

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

July 3, 2013

10:29 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;

AL COLLINS, Secretary, Department of General  
Services;

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

JAMES SMITH, Secretary, Department of  
Transportation;

EMILY WILSON, 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: Well I welcome you all to the July 3rd Board of Public Works. As we come up I hope all of you have a great Independence Day, Fourth of July holiday, when all of us are rightfully grateful of our country and their neighbors. I want to welcome Jim Smith. It's your second one, though, isn't it? But now you've been sworn in as of yesterday. It's been very eventful. We were delayed slightly due to the transition from a Governor for a day. She, you know how transitions go. So we had Genea Harrison yesterday as Governor for a day. She did an outstanding job. And now we are here at the Board of Public Works for July 3, 2013.

I know that there are a number of you here on the wetlands permit and we will, and that one should take a little while. So what we are hoping to do after some initial business that I know the Treasurer needs to do on bond sales and the

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Comptroller's opening remarks, I'd like to dispose of the rest of the Agenda so that we can kind of clear the decks for this wetlands issue. And I think we also had a State Police issue. And DoIT, I guess, has something. So anyway. Let's begin. Treasurer, I'm sorry, Mr. Comptroller, any opening remarks?

COMPTROLLER FRANCHOT: Yes, thank you, Governor. I want to also compliment you on the selection of the Chief Judge. That's a fabulous choice. And congratulations. Thank you. And Treasurer Kopp, I'm sure a lot of people are eager to get along with the Fourth of July weekend so I'll be brief. But before we get into the Agenda I did want to just take a moment and reflect on Independence Day.

It's such a special holiday for all of us Americans, and particularly for us Marylanders because we are the birthplace of the national anthem. And that literally comes to life in the fireworks displays that we'll watch with our neighbors and families. And

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it's a little ironic that a holiday called Independence Day actually reminds us of our dependence on one another as we join our families and our neighbors and our communities. From block parties to parades to community fireworks displays, July 4th is a day to celebrate what makes the United States the greatest country on earth. And despite everything that we have experienced in the last few years, July 4th is a day that remains nearly unchanged since our childhood.

For me, I always look forward to spending the day with some of the finest communities across our State, with them as we celebrate our pride for our country and our communities. So I hope to see many fellow Marylanders tomorrow as everyone takes part in the Independence Day celebrations. I'll be in, well I'm glad to see it's raining today and not tomorrow. Because along with a lot of other elected officials I'll be in the Arbutus Parade and the Dundalk Parade

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and the Towson Parade and the Catonsville Parade, and etcetera.

But I will note that there is a new study by Bloomberg that tomorrow is the day that more hot dogs and more Budweiser are sold than on any other day in the year. So with that, I'd like to wish everyone a Happy July 4th and God bless our great country. Thank you, Governor.

GOVERNOR O'MALLEY: Thank you, Mr. Comptroller. Madam Treasurer, you have some bond business to take care of, yes?

TREASURER KOPP: I do. I do, Governor. Before I do I do want to also say how proudly our judicial nominations, all of them that were made today.

GOVERNOR O'MALLEY: Well, thank you.

TREