTROLLER FRANCHOT: Well I just want to hear, because I understand they want two years, not six months, or something like that. I don't want to put words in your mouth --

GOVERNOR O'MALLEY: That's back on the deferral item.

MS. CHILDS: That would be on Item 17, sir, yes. On Item 7 --

GOVERNOR O'MALLEY: But on this other one, there is no objection to Item 7. Nobody has any objection to Item 7? Okay.

MR. JOSEPH: They are intertwined. We only want the opportunity to clarify that intertwinement.

MS. CHILDS: If I may ask, if you are going to speak I'd ask that you come to the podium.

GOVERNOR O'MALLEY: That's okay. So it looks like we're going to hear all about the intertwinement for a while.

MS. FOSTER: Introduce yourself, please.

GOVERNOR O'MALLEY: I'm sorry. And let me do this. Before we go to Mr. Wilhelm, I had another couple of questions for Secretary Dallas. Was there or was there not, I mean, it's my understanding that you did an RFP for all of, for these services for all of the jurisdictions, correct?

MR. DALLAS: Correct.

GOVERNOR O'MALLEY: Okay. And you went to, and what prompted that RFP? Were the contracts simply up? Or were --

MR. DALLAS: The contracts actually haven't been awarded since 2007. The base term has been ended and I think sometime in 2010 there have been some extensions because of some

protests along the way. This was an effort to complete the RFP process.

TREASURER KOPP: The contract in 2007, which was essentially a normal contract, it was a three-year contract with two optional extensions, right?

MR. DALLAS: I believe it had two, two-year, yes.

TREASURER KOPP: That's the way we normally --

MR. DALLAS: Yes.

TREASURER KOPP: So it wasn't, it's not an old contract. It's the way contracts run.

MR. DALLAS: I'm sorry, could you ask that question again?

TREASURER KOPP: I'm just saying normally you do have a contract that's a couple years and then has optional extensions.

MR. DALLAS: Sure.

TREASURER KOPP: So it's no older than any other ongoing --

MR. DALLAS: Correct.

GOVERNOR O'MALLEY: So this came up. It was time.

MR. DALLAS: It was time, yes.

GOVERNOR O'MALLEY: And was there, was there a Board, a prior Board that recommended or that looked over this RFP before it went out?

MR. DALLAS: Before the RFP went out?

GOVERNOR O'MALLEY: Right. Did you have a group that assembled --

MR. DALLAS: The RFP was, you know, publicly advertised. We shared it with and worked with the Foster Care Core Improvement Project. And as we normally did, we followed the same process we did for all previous RFPs. Got input, the RFP was made public, responses were received, and we awarded according to the criteria of the RFP.

GOVERNOR O'MALLEY: Okay. All right. Thank you. And the bids that came in on this, were they, they were evaluated in terms of price and also quality?

MR. DALLAS: Yes. The RFP standard is best overall value to the State, so there was a technical evaluation and a financial proposal evaluation.

GOVERNOR O'MALLEY: And on the, were there any cost savings in this compared to --

MR. DALLAS: Compared to, well our budget right now is between \$13 million and \$14 million. The proposed awards total somewhere between \$13 million and \$14 million. The final amount

depends on the number of cases that you actually have but it's the same amount of money.

GOVERNOR O'MALLEY: Okay, thanks. All right. Mr. Wilhelm? Mr. Wilhelm Joseph? Mr. Joseph, I should say.

MS. JOSEPH: Good morning. Good afternoon, sir.

GOVERNOR O'MALLEY: Good afternoon.

MS. JOSEPH: And to the Board. Governor, before I start, Marion, I wanted to say that she spoke to me this morning, has been working for the State for 40 years. I think she has a very serious human rights complaint. Because obvious if she has been working for the State for 40 years she was hired somewhere around age three or four.

(Laughter.)

MS. JOSEPH: -- and we have calculated what the State owes her, and we will tell you later on. Governor, to move on, we will not take a long time in our presentation. I'm going to ask three lawyers to stand with me. Sara Myerhoff, Amy Pentkovsek, and Shelly Jones. Just to stand here, one to speak. And I will speak.

Governor, I want to commend you for your support of the work we do. In your tenure you have signed two bills that were able to stabilize legal services for poor people in Maryland. Many states had a different experience when interest

in lawyers accounts went back down and were cut by 80 percent. So we have been able in Maryland up to this day not to lay off and reduce our capacity. And even then only 20 percent of the folks who need our services can get them. I want to commend you for that.

GOVERNOR O'MALLEY: Thank you.

MS. JOSEPH: I want to thank you again for allowing us to use you as a selling point for our 100th anniversary to attract Mr. Harry Belafonte here. We told him you definitely would be there, and you came around with your wife and your father-in-law, and I thank your for that.

I have two apologies. One, at that event a prominent lawyer who introduced you called you Governor Mandel. And if you recall you responded with a very funny line. You told your wife, "Katie, you came to dance with Governor Mandel, well I'm sorry, you're going home with Governor O'Malley." I thought it was a funny line.

I also want to apologize for snatching you twice in the last two weeks. The last time being at Ocean City at MaCO, and you were having a good time talking --

GOVERNOR O'MALLEY: That's okay. Hey, I wanted to get snatched. That's all right.

MS. JOSEPH: Okay. So let's clarify what is happening here with this recommendation. We are not opposing the contracts. We are not opposing the extensions. We are seeing our duty to let you know we prefer that this Board encourage DHR to stick with the terms of a contract that we negotiated back a few years ago. That contract had a three-year base contract and two successive or consecutive option contracts. It took DHR 13 months after the expiration of the first base contract before it exercised its first option. That ended in February of 2013. Instead of exercising the second option we are being pressured to sign on to extensions, extensions, extensions. And now today's recommendation involves more extensions, extensions, extensions. We do not talk about the focus, that's there.

So I'd like to move on by simply asking one of my colleagues to share with you what it is to be a lawyer representing the most vulnerable, the most vulnerable citizens of this State. Children who have been abused terribly and neglected. I want to try to impress upon you why it is important to have lawyers who do a comprehensive, intensive, sensitive job of representing these children. And that we don't buy into a course or direction that goes for the cheapest lawyer on the block. I call for Amy Pentkovsek. She is a lawyer, seven years here in Maryland. She works out of Montgomery

County. And we just built, or just rented, a very new space to serve that county. Seven lawyers, we have nine lawyers there, four of them losing work. If everything goes forward as the Secretary proposes, four of those lawyers will lose their jobs. Dr. Sharon Jones, she practices in Montgomery County how many years?

DR. JONES: Well I've been with Legal Aid for 15 years.

MS. JOSEPH: Robert DeShields from Montgomery County. How many years?

MR. DESHIELDS: Seventeen.

MS. JOSEPH: And Sara Myerhoff, as a volunteer lawyer, all volunteer, doing CINA work only, how many years, Sara?

MS. MYERHOFF: Ten and a half.

MS. JOSEPH: Ten and a half.

MS. PENTKOVSEK: Good afternoon. My name is Amy Pentkovsek and I've spent the last seven years working for an organization that has fully empowered my zealous representation of Maryland's most vulnerable citizens. Currently I'm an attorney in Legal Aid's Montgomery County Office. I fight for children without a voice to be free from harm, to be educated with their peers, and to embrace a future they have always feared. I represent a young woman who was sent to another

country so that her sexual orientation would be forcibly raped out of her and I fought a multiple day trial that successfully allowed her to live here in her nation free of fear. In the coming months if this Board of Public Works permits Legal Aid to continue its work in this arena, I will continue my client's journey as I voice her pursuit of human rights to the Maryland Court of Special Appeals.

I have utilized Legal Aid's resources to help young adults raised by the State for years to prepare for adulthood. Specifically using other Maryland Legal Aid Bureau attorneys to help with her wrongful discharge employment case, I have employed the resources in the newly opened expansive Legal Aid Office in Montgomery County to assist a 17-year-old with her social security disability income benefits. I have used my familiarity with the Spanish language to allow rape victims to feel more at ease telling their stories and have employed language line services to help my Hispanic clients with more advanced issues. Specifically I have spent over 600 hours in the past three years representing six siblings, all under the age of seven, who were brutally sexually abused by their parents. After 15 days of trial and three trips to the Court of Special Appeals, four of the six children now reside in permanent homes. The oldest two girls continue to have

extensive mental health needs, requiring my advocacy at monthly treatment team conferences, court appearances, and home visits, leading the judge presiding over their case to remark that at one point the girls' closest attachment was to their attorney. Many members of the girls' current treatment team have remarked that the loss of their Legal Aid attorney due to the pending contract decision would devastate my clients and silence their voices.

The holistic nature of the cases I work on cannot be understated. It is only by immersing myself in the educational, vocational, therapeutic, and residential areas of my clients' lives that I am able to zealously voice their needs and seek the services they deserve. I have passionately represented over 400 youth, including fighting the Department of Human Resources in our appellate courts and testifying to reframe legislation in the best interests of Maryland's children, always with the full support of the Legal Aid Bureau.

It was never going above and beyond. It was always exactly what Maryland's children deserved. Thank you.

GOVERNOR O'MALLEY: Thank you.

MS. JOSEPH: Dear Board, I will conclude I wish I had time to tell you lots of stories. But I will tell you a vignette that is part fiction and part real, because I will try

to tie into one minute many aspects of the work of CINA lawyers and the need of these children.

Three children, three beautiful young children, blue eyed and blonde, arrive in the court. And Ms. Amy their lawyer hears their story. They were three of four children who came from an Eastern European country. And they are in court because they are now going to go into care. Their youngest sibling, Boris, was murdered by their parents. So the oldest ones, Katrina, Maria, and Dmitri are in the court. Attorney Amy takes the case and they are sent to a foster home.

In that foster home, Katrina the oldest, she likes to read. Maria, the middle one, wants to be a lawyer or a doctor. And Dmitri likes computers. Katrina overhears a discussion between the social worker and the foster home owner, and the foster home owner is complaining about the lack of resources from the State to adequately take care of these children. And the social worker admits that she is overworked, and she does not have enough resources, and her salary puts her in a tough position. And she tells them both, and she tells this to lawyer Amy. And lawyer Amy says we will try our best to work things out for you.

And lo and behold, in the midst of this the verdict is ended and their mother and father have been convicted of murder

and will be going to jail for a long time. And lo and behold, the State begins proceedings to terminate their parental rights. And Katrina says, wait a minute. Yes, she killed Boris. But I may have something to say about it. Can I go to the TPR hearing? She is told, no, the law does not allow the single child to speak at a TPR hearing. And Amy says, I will fight for you to get the right to go to court. And Amy takes that case all the way to the Court of Appeals and wins the right for that child to speak at the termination hearing, and she speaks.

And lo and behold, while they are dealing with that 16-year-old Dmitri gets himself in trouble with the law. He is charged with possession of marijuana and vandalism in the county. And Ms. Amy says I don't deal with cases but I will go with you. I will work with the public defender to help them understand your traumatic circumstances in which you live. And she helps.

And lo and behold, while she is dealing with that Katrina says, I'm pregnant. And the baby is born. And now she has to work with her social workers to get her housing benefits help. That's a real life situation. The lawyer, and the lawyer shared the story. I have clients out of state I deal with from time to time, and the State doesn't pay me extra for that. But I go because I'm a Legal Aid lawyer. And when I can't go to see

that child because I'm busy in court, I send a Legal Aid paralegal.

And when Christmas comes along, and Thanksgiving, Legal Aid invites these children in to give gifts to them so they have a normal holiday. This is the life of a Legal Aid lawyer.

So I end with a very simple statement. It's a proverb that I heard of a little boy in Trinidad. And he said, you know, a cheap thing is no good and a good thing is not cheap. What I would like this Board to do is to encourage the department to establish a task force or a committee in the interim to look into their best practices of how you procure a lawyer, particularly for the children. Where quality and competence carries more weight than the lowest price. I shudder to think that I or a kid is going to be fully represented at Legal Aid for \$800 a year in Baltimore City. It's frightening. And that provider is ranked number one. So that's why I asked you to come in. Thank you very much.

GOVERNOR O'MALLEY: Thank you, Mr. Joseph.

COMPTROLLER FRANCHOT: Governor, could I just ask Ms. Myerhoff? Sara Myerhoff? If you could just come up and tell us exactly what you or your organization would like to have happen

with these two both, I guess there are two of them that are intertwined somehow?

MS. MYERHOFF: Well I think there are a couple of issues where we were, I know in Baltimore County we were ranked technically number one. We didn't get the contracts. So to me, I don't understand --

TREASURER KOPP: But the two, the two items before us, Ms. Myerhoff?

MS. MYERHOFF: Okay, on the two specifically?

TREASURER KOPP: Yeah.

MS. MYERHOFF: But I was really here just to talk about my experiences and I think they were well articulated, that these cases are much more complex than just simple three hearings and you are done. But that our office offers a plethora of services, whether it has to do with housing or whatever, that we, and we never drop a case. We keep it for a number of years. Often these kids come in at five or six and we are with them until 21. So we are a check on insuring that these children receive all services available to them. And every state struggles with the economies of how to provide children with everything they need.

TREASURER KOPP: Could I interrupt and, I hear that, and I heard that --

MS. MYERHOFF: Yes, okay, and I think you do.

TREASURER

RFP. And one of the things that I hear is the factors that go into good representation in CINA cases. It's not simply taking a case and, but these, the network, the ongoing service, etcetera. Is that, was that articulated in the RFP?

MR. DALLAS: Those are articulated in the technical portion of the RFP, yes.

TREASURER KOPP: So the assumption is that all the things that were laid out were in fact --

MR. DALLAS: Again --

TREASURER KOPP: If I go back and read the RFP, will I hear what these folks have said?

MR. DALLAS: You would hear, I haven't met the particular lawyers that spoke here today but --

TREASURER KOPP: No, but we know what, most of us have been around a while and knows what goes into CINA representation.

MR. DALLAS: And those, I'm sure if you talk to the other providers, and all the providers that we awarded providers to are all existing providers with the department. They all have a minimum of 14 years of experience providing services to kids --

TREASURER KOPP: Okay, I'm not asking that. I'm just asking, I guess I'd like to see a copy of the RFP.

MR. DALLAS: Sure.

MS. MYERHOFF: I think part of it has to do with the weight that you give to the pricing.

TREASURER KOPP: No, I understand that.

MS. MYERHOFF: The weight you give to the pricing is very high from the beginning. Even if you are ranked number one technically --

TREASURER KOPP: I get that.

COMPTROLLER FRANCHOT: Well I would be happy to move things along, Madam Treasurer and Governor, and urge that the Item 17, which I take it is the one with the six-month versus two-year, that the agency take advantage of the two-year option and come back and see us later on that. The first item sounds to me, I'm just not clear what ought to happen to that. But I'd be happy to make that motion just for discussion's sake. And Mr. Secretary, it doesn't sound like you are saving a lot of money one way or the other.

MR. DALLAS: No. I mean, we had an RFP that was conducted under the rules that were advertised. There is no reason to extend the contracts for two years. We have had a fair RFP. Legal Aid did very well in the RFP process. They had

the second highest number of cases in the entire State were awarded to them. They have at the end of the day the contracts that were awarded to them are going to total today, just the ones that aren't in dispute are \$3.8 million. And if they are not successful in the protest they will get another \$3.2 million, for a total of \$7 million even if they are not successful in the protest. So they came in, they got the silver medal. They had the second highest number of cases. It's, I think the question --

COMPTROLLER FRANCHOT: Yeah, no I hear that, Mr. Secretary. But honestly, I mean, this is not Apple or AT&T or something that's missing out on a contract. This is an incredibly important organization. I'm not saying you can't save money. I'm all for that.

MR. DALLAS: The contracts don't save money.

COMPTROLLER FRANCHOT: Yeah. It just sounds like you are breaking something up for, as they said. You just can't stand up and say this, they came in second, and they got a silver medal, if it disrupts the service that they are providing. And I'm not real, I don't know, I'm, this is a long day, whatever the Treasurer and the Governor wants I'd love to be supportive of. But I certainly sounds like Legal Aid is being, having a lot of pressure put on them, which is on top of

everything else. In other words, this is, this is service that they are providing the State, we are compensating them, and then we are saying by the way we want you to really go on a probationary basis because we think we can bid this out. And I would just extend the thing for two years and go with that.

MS. MYERHOFF: -- one other question, too.

COMPTROLLER FRANCHOT: Thank you.

MS. MYERHOFF: We were technically marked number one in Baltimore County but we didn't get the contract. Which doesn't make sense to me.

COMPTROLLER FRANCHOT: Well --

MR. DALLAS: I'm sorry --

COMPTROLLER FRANCHOT: I don't think it's just dollars and sense here, and a normal procurement.

MR. DALLAS: -- it's not dollars and sense, no. This decision was made based on a review of the technical proposals and the financial proposals. There is no pressure being put on Legal Aid. There is no six-month probationary period. Right now we have an RFP, right? We have contracts that no one is protesting that we would like to have awarded and complete the RFP process for them. For the ones that are under protest, all we are asking is that the current contracts, the status quo, be

held for six months to allow the Board of Contract Appeals to hear the appeal.

COMPTROLLER FRANCHOT: Yeah, well, I know they are technical and pricey issues. How about the human issues? I mean, really. I mean, this whole thing, your, your, I don't know, I don't want to get too far out on this. But it just seems that this is a very difficult area of legal service. And boy, if it's not broke why are we fixing this? Why didn't we just go and do the, I mean, all the time I see options taken. All the for profit companies it's just, oh, automatic. You know, you want a ten-year extension? No problem as long as it's in the contract. And this is in the contract but we're going out and bringing in all sorts of new lawyers, some of whom may be great, some of whom may not be great.

MR. DALLAS: Actually, they are not new lawyers. They are existing lawyers that we have in the system right now. They are just different providers getting more cases than what we have right now.

But in reference to your argument about why don't we just take the extension years, I have been in this room many times where, you know, departments have been admonished about simply awarding options. I don't believe in simply awarding option years.

COMPTROLLER FRANCHOT: When was that? Name one time.

MR. DALLAS: That I was here?

COMPTROLLER FRANCHOT: Yeah, I don't remember single one.

MR. DALLAS: There was one involving DHR that was, or IT contracts that, you know, it was a couple of years ago. There was one on the Board today where we were asked a question about why we awarded an option year for our vehicle program instead of going out to bid again. So it's a conversation that's there. But the competitive process is there to make sure the State gets the best overall value for its dollar. And we're just issuing, we just issue RFP. It's part of the process. There are RFPs that are issued all the time.

MS. CHILDS: And sir, there is, there are two more speakers that signed up in support of Legal Aid, and there are four speakers that signed up in support of the Agenda items as proposed.

GOVERNOR O'MALLEY: All right. So Mr. DeShields and Mr. Andrews, let's hear from you since we started on Legal Aid.

MR. DESHIELDS: Good afternoon, Governor, Mr. Franchot, Secretary, Treasurer Kopp. My name is Robert DeShields. I am one of, I am an attorney representing one of three law firms who I think are probably among those in the

State who do more procurement work than any others. And we are all here supporting Maryland Legal Aid free. I've been here for a long time. Phil has been here for a long time. Neither of us is charging a penny for this. And we are all here to ask you to do one simple thing. And that essentially is what the Comptroller just recommended: to have the department simply exercise the remaining option on the contract.

Yes, Madam Treasurer, yes, there is a technical component of the proposal it is weighted 50 percent. It is given just as much weight, price is given just as much weight as technical. But you can't this is not that kind of, this is not that kind of deal. It's not that kind of service. If you don't have the kind of passion that Wilhelm Joseph just indicated, there aren't enough dollars available to do the service that's required. Particularly in the jurisdictions that are in dispute. I'm asking you to end the dispute. I'm asking you to end the protest by directing the department to exercise the option. And let's figure out the best way, if you really think that competition is needed, if somebody has been doing it 102 years and the benefit of all that versus somebody who was just created in 2001, if you really think competition is needed, let's figure out the best way to do it. This is not the best way. Thank you so much.

TREASURER KOPP: Is there not a commission or legislative group that is looking at how service contracts are awarded?

MS. CHILDS: If I may, Madam Treasurer? There is a Legislative Council for the Procurement of Health, Education, and Social Services. The Treasurer is a member. Susanne sits on that Council. It does report to the Board of Public Works. While its mandate does not necessarily include legal services, you know, if the Board thinks it's appropriate perhaps that Council could study this particular issue and report back to the Board.

TREASURER KOPP: And who is, I mean, does that include this sort of contract?

MS. CHILDS: It includes the agencies, it includes legislative representatives, and provider organizations.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: Mr. Andrews?

MR. ANDREWS: Thank you, Governor. Phillip Andrews on behalf of Legal Aid. I cannot be more eloquent than Mr. DeShields or Mr. Joseph. What I can tell the Board, and I think the Board has heard now a number of times, this is a different kind of service than the other procurements that come before this Board. And I would simply urge the Board to exercise the

option, exercise the option. Because the alternative is continual litigation, contract claims, and the rest of it. The option is the way to go. It keeps the continuity and the expertise of Legal Aid in place. The contract term should include that and that's what we urge the Board to do. I'm happy to answer any questions but I'm also very aware it's been a long day.

TREASURER KOPP: Can I just ask one more? The difference between this contract and the prior ones is the proportion of weight given to technical versus financial? I mean, is that --

MR. ANDREWS: Yes --

TREASURER KOPP: -- is that the main --

MR. ANDREWS: Actually, Madam Treasurer, this procurement, this current procurement that is before you has had kind of a checkered history. Because the first attempt to figure out how the factors would be considered actually came out as an IFB, an invitation for bids. And Legal Aid protested that, said you can't, we're not buying widgets. You can't just have it purely on price.

TREASURER KOPP: And that was different from past proceedings?

MR. ANDREWS: I believe it was. I believe it was.

And then an RFP came out and it said price would predominate over technical and that was protested. So now it is price and technical, as Ms. Myerhoff, over people. And we think that it had to do with price. And again, I won't repeat what's been said already by those far more articulate than I about why this just can't be a dollars and cents approach. You've got to have the expertise and the continuity and the breadth of experience that Legal Aid lawyers bring. There is no substitute for that. And a general procurement law selection process is just not appropriate. So that's why we urge the use of the option.

COMPTROLLER FRANCHOT: So the use, if I could, Governor, that would take you until when?

MR. ANDREWS: Well we would say exercise it two years from now and then --

COMPTROLLER FRANCHOT: And then in the ensuing two years what can be, I take it some further discussion with the Treasurer's organization or some other things could come forward, your Council or whatever. Thank God I'm not on it, Madam Treasurer. But you could come back with some kind of proposal that would be a little less of concern to Legal Aid.

MR. ANDREWS: And what I think Mr. Joseph's letter to the Board yesterday suggested and proposed a task force, a study

group that says is this the best way to make this selection as to who provides these services? And there ought to be a lot of different participants in that process including the judges --

TREASURER KOPP: We are hearing there actually is an ongoing group already.

MR. ANDREWS: But I think the issue here is --

TREASURER KOPP: Created by statute, yeah.

MR. ANDREWS: This is the, this juncture it's time to exercise the option so that group can weigh in. Thank you.

GOVERNOR O'MALLEY: Okay. Let's hear from Mr. Tyler.

TREASURER KOPP: Yeah.

GOVERNOR O'MALLEY: These are the folks that are, it's hard to figure out what we're for and what we're against here. All of those who preceded us want to see the contract continue for an additional two years, not that six months on the 21 of them. And Mr. Tyler, you are here on this matter?

MR. TYLER: I am, sir.

GOVERNOR O'MALLEY: Good to see you.

MR. TYLER: Good to see you. Governor, Madam Treasurer, and Mr. Comptroller, Ralph Tyler representing the Law Offices of Darlene Wakefield. Ms. Wakefield, just by way of background, has been doing this work under contracts with the

State for many years, has done it exceptionally well in many jurisdictions.

The matter before the Board today, the proper matter before the Board, is whether the contracts which are not in dispute should be awarded while the contracts in dispute would not be awarded, and the arguments that have been made and any others would get aired out and resolved at the Board of Contract Appeals. The Department of Human Resources here has initiated a process with an RFP which set forth factors both technical and financial. There was a, proposals were submitted, proposals were evaluated, recommended awards in the jurisdictions in which there are bid protests and then appeals. There has been no request to have those contracts approved. We are confident of the outcome there. But what simply should not occur is what is being requested, which is at the end of the process change the rules. There was a set of rules put in place to conduct this procurement. And now people who didn't do as well in the process as they would have liked apparently seek to change the rules.

And as to technical competence, again, Ms. Wakefield and her firm, just by way of example, have been doing this for more than 20 years, providing legal representation of exception quality to children. She has the human resources, she has the

technical infrastructure to do so. It is not the case, as it was suggested in the letter yesterday and has been suggested this morning, that the department is recommending the lowest bidder. That's, the facts, the documents before the Board clearly show that that is not true. What is true is that the technical rankings as between Legal Aid and my client, for example, were close. But there was a wide disparity in price. Just by way of example, in Montgomery County Legal Aid was ranked first technically and my client was ranked second technically. The price differential between the two was 52 percent. Fifty-two percent higher on Legal Aid's price than my client's. Prince George's County the price differential was 55 percent.

So the question really is whether the procurement process which was put in place under rules with which my client and others complied, with which Legal Aid disagreed with certain aspects of it in advance as you have heard, filed protests, those got resolved. And now they have protested the outcome. That process should run its course rather than the request now being made, which is to short circuit the process and cut it off and just to award another two years. We would ask the Board not to do that. To extend the contracts, as the Department of Human Resources requests. Not to award the contracts in the

jurisdictions under protest, and to let those matters be resolved at the Board of Contract Appeals. Thank you very much.

GOVERNOR O'MALLEY: Thank you, Mr. Tyler. How about Pamela Smith, National Organization of Legal Service Workers?

MS. SMITH: Good afternoon, Governor O'Malley, Comptroller Franchot, and Treasurer Kopp. My name is Pam Smith. I'm the Financial Secretary/Treasurer of the National Organization of Legal Services. We are an amalgamated local of UAW 2320 and we represent over 4,000 members in legal and human services programs around the country, including over 130 UAW members at Legal Aid in Maryland.

Forty of those members, some of whom you have heard from today, work directly with the CINA program at Legal Aid and will be impacted by a change in the CINA award. These are workers who know these children, know their lives, know their stories, and have been representing him. I'm joined today by Jim Rogers, from the UAW, Region 8; Isaac Conver, President of MD Law; the Local United Legal Aid; and many of our members and friends who have come out today to support us in this issue.

We are concerned about the procurement process that generated both items that are being discussed today and we ask you to appoint a task force to evaluate the process to ensure that Maryland's most vulnerable children receive the highest

quality legal representation. We would join in Legal Aid's request to extend the two-year option on the contract to allow the State time to investigate this procurement process.

My perspective on this issue is first formed by the fact that I have worked with at risk youth for most of my life, including tutoring and mentoring in schools, suicide and crisis counseling, foster care case management at DSS, psychosocial assessments at the public defender's office, and volunteering with anti-human trafficking organizations. I'm also a former CINA attorney at Legal Aid in Maryland.

Children in Maryland have a statutory right to counsel in child abuse and neglect cases. The Department of Human Resources oversees that procurement process to purchase legal representation for children in foster care. DHR awarded the CINA contracts to various providers based on a procurement process that awards equal weight to quality of representation and to cost. In the current bidding cycle, Legal Aid was awarded the highest quality scores in Anne Arundel, Baltimore, Harford, Montgomery, and Prince George's counties, as well as in Baltimore City. However, DHR's procurement process awarded the CINA contracts to lower cost, for profit, non-union entities in all those counties and significantly reduced Legal Aid's representation in Baltimore City.

Legal Aid has provided uncompromising and zealous advocacy for children for over three decades. DHR's procurement process decisions threaten to silence the most experienced, most competent, and most formidable voice for children in Maryland. It is a disservice to think of representation of a child in the same way that you think of representing an adult. The ability to represent a child well, particularly a child who has been abused and neglected, rests largely on an attorney's ability to develop a trusting relationship with that child. Earning the trust of a child who has been repeatedly let down by adults in their lives takes time. Getting a child to open up about how she received burns that put her in Children's Hospital, or how his mother forced him to have sex with his siblings, or about ritualistic abuse they endured requires trust.

Legal Aid attorneys, and you have heard it here today, take the time and expend the patience, energy, and compassion to earn that trust. Legal Aid attorneys are able to advocate effectively for clients in court because they are the children's champions in all aspects of their lives. They intervene to make sure that children are getting all the health, therapeutic, and educational services they need. They are more than just attorneys. They are confidants and role models.

Often the child's attorney is the one stable adult in that child's life.

The investment of time it takes to earn a child's trust does cost money. However, the failure to invest in the lives of these children now has costs and consequences that go beyond money. In these cases, the court is determining what is in the best interests of the child in the State's care. The decisions the court makes based on the information has consequences in the life of the child and in our community. It can make the difference between whether a child thrives or slips through the cracks. We are all responsible for these children and our failures can result in further child abuse, school violence, gang activity, and human trafficking.

I attended a meeting just this week on the prevention of violence in our communities. Jean Allert, the Executive Director of the Samaritan Women in Baltimore, also attended that meeting. The Samaritan Women is an anti-human trafficking group in Baltimore that does outreach with victims of human trafficking. During that meeting Jean said that in 90 percent of the cases she sees in her organization, both the victim and the perpetrators were victims of sexual abuse as children.

From being familiar with anti-human trafficking work I wasn't surprised by the statistic about the victims of human

trafficking. But the statistic about the perpetrators of human trafficking should scare the hell out of all of us. Kids who do not receive the appropriate interventions and services now will cost us a lot more money later.

Children get the supportive services and interventions they need through zealous advocacy by their counsel. The kind of advocacy you have heard about today that they receive from their attorneys at Legal Aid. We would ask you to exercise the two-year option contract that DHR has already negotiated with CINA service providers and appoint a task force to examine the CINA procurement process during the two-year option. However, if the Board chooses to go forward with its six-month extension presented today by the department, we would agree with that to allow our attorneys the opportunity to continue to represent their clients. But we would also ask that you use that time to appoint the task force to examine the procurement process to eliminate harm to children created by the current process.

There are several things that we would want that task force to be charged with. We'd like them to be charged with examining ways to ensure that children receive the highest quality legal representation, including reevaluation of the weight given to quality versus cost of representation, as well as possible alternatives to the current procurement process.

Examining ways to eliminate the disruption to children in the event of any change in future providers. A child should not have to start again with a new attorney because a procurement process changed the contract award. The courts, which are tasked with determining the best interests of the child, should also be determining when and if it's appropriate to change legal representation. Examining the appropriateness of DHR overseeing the procurement process. DHR is the parent agency for all county departments of social services. These departments are opposing parties to child's counsel in CINA cases. CINA attorneys file appeals and challenge the actions of local departments of social services, and by extension DHR. There is an inherent conflict of interest in a system of procurement that allows DHR to oversee the procurement process for services of an opposing counsel.

I thank you very much for your time. I know it's been a long day. We all have an interest in ensuring that Maryland's children receive the highest quality legal representation.

Thank you.

GOVERNOR O'MALLEY: Thank you. Okay. I think we're more properly listing Ms. Smith on the Legal Aid side of the contract --

MS. CHILDS: I've made that correction, sir.

GOVERNOR O'MALLEY: -- and procurement dispute here.

Michael Lentz, Franklin Law Group.

MR. LENTZ: Good afternoon, Governor. I will try to be brief. And given that I am now standing you are virtually assured that I will be.

I think it's important as we hear all of the remarks that we've heard on this issue today that we keep in mind that as Mr. Tyler said, what you are being asked to do now is change the rules now that the game is over, or nearly. Legal Aid has filed four protests here. Four have been denied. One was granted in part and refiled on other bases. There is an appeal pending before the Board of Contract Appeals. Other appeals have been, I won't say threatened, I think mentioned is the better word. And there is a process by which the person that this Board charged with the determination of making, charged with determining who the appropriate best offeror would be, i.e. the procurement officer. He rendered a decision. His decision has been challenged. And that process is underway. And perhaps Legal Aid will prevail at the BCA and perhaps the agency will prevail. But there is a process here and you are now being asked to short circuit it, throw the process out the window, abandon the decision that was made by the procurement officer, and essentially take the case away from, for lack of a better

term, the Board of Contract Appeals. In essence you are sort of being asked to function as a Court of Special, Special Appeals that doesn't really exist yet but we are trying to create one apparently.

I think we need to let the process run its course. I think that it's very important that the Board consider, and these are the last remarks I will make before, with the Board's indulgence yielding to my client Stephanie Franklin. I think it's important that the Board consider what you are being asked to believe is that you are being asked to choose price over quality and that is not the case. Ms. Franklin and the other awardees are in fact as qualified to do this work as is Legal Aid. I don't, certainly don't intend any disrespect to Legal Aid at all. Frankly, I believe that all of the people who do this work are, as far as lawyers go, heroes. Because I know I couldn't do that work on a daily basis but they do it everyday. And I think it's very important to remember that the procurement officer decided not that we were picking somebody worse because they were cheaper. But in fact that we were picking someone as good or better who happened to be cheaper. And I believe Ms. Franklin was in both of the jurisdictions in which she bid, she was either number one or number two in the technical rank and substantially cheaper than all of the other bidders.

So it's not a case where we are saying that the Board and the DHR ought to choose the cheaper option that is going to deliver worse care for these kids in the legal system. What we are saying is we should save money in delivering the same or better care. And I will let, because I can't speak nearly as well as she could to her qualifications to do this job, I will let Ms. Franklin speak briefly. I know it's been a long day. I assure you that Ms. Franklin is an experienced trial lawyer who understands the value of brevity so I will yield to her but encourage her to observe brevity.

MS. FRANKLIN: Good afternoon, Governor. Good afternoon, Madam Treasurer and Mr. Comptroller. Thank you for your time. I know it's been a long day. But I really feel the need to have to speak to you today about a number of issues that were brought before you specifically with respect to getting lawyers for cheap. I can speak for myself, being the CEO of the Franklin Law Group, that I have been working in child welfare since 1999. Specifically I have worked for five years for my competitor, Ms. Darlene Wakefield, where she specializes her firm, in CINA practice and TPR practice across the State. I was also hired to direct the Family Recovery Program which was the first compact under the Maryland Opportunity Compact in 2004. I was their first Director. It is the largest family dependency

drug court in the State of Maryland located in Baltimore City Juvenile Court. At that point I left as I was awarded a contract presently under Mecca's Place to represent children in CINA and TPR matters. With respect to that I have been as a firm doing this under this procurement since 2007. However, my expertise and knowledge ranks back to, or ranges back to 1999.

I want to be clear with this panel, with everyone in this room, I am not a novice. I clearly know what I am doing. Having said that, when I did oversee the Family Recovery Program I was one of a few persons who over-saw a \$2.5 million annual budget. So having said that, Legal Aid would like to have everyone in this room believe that they are the only ones qualified to do this work. But I beg to differ. Not only am I qualified to do this work, but there are other awardees who were successfully awarded these contracts, the new contracts that are not before the Board today, are also qualified to do so.

The stories that Legal Aid has shared with you about their representation is not different to the representation that my firm and that my individuals who work for me, my staff attorneys do. Holistic representation, social justice, that is the focus of my firm. I am very clear about that.

We don't work nine to five. We don't work Monday through Friday. We work seven days a week. And there is a

policy in my office that we are mandated to see children in their placement. We don't go during school hours unless there is an exception because we don't want to interrupt, number one, the academic regimen of the children that we serve. Number two, we find that most children don't want to be seen by their lawyer in school. So what does that mean? When we have a long, hard day in court, and I don't know if any of you here have been in juvenile court. They can be long days. They are traumatic, they are emotional, and they are turbulent. We leave there after court is concluded, maybe trying several trials that day, to see our children all over the State.

Right now we are in multiple jurisdictions. I was ranked number one in Baltimore City and Baltimore County. I sit as child's counsel representative for the State of Maryland on the legislative Subcommittee on Child Abuse and Neglect with the Foster Care Court Improvement Project. I also sit on the Program and Outreach Committee for the Foster Care Court Improvement Project with the State of Maryland. I am published on several issues pertaining to child welfare internationally, nationally. Specifically as it relates to the intersection of child welfare and criminal justice.

My firm has provided several community programming for the children that we serve. We have provided mock trials for

CINA children that we represent where they are the attorneys who represent the department, the children, as well as the parents. And they have also been the judges of those competitions. We have not used other monies to do that. This is money that I fund-raise personally and have people subsidize.

We also provided a family kinship workshop for grandparents and other kinship care providers to educate them not only about the juvenile court process and how to navigate it, but the Department of Social Services Process. We also included in that forum information from experts regarding out of school and out of home behavioral problems that children in foster care face with licensed social workers who could address clinical issues that these providers had facing them. We also provided a special education representative at that forum to help them navigate the special education system and explain certain issues to these parents, the "caregivers," where this process is very complex, convoluted, and overdone.

I say that to you to say I can sit up here and tell you many stories about the children that I represent. And I'm going to tell you one. I represent a child. She has been in care since 2007. She is now 18 1/2 years of age. She has been committed to the local Department of Social Services. She has several mental health diagnoses. One is schizoid affective

disorder. One is oppositional defiant disorder. One is bipolar disorder. And depression. My child has been in multiple placements. Since she has been in care she has been in ten placements. Her most recent placement was at the Good Shepherd Services Center. That center is a residential treatment facility for children with high end deep emotional and psychological needs. She was placed there in December of 2012. While being there she caught an adult criminal charge. So she takes several psychotropic medications --

GOVERNOR O'MALLEY: Did you say caught?

MS. FRANKLIN: She was charged.

GOVERNOR O'MALLEY: She caught one.

MS. FRANKLIN: Assault.

GOVERNOR O'MALLEY: Oh --

MS. FRANKLIN: Criminal charge.

GOVERNOR O'MALLEY: Do you think that's a good way to describe a criminal charge?

MS. FRANKLIN: An assault charge?

GOVERNOR O'MALLEY: No, caught.

MS. FRANKLIN: I said caught, but I will tell you that she was charged with assault.

GOVERNOR O'MALLEY: Thank you.

MS. FRANKLIN: So having said that, what do we do as CINA attorneys? We have kids that traverse many systems. The criminal justice system, the juvenile justice system, mental health system, special education, issues within the educational system. This young woman, I have been charged with her life. I don't just represent her in CINA court. I represent all of the other issues that bring her before the juvenile court. So having said that, I have seen this child on average since she's been placed at the residential treatment facility at least three times a month at no extra charge. Because it's not about the money. And we'd like to make you think that it's all about the money. But some of us are called to do this work. And when we're called to do this work, we'll do it regardless of price. So the thought that you can charge 50 or more percent higher price to deliver a service that if you are called to do you will do it regardless of what the income level is, is important to note.

So having said that, not only did I see this young woman several times. I show up with her in criminal court. I am in constant contact with her clinical therapist and other outside support systems that impact her life. That's just one child. And the myriad of over 3,300 children that my firm has represented since we started doing this work.

So I am saying this to you, that holistic advocacy and representation is not unique to Legal Aid. It is something that the Franklin Law Group does. It is something that we will continue to do with an eye and a focus on social justice because it is about the community. And if, and if you can do that same job, and save the State money at the same time, I don't need to gouge you, State, to do my work. I can fund-raise from other sources to support the work that I do. I can do that in kind donations. I can do that several ways.

So I am saying to you today that this panel should consider shortening that six-month time period, that two-year time period, to six months. We don't need two years to determine whether or not we need to get this interim task force and all of those things. It's not needed. The people doing the work now are the people who should continue to do the work. We are doing it. We were awarded these new contracts, or at least were notified that we were going to be awarded them and now they are being taken from under us. This was a fair process. It was a competitive process. And it was a process that if you did not, were not the successful bidder you can't come and cry and want to change the rules, pull the awards out from under everyone who worked very hard to do so.

This is sending the wrong message if we extend these contracts to two years. A very wrong message. Because this is what we're seeing. We see that Legal Aid has done the work for 30 years. This is what they said. And we see Legal Aid as this big nonprofit entity and we are these for-profit entities that are just in it for the money. Legal Aid, I believe that I heard, indicated that they did pro bono legal services. We don't get pro bono legal services. Legal Aid is a corporate giant that works in the nonprofit sector. And it is unfair to allow them to come in and circumvent a process that was fair, that was accurate, and that was reasonable from small providers such as myself and my other colleagues who are doing this work, doing this work well, and will continue to do this work well. Thank you very much.

GOVERNOR O'MALLEY: Thank you. Okay, Melissa Rock?

MS. ROCK: Good afternoon. Thank you for the opportunity to be heard. My name is Melissa Rock. I am the Child Welfare Director at Advocates for Children and Youth. Our mission at ACY is to promote public policies and investments so that all of Maryland's children are safe, healthy, educated, and secure in their families and communities.

I am here to support the option of exercising the remaining two-year option for the current providers of

children's attorneys. Before coming to Advocates for Children and Youth I represented children in child in need of assistance and termination of parental rights cases for the Legal Aid Bureau for eight years. And I was at Legal Aid the last time the contract for children's attorneys switched over. And we took over a lot of cases for some of the providers that now are going to be representing an increased number of children across the State. And one example of a case I got from another provider was a young man who had had an open case for six years and he was placed in a residential psychiatric facility. And when I met with him to explain to him what my role was as his lawyer and asked him where he wanted to live, he had no idea that he could even try to live with a family.

There was a real shift in the contract process this go round where the technical piece was not weighed more highly than the financial piece. And as has been stated, we're talking about the most vulnerable members of our society. And it is extremely important that we, the adults, do what we can to make sure that they are receiving the absolute best possible service.

As you have heard, the representation of children goes beyond the court hearings. And you heard a number of instances where Ms. Pentkovsek has been involved in the appellate process, which is a piece of the contract. I know Treasurer Kopp was

asking whether that is in the contract, these other pieces of representation, and it is in the contract. However, a number of the providers who were providing services previously and will continue to be providing services don't handle appeals for the children. So going forward a lot of the children who have been represented in appeals by the Legal Aid Bureau won't receive that representation.

I do want to commend the Department of Human Resources because I did meet with them and share some of these concerns and they are looking at creating a more robust system of evaluation for the children's attorneys. However, I do think it's important as has been recommended to look at the entire procurement process and to exercise this two year option extension so that we can make sure that we are doing what is best for Maryland's children.

Maryland is extremely progressive and we are a real leader in the country in terms of the rules that we have for representing children. And the way we handle cases in our child welfare system. And this is not the direction we should be going, where we are valuing the financial piece as highly as the technical piece. Thank you very much.

GOVERNOR O'MALLEY: Thank you. Any other persons to be heard?

MS. SONNIER: Good afternoon, honorable Board. My name is Yolanda Sonnier. I'm with Randall & Sonnier, LLC. My law partner Kendra Randall Jolivet is here as well. We represent children in Baltimore City. We do an excellent job. We do everything that everyone that you have heard that has spoken today. We've seen clients in California, Louisiana, Florida, I mean, we've done it all. We represent our clients in appeals. We do not a file notice of appeal and not represent our children.

I actually stand here in support of Legal Aid's recommendation of accepting the second option period. I will say something that has not been said to this Board yet. The one thing that is different about this contract, we have had a contract since 2001. What's different here is the, DHR does not recognize and does not seem to be concerned about the continuity of representation or the relationship that the attorneys have with the children. I have some clients I have represented for 15 years. And the department at this point wants to transfer those cases to other providers. So if you have heard stories from Mr. Joseph, from Ms. Franklin about the relationship and everything that they have done for those clients, and then if they have to transfer those cases to someone else, what a travesty.

The children, sometimes we are the most constant thing in the children's lives. And then to take that, and that is the one thing that has not been done in the past. In the past when awards, when contracts are awarded, the providers who were representing the children would be able to continue to represent those children. So at this point that is not what the department is seeking to do. And they are once again seeking to traumatize the children who are, you know, now the one constant they have had. They have now had their families taken away from them. They've had their neighborhoods, some of them, taken away from them. And now they are going to have the one constant, which are their attorneys, taken from them.

So I would say, you know, standing here, you know, this is not an area that you work in to get rich. It's not. You do it because you want to do it, because you have a passion to do it, because you care for children. So, you know, there was no justification in Baltimore City for going from seven providers to four providers. You have seven organizations, law firms that provide representation to children. They have relationships with these children. And unilaterally the State decided we just want four providers. So what happens with those children who have established relationships? You know, 15, 16 years with those organizations? And then they are gone the next

day. We are looking at it as it's a piece of paper, and not a child.

So I would say, and then if you just look also at the documents in front of you, it was not given equal weight as far as the technical and the financial. If you look, and you know there is one is one and one is three, you do an average, that becomes two. I mean, if you just look at it it makes, it does not make sense. It was, the system was flawed in the way it was done.

But I just want to point out the one different here is that the continuity of representation has been ignored by the department. And we ask that this Board recognize that it is important to continue that continuity of representation and to actually exercise that two-year. Have the task force decide what's important and what is needed to continue to have those children be represented. And you know, everyone that stands here has relationships with their clients. And the relationships we have with our clients, you know, things that we have done have been above and beyond and have started a nonprofit so we would not have to come to the State for certain funds to make sure that children are getting what they need when they are in foster care. So we are in support of that two-year option period. Thank you.

GOVERNOR O'MALLEY: Is this just a tag, I mean, is there any end to this?

MS. CHILDS: You are not listed, sir.

GOVERNOR O'MALLEY: Nobody, everybody just wants to be heard? Is that --

MR. ROBINSON: Actually if it's something that's not redundant, because I am not going repeat the same thing.

GOVERNOR O'MALLEY: Okay. Here's something, let me interject just one second and then we'll come to you. Here is something that is not redundant. Secretary Dallas, I have a tremendous amount of respect for your passion and your commitment and really appreciate the heart you have and the care that you brought to that job, which quite frankly is one of the toughest in State government. What you have done on healing families, what you have done to reduce the number of children being put into foster care, is really admirable, as is the great service that each of you has testified that you do. I am so glad that each of you is proud of what you do for our most vulnerable kids and I thank you for that. And Secretary Dallas, I also thank you.

MR. ROBINSON: That actually does touch exactly on what I wanted to mention. My name is Chris Robinson. I own Children's Legal Service of Baltimore. It was founded in 1994

specifically for these contracts just to do CINA and TPR work and just in the City. I was ranked third technically and sixth on price. So I was not the cheapest by far, so it was not done by price. However, no one has mentioned what would happen if you don't take the six-month extension and if we do go two years in.

The City has dropped from over 10,000 cases reviewed a year to a little over 4,000. It's about 60 percent down. And so of course there are going to be fewer firms and fewer lawyers doing this. There is no other way to do it. And so the firms asking for the two-year extension have a larger percentage under the current contract than they would under the new contract.

So for example, I've always represented a thousand children. But it's done as a percentage. When it was 10,000 cases in the City, I represented about a thousand children, my firm. Everybody is 60 percent down. I'm in the 400s now. My staff of course has shrunk to do that.

If a two-year extension is continued, I will continue with that 40 percent rate. I've been holding onto staff, as have others, relying on the new contract. I got 25 percent of the City next time, 1,000 children, the same number that I've always represented. I've kept staff to be able to do that. With the two-year extension I will shrink to myself and one other

attorney. It's a wonderful tactic. Because then in two years after we've studied the whole thing I have to do a new RFP and say, sure, two of us can do 1,000 cases. I'll just hire five new people. The experienced people I have won't be able to stay with me.

With the six-month extension, I'm careful with the budget, I can float that. I've kept people in maternity leave on full pay without having to go unpaid. I had a Legal Aid attorney I hired several years ago who went out with breast cancer and I was able to keep her on full pay. Those are the types of things I can't do under a two-year extension. The other firms that are incumbents and have been doing this will shrink. Legal Aid has I'm sure shrunk the same percentage but they will continue on. But it will set up for the next RFP a situation where they can say, sure we have the staff to do it. So a six month extension, the firms that have geared up or have kept the staff able to do it, if the contract appeal works out unfavorable and we continue with the new contract, we have experienced attorneys ready to go including resumes from other firms. It's a big and incestuous group. We switch around where we work.

I was a DSS attorney for a year in 2002. I realized I could do a better job and more effective representation of

children than I could the State. I teach at the University of Maryland School of Social Work. One of my staff attorneys occasionally teaches an oral advocacy class at the Law School at the University of Maryland. These are the people we want working and representing the children, very qualified. And we are ready to go under the new contract.

Doing a six-month bump will allow us to continue that, have caseloads very, very low, get ready for the new contract and be ready to go. A two-year extension we will absolutely not --

GOVERNOR O'MALLEY: So you are saying the overall caseload for CINA is way down.

MR. ROBINSON: In the City, yes. Partially due to the very good benefits of working with the family and not bringing them into court. So we're dealing with a little over 4,000 children, I mean I hate to put it in a way that's --

GOVERNOR O'MALLEY: That's a huge reduction from six or seven years ago.

MR. ROBINSON: Yes. About 60 percent from six or seven years ago. So all the firms have shrunk tremendously. And then the question is, if we go for another two years under the current contract, which was done when there were 10,000 cases to divvy up, and I don't mean to sound crass about it.

These are very serious cases. But I mean, when we are looking at the business side of things we have to look at it that way.

GOVERNOR O'MALLEY: Mm-hmm.

MR. ROBINSON: When there were 10,000 cases to divvy up, we had seven providers. That's how we did the contract. We don't have that anymore. So not only do we, I mean, they never took the two-extension but they extended it by a year and a half anyway. So we almost had that two-year extension. So we've been floating along under almost seven years under a contract that was written for more children than we have in the City.

GOVERNOR O'MALLEY: Mm-hmm.

MR. ROBINSON: Which is why seven firms don't work. And if we're going to continue it, everybody except for Legal Aid is going to shrink by so much with experienced attorneys, and then have to come in two years and say, oh, we're hire people out of law school let, the experienced attorneys aren't going to stay.

GOVERNOR O'MALLEY: And tell us again why you think the caseload is down?

MR. ROBINSON: Significant work with DHR, especially with Ms. McGrath in terms of serving families ahead of time so they don't have to come into court --

GOVERNOR O'MALLEY: The Place Matters efforts?

MR. ROBINSON: Yeah. All of the family preservation work --

GOVERNOR O'MALLEY: Right.

MR. ROBINSON: -- so that cases aren't brought in under the emergency docket to court. So it used to be that on a daily case, in a daily, in a case, on a day in the City, the emergency docket would have 15 or 16 children. And now it has maybe five, and most of them are repeats. They are things that failed --

GOVERNOR O'MALLEY: Wow, I haven't read that in the Baltimore Sun. Have you, Mike? It might be a good story. It might be worth it. People might actually be interested that their State government actually works and can achieve better results, especially for vulnerable children. I mean, I'm just saying.

(Laughter.)

MR. ROBINSON: So I would ask the panel to just consider the actual ramifications. And say, oh, it's a two-year contract extension. It is. But the contract wasn't written for what we have now. It's incumbents. We've got people who were doing it for 20 years. I have one attorney who was actually doing this for about 30 years. She left to do some ACLU work and came back.

GOVERNOR O'MALLEY: Got you.

MR. ROBINSON: So it's the same thing that everyone else had said. But there will be a significant in the quality if we do two more years under the current contract, versus a six-month.

GOVERNOR O'MALLEY: Okay. Thank you. Who is next? Yes? Somebody else wanted to speak? No? Yes? No? Okay. The --

TREASURER KOPP: So it's before the Board of Contract Appeals now. Under the present procurements, this new type weighting procurement, right? Is that -- there you are.

MR. DALLAS: The issue about the 50/50 that folks have already talked about. That has already been dealt with by the Board of Contract Appeals. That was protested when the RFP was released by Legal Aid. That went to the Board of Contract Appeals and that case was dismissed by the Board of Contract Appeals.

The protest from Legal Aid is actually about different matters than the 50/50 matter. They are protesting other issues than that. That RFP methodology has already been affirmed and upheld by the State Board of Contract Appeals.

TREASURER KOPP: And do we have any idea how long this appeal will last? I mean --

MR. DALLAS: Well, I mean, I guess it's hard to tell.

TREASURER KOPP: Right.

MR. DALLAS: But I've been told that six months is a reasonable time frame to allow --

TREASURER KOPP: I mean, you gave us six months. I wondered if that was, well the Secretary is skeptical, yeah.

MS. FOSTER: I think it says six months. But I think what we've done oftentimes is the six months, if no decision was made, we came back to the Board.

TREASURER KOPP: Yeah, no I understand that. It's just six is a round number. That's where we --

MR. DALLAS: The estimate I heard was three to six months from our procurement folks. So we said six months on the long side to be safe. And, you know, I think the intent is to allow the appeal to run its course, or the protest to run its course.

COMPTROLLER FRANCHOT: Well I can tell you very clearly from my experience with the Board of Contract Appeals in a situation you described, we might, they only need six months, you can just do it. Because it's already been determined. It's already been determined.

Let me just give you my insight after seven years --

MR. DALLAS: Okay.

COMPTROLLER FRANCHOT: -- in dealing with \$60 billion in contracts, it's a done deal.

TREASURER KOPP: No, my impression is the Board of Contract Appeals takes forever to do anything.

COMPTROLLER FRANCHOT: No, I'm just saying that this is a process set up for big for profit companies. I appreciate procurement but you are putting a square peg in a round hole here. And I just really think that it needs to be, take a step back, examine what the Secretary has done, come back with an improved process, and boy, I just, this idea that there is some kind of holistic review of what has been done, that that will happen, it just isn't going to happen. And I feel badly for Legal Aid. I think it's a poor treatment from day one when this thing was put out for request for whatever it is, request for, no not RFP. The other thing. Yeah, I mean, if it's not broke, you know, take care that you are not doing, and I appreciate what the Governor said. I'm sure your intent is great. But this process, this procurement process that we have right now is, it's just not suited to this situation. And it's particularly not suited now that it's way down the road. Because I can pretty much, I'll give you a thousand dollars if you lose any of those appeals. You are not going to. You are going to win every single one of them. And the damage will be

done. So, I don't know. It doesn't seem like the Board is so inclined. But I would suggest we go to the two-year review on everything and ask you to come back with some kind of recommendation that would protect at a minimum what we have, deal with this continuity of representation and other issues that have been brought up. And let's not hurt ourselves.

GOVERNOR O'MALLEY: What about that continuity of representation?

MR. DALLAS: Continuity of representation is being handled exactly the same way it has in every RFP, including the ones that Legal Aid has won. There is no change to the process right now. In fact, it's actually a more thorough review than has been done in the past.

GOVERNOR O'MALLEY: Does everybody have to change lawyers? Or --

MR. DALLAS: No, no, everyone does not have to change lawyers. We are going through each case as it's awarded on a case by case basis and we are looking at the individual characteristics of that case. You can't blanketly say no cases can be transferred just like you can't say every case can be transferred. So every, you know, all the providers know how this works. You know, you look at things, whether there is a hearing scheduled anytime soon, whether the child is going to

age out. In fact, Legal Aid themselves when they bid on this contract, they bid, if they had gotten everything they were awarded they would have 2,000 cases transferred from other attorneys, the ones who came here, to them. They bid with the intent and knowing that that would occur. These are the kind, these happen. These decisions are made on a case by case basis and they are always made in the best interest of the child. So a lot of folks that said a lot of things here today, most of which only lack the merit of being true. So you know, we are going through a process that we go through all the time. This is a process we have gone in the past, Legal Aid has benefitted from it. And I think their concerns about the structure of the RFP I think have a lot more to do with the result than they do with the structure of the RFP. And I think --

GOVERNOR O'MALLEY: And the fact that there is far less work.

MR. DALLAS: The numbers, if you want to know the numbers, the reason why there are fewer vendors, there will be fewer providers here is we are down 41 percent on the number of kids in care over the last five years. There has been a huge change in the way we do business. We have an infrastructure that is built for 10,000 kids. We are now down to 6,100.

GOVERNOR O'MALLEY: You mean a legal infrastructure.

MR. DALLAS: Yeah. Well, there's been changes, you know, we were here a little while ago, we were reducing the number of group homes we have.

GOVERNOR O'MALLEY: Right.

MR. DALLAS: There is no way you can go from 10,000 kids in care down to 6,100 kids in care and still have the same infrastructure.

GOVERNOR O'MALLEY: Well we have also cut the number of kids murdered in the State in half, and also greatly reduced the number of kids being taken out of their family home.

MR. DALLAS: There has been no change to the safety of those kids or the number of kids who have been --

GOVERNOR O'MALLEY: Actually, there has been. It's better.

MR. DALLAS: Well it's improved. It's improved. It has not, yes.

COMPTROLLER FRANCHOT: Anyway I have a motion on the floor --

GOVERNOR O'MALLEY: Well we have a motion on the floor. The Comptroller motion is to extend it for two years. Is there a second for that?

TREASURER KOPP: I think I, I wasn't going to until I heard candidly, Mr. Secretary, your last comment about people

lying. And that, I'm sorry. I think there ought to be at the same time, a group, perhaps the council that exists now, looking at the process. And I really, I guess it's your group, is it?

MS. CHILDS: Yes, I happen to chair the Council. And if I can also clarify for the Board that the two items before the Board, neither of which serve to actually exercise a two-year option.

TREASURER KOPP: Right.

MS. CHILDS: So for transactional purposes it would have to be deferred --

TREASURER KOPP: I was going to say I would second it, but I don't understand where that leaves us because that's not an option before us. I also am confused. Because I think if you go to appeal and the Comptroller is right and the Board of Contract Appeals says that the process was done correctly, and I believe it probably was under the criteria that were set out, but have some concern about the criteria that were set out, that doesn't solve it. Does it? Tell me how that solves it.

MR. DALLAS: And Madam Treasurer, I just, I think that folks have given the impression that these contracts were awarded to low cost providers. Right? They were, you know, that there was a, I think I saw --

TREASURER KOPP: I have the numbers here. I understand that.

MR. DALLAS: Yeah, I know. So what I can tell you is, I mean, it's just not the case. Right? I mean, you have all the providers --

TREASURER KOPP: Listen, I have the numbers here. I see what they are. Unless you are telling me the numbers you gave us are wrong?

MR. DALLAS: No, I understand that. I'm saying to you that at the end of the day, these are, you saw some of the providers that came up here. These are all folks who do this for a living, who are passionate about it. So is Legal Aid passionate about it. There was a procurement. Legal Aid is unhappy with the outcome of that procurement.

TREASURER KOPP: I know.

MR. DALLAS: Right?

TREASURER KOPP: That's quite clear.

COMPTROLLER FRANCHOT: Just on my motion, could, if we vote on Item 7 and Item 17, and we say we're not going to grant the contracts, we're not going to give the six-month delay, we're just going to say no, doesn't that direct the agency --

TREASURER KOPP: No.

COMPTROLLER FRANCHOT: -- to exercise the option? And it would, the current process for both Item 7 and Item 17 would continue for the next year and a half, or two years. Whatever the time frame is, whenever it would trigger. I mean, it's just, that's, I'm not suggesting, Madam Treasurer, us getting in the agency's shoes. I just think we can turn these contract requests down and ask the agency to exercise the option and come back with a more broadly supported solution to this issue. And I go back to my statement. I think this procurement process we are putting on you, and your people that are servicing our kids, it's a little bit of a square peg in a round hole. I'm not sure it fits. And so I would change my motion to say on Item 7 and Item 17 we vote to reject the request for approval of these contracts and we ask the agency to exercise the option. And that would then continue, as I understand it, the status quo until the period would, so that's the way around it. I agree with you. I think it's not right for us to --

MS. CHILDS: If there is, if there is --

COMPTROLLER FRANCHOT: At this point I'm happy to do anything just to --

MS. CHILDS: If neither one of these Agenda items, if it's either deferred, disapproved, or withdrawn by DHR, DHR would then have to come back with a different resolution to keep

these services in place. It wouldn't not necessarily have to be an option, if there isn't one. There may not be an option left on the original contract.

TREASURER KOPP: Right.

MS. CHILDS: It may be in another form of procurement, it could be an emergency. But there are other procurement methods they could use to keep the services in place if the Board should choose to take either a disapproval, or a deferral, or the agency should withdraw the items. But they would have to come back with a different solution.

MR. DALLAS: I think one thing to point out, the adult cases, which no one has protested or no one has even discussed, they are out of options. So those need to be awarded.

TREASURER KOPP: Right. I was going to say, you've got the end of this month.

MR. DALLAS: Right.

GOVERNOR O'MALLEY: Which one are they? Is that 7-S?

MS. FOSTER: Item 7. Item 7 is also applicable to CINA cases as well as to adult cases. There is no discussion or no protest in regards to the adult cases. But I think what the department has done, is said in the instance of the children's cases, they took out those cases that people had objections to. Those have already gone to the Board of Contract Appeals.

That's before the Board to decide. And they are offering to have an extension of those cases for up to six months until that decision is made.

MR. DALLAS: Correct. And --

TREASURER KOPP: I think, let me just make sure I understand. You were saying that Item 7 basically --

MS. FOSTER: Item 7.

TREASURER KOPP: -- is not truly being contested? To get back to the first thing that was said about them being tied together, whatever the term was.

MS. FOSTER: Right. There is no protest to Item 7.

MR. DALLAS: Correct.

COMPTROLLER FRANCHOT: I would be contesting Item 7. It's just, it's just a mess.

GOVERNOR O'MALLEY: I think it becomes a mess when we change the rules at the end of a procurement process.

MS. FOSTER: Right.

GOVERNOR O'MALLEY: When people who are not satisfied, are unhappy with the way it came out.

TREASURER KOPP: For the kids.

GOVERNOR O'MALLEY: I mean, that's what leads to the mess.

COMPTROLLER FRANCHOT: The mess in my opinion was started by taking this kind of service and putting it through this procurement process from the get go. That was the problem.

MR. DALLAS: It's been put through a procurement process like this since --

TREASURER KOPP: Forever.

MR. DALLAS: -- since 1995, I think.

COMPTROLLER FRANCHOT: Well, yeah, well, okay. Let's take a vote and move on.

TREASURER KOPP: Well can we do something about the adult guardianship part so that people don't lose? I mean, that --

MR. DALLAS: I mean, I guess, I guess Madam Treasurer, I implore you to reconsider on it and allow those protests to go forward. I would be happy to have any conversations that you would like with Legal Aid, with anybody. But at the end of the day in terms of keeping these contracts going and having the process go forward, if we could just award the contracts that have gone through the RFP process and allow those protests to run their course, that I think is what is consistent with the law. That is consistent with what all of the providers who responded to the RFP signed up for. And to me I think the

Governor is absolutely right, the mess will be if we do not do that here today.

MS. CHILDS: And the Board would have the discretion to separate out the adult representation contracts and approve those awards if they so choose and separate out the CINA representation on Item 7-S.

TREASURER KOPP: Yeah, you are saying that and he is saying something else.

MS. FOSTER: Yeah, the Secretary is asking that the item be approved that's before you in the form that it is.

MR. DALLAS: At the end of the day I think that --

TREASURER KOPP: But you are using the same criteria for Item 7 and Item 17 for CINA cases, for kids.

MR. DALLAS: For the, the criteria --

TREASURER KOPP: Same process?

MR. DALLAS: -- as I understand it, right? Item 17 is the extension?

MS. CHILDS: Correct.

MR. DALLAS: Right? Is the extension of the status quo in the ten jurisdictions --

TREASURER KOPP: Because they happen to be contested?

MR. DALLAS: Under protest. Yes, they are under protest.

MS. FOSTER: Right.

TREASURER KOPP: But they are, it's the same in Item 7 for the CINA cases, except they are not being protested?

MR. DALLAS: Yes, they are not being protested.

TREASURER KOPP: But the process has been the same?

MR. DALLAS: Right. Well they will either, Legal Aid will either be successful or not at the Board of Contract Appeals and they can have that argument there, right? I mean, that's where their day in court is. I think as some of the others who spoke here, we had a protest, I'm sorry, we had a process, the process was followed. The contracts were awarded. And now folks want to change the rules. I think the folks who won the contracts would have a serious problem with us doing that.

TREASURER KOPP: Well, I'm sure they would. I have no problem with the adult protective services aspect. I --

MR. DALLAS: And Madam Treasurer, I am truly sorry if I said anything that made you want to change your mind on this. It was not my intention. I was trying to lay out the facts. And if I did anything that made you change your mind, or made you want to vote another way, I apologize for that.

TREASURER KOPP: Well I don't want to go, there were also things, well. I don't believe when we had an earlier discussion and I came to understand the situation --

MR. DALLAS: Mm-hmm.

TREASURER KOPP: -- that all the facts in fact were presented. I'm not saying there was any intention to mislead or to leave things out. But that in fact is the effect of what happened. But just, I wasn't going to air that here but I'm telling you that now.

MR. DALLAS: Okay.

TREASURER KOPP: I, it is very unfortunate. And I don't understand why you are not protesting the ones in Item 7. But I, if this is the only want to get adult protective services, then I would support Item 7. GOVERNOR

O'MALLEY: So there is objection to any of the CINA things in Item 7?

TREASURER KOPP: Apparently not.

MS. FOSTER: If no one has objected to any of the --

GOVERNOR O'MALLEY: So we can approve Item 7 and then

--

MS. FOSTER: You can approve Item 7 --

COMPTROLLER FRANCHOT: Yeah, okay --

GOVERNOR O'MALLEY: All right, the Comptroller moves -

-

COMPTROLLER FRANCHOT: No. I, I --

GOVERNOR O'MALLEY: No? You are against all of them?

COMPTROLLER FRANCHOT: I am against this situation that Legal Aid, through no fault of its own has been placed, and frankly the other providers. And so I would much prefer a two-year, keep everything as is, services being provided, come back with a better process of it. You know, great institutions, like this Legal Aid. And they were strongly supported in the Legislature when I was there, and they have done the work of the Lord. And I'm not saying they therefore get a free ride. I'm just saying that there needs to be a procurement process that recognizes what we have and does not just put it through the grist of the, you know, of the procurement process and the Board of Contract Appeals. It's not, you know, go and do the task force, come back and give us a better process. But this is not a good situation. And so I would oppose Item 7. I would oppose Item 17. And I would strongly urge the Secretary to go back and listen to all of the stakeholders again and come back with a better process.

MS. CHILDS: For the adult legal services, are there, the contract expires before the next Board meeting, is that correct?

MR. DALLAS: Correct.

COMPTROLLER FRANCHOT: Extend it and come back. You want an emergency extension for two months? I don't --

MS. FOSTER: But I think what the Secretary has pointed out is that none of the individuals who spoke today testified against Item 7. Item 17 is the item which basically provides for a six-month extension. I think what the people who spoke here today spoke to the fact that they thought that the extension should be extended for two years instead of six months. I would just point out that if the Board of Contract Appeals has not made a decision at the end of six months, in many instances what we do is we bring this back to the Board and say we're going to extend it for another six months, another year. And I think what the Secretary is saying, he selected six months. If they have not made a decision by that point in time we have the option before the contract expires to bring it back to the Board.

COMPTROLLER FRANCHOT: And that's great for working conditions, at Legal Aid and other providers. That really gives

them a real boost in their morale. And I just, I'm appalled at this, frankly. Well intentioned, perhaps, but appalled.

TREASURER KOPP: Yeah. That's what I don't understand

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COMPTROLLER FRANCHOT: That's what it is. And take emergency action. You need another month to sort this out, or six months, or whatever it is? Come back and you know, give it to us, we'll apply, we've applied many things retroactively. Lots of things.

GOVERNOR O'MALLEY: I think. Let's take a ten-minute break. We'll be back.

(Recess.)

GOVERNOR O'MALLEY: We have taken a short bio break, and we return now to Item 7-S and 17-S. Well, when last we were here we were somewhat stuck. I would --

COMPTROLLER FRANCHOT: I have a new motion.

GOVERNOR O'MALLEY: A new motion? Yes, Mr. Comptroller.

COMPTROLLER FRANCHOT: First, I want to apologize to Marion for, this is now the 41st year of her service.

(Laughter.)

COMPTROLLER FRANCHOT: But Governor and Madam Treasurer, I would like to substitute a motion that would say

both Item 7 and Item 17 should be remanded back to the agency with a suggestion from the Board that the option for the kids be exercised if they so think that is wise, and that whatever they wish to do with the contract for the adults to ensure continuity we would be favorably disposed to if necessary retroactively approve continuity of service for that item. And that's something that I would, hopefully in that extension they would be able to do a task force, or a council meeting, or something appropriate that would, you know, make sure everybody is on board as far as the protection of the kids.

GOVERNOR O'MALLEY: Mm-hmm. Well let's --

COMPTROLLER FRANCHOT: And I'm not sure that would hurt anything. I'd be happy to make that motion.

GOVERNOR O'MALLEY: All right. That motion is out there. My motion would be that we approve the matters as submitted to this Board and allow the appeals process at the Board of Contract Appeals to run its course. Given the reduction in the number of CINA cases I don't think anyone is going to be happy ultimately at the outcome of these things. And we had a procurement process that was put forward. The rules were there. People bid. People competed. And then, and now we are at a juncture where some don't like the outcome of it. And so I would, in the past we always had the six, too

often we would wait until the Board of Contract Appeals ruled and then revisit the matter after that and be guided accordingly. So that's what I would hope that we would do. Madam Treasurer, what do you think?

TREASURER KOPP: Okay. So I would support the Comptroller's proposal, only rather than saying the Secretary should look at the procurement system, or however you put it, I think there should be a separate group and suggest that it be the group that the Governor set up already under Ms. Childs, I guess, or chaired by Ms. Childs, looking at the procurement of social services. To look at this procurement process and report back.

GOVERNOR O'MALLEY: On all of this?

TREASURER KOPP: To us. I understand what you are saying about the Board of Contract Appeals. I have every reason to think that the Secretary and the evaluation group did appropriate things. I don't question that.

COMPTROLLER FRANCHOT: Well with the change --

TREASURER KOPP: And I think, but nonetheless with that slight change I would second.

COMPTROLLER FRANCHOT: I'm happy to agree to that change. And --

GOVERNOR O'MALLEY: What's the slight change? The slight change is --

COMPTROLLER FRANCHOT: That there not be an agency review but there be a, some third party review, either the council that Mary Jo is chair of, or the task force --

TREASURER KOPP: Running concomitantly.

COMPTROLLER FRANCHOT: Anybody. I mean, some independent group, I take it, is what the Treasurer is --

GOVERNOR O'MALLEY: What is the name of the group, Ms. Childs?

MS. CHILDS: Yes, sir. It's the Council for the Procurement of Health, Education, and Social Services. It was created by the Legislature.

TREASURER KOPP: Right. Looking at the method by which we procure these services. Not looking at this procurement particularly.

GOVERNOR O'MALLEY: So, and where does that leave DHR? So if there is no, so that means, there is not the votes to support the awarding of these contracts, then.

MS. CHILDS: Yes, sir. If the deferral was voted on then the department would have to come up with an alternative way to procure these services, or come back again in September again for a reconsideration. But they would basically have to

figure out a procurement way to keep things going, either sole source, emergency, whatever methodology is available under current procurement law to keep the services going.

COMPTROLLER FRANCHOT: Yes. My motion is to remand both of these items back to the agency with a suggestion that A, they keep continuity of service, either through exercising an option or whatever they want to do. Or if they want us to retroactively approve a continuity for the adults. And then secondly, that there be a review by your council, I take it there are legislators on that?

MS. CHILDS: Yes, sir.

COMPTROLLER FRANCHOT: Of this procurement process as it applies to representing children and representing very vulnerable adults. And if there, I would, just a suggestion, I don't, that the extension be long enough that there can be a review. I would press the motion. It may not be perfect. But it's --

GOVERNOR O'MALLEY: I've never heard of us remanding something.

MS. CHILDS: It would be considered a deferral, sir.

GOVERNOR O'MALLEY: Uh-huh. So it sounds like the, I mean, I made my motion failed. My motion failed for lack of a

second. So the Comptroller makes his motion, the Treasurer seconds that, and this matter is deferred, what, indefinitely?

MS. CHILDS: Yes, sir. Until the, whatever actions the department would take would probably require Board of Public Works approval. Be it an exercise of an option if one is available, emergency procurement, whatever solution they come up with.

TREASURER KOPP: What is available?

MS. CHILDS: I don't know. The department would have to answer what is available. I'm not sure what options are available.

MS. FOSTER: Can I just interject about the adult portion?

GOVERNOR O'MALLEY: Yeah. I think they wanted the whole thing deferred. And then --

TREASURER KOPP: Repeat what you said about the adults?

COMPTROLLER FRANCHOT: Yes, I think that's a good idea.

TREASURER KOPP: That they, that the alternative would be to come back with an extension of the adults, or the option of the adults, retroactive approval.

MS. CHILDS: Yes.

COMPTROLLER FRANCHOT: But once again, they are suggestions.

TREASURER KOPP: I am troubled by the fact that the adult services and the CINA/TPR services came together in one item anyhow.

Governor O'Malley: Well Madam, the Budget Director wants to be heard.

MS. FOSTER: My question was just in regard to that. I heard the Secretary say that the adult portion expires on August 31st.

TREASURER KOPP: Right.

MS. FOSTER: And my question is could that be pulled out separately and dealt with?

MS. CHILDS: I think it is within the Board's discretion to separate out 7-S because it is distinguished in the Agenda item which contracts are adult and which ones are CINA. It is certainly up to the Board to do that. Or alternatively the department could do some sort of bridge contract to keep the services going and then bring that back to the Board at its next meeting.

COMPTROLLER FRANCHOT: Well I think we are giving suggestions. We are not trying to run roughshod over the procurement process. I think it's best if they, if this review

and these existing services are extended adequately for the review and then we don't have to be concerned that something is being changed. If we had known about the negative impact we wouldn't have been in favor it, I don't think. It can continue as is until there is a review and the agency can make the recommendations to us so that they, I mean, they are the experts. They can make the resolutions without us dictating to them. I'm just saying it's --

GOVERNOR O'MALLEY: Well we are dictating to them. I think you vote, you had them do a procurement process and they've done it. They've done a better job of taking care of vulnerable kids. People don't like it because there's fewer cases. And then you tell them at the end of procurement process you don't like the way their procurement process came out. So that's what you all voted to do. So you are deferring it for two years until they can come back and I guess steer it in such a way that Legal Aid gets it. I don't know.

MR. DALLAS: At the very least I think there is the, the contract for adult services, I believe the Board has said that it's within your discretion to award the cases for adult services.

TREASURER KOPP: Is that, I mean, can we separate out a motion that's already before us to do that?

MS. CHILDS: The Board can make a motion to separate out 7-S to approve the adult legal representation because it is separated out in the Agenda item, and the CINA contracts would remain deferred.

GOVERNOR O'MALLEY: All right. So we are going back now, the Treasurer is moving to reconsider the last vote on, with regard to Item 7-S.

TREASURER KOPP: Separate out the --

GOVERNOR O'MALLEY: And now the Treasurer, and that is seconded by the Comptroller, I assume?

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: Okay. Seconded by the Governor. And now we are back on 7-S. The Treasurer moves that we approve 7-S except for the CINA matters.

MS. CHILDS: Correct.

GOVERNOR O'MALLEY: Okay. So that, with that, so moved. So approval of 7-S without the CINA matters. The Governor seconds. All in favor signal by saying, "Aye." Aye.

TREASURER KOPP: Aye.

GOVERNOR O'MALLEY: All opposed?

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: The Comptroller opposes that motion. That motion carries. We are now on 7-S, I think, finally, right?

MS. CHILDS: 17-S.

GOVERNOR O'MALLEY: Oh, did we just pass 7-S?

MS. CHILDS: 7-S.

GOVERNOR O'MALLEY: Okay. All right. And so now we're on Item 17, and Item 17, the Comptroller renews his motion to defer --

MS. CHILDS: Defer.

GOVERNOR O'MALLEY: -- indefinitely and to remand back to DHR for a process that everyone will be happy with at the end of which, and agree to. And that motion is seconded by the Treasurer. All in favor signal by saying, "Aye"

TREASURER KOPP: Aye.

COMPTROLLER FRANCHOT: Aye.

GOVERNOR O'MALLEY: All opposed? No. No, the Governor votes no. That concludes this meeting of the Board of Public Works.

(Whereupon, at 3:30 p.m., the meeting was concluded.)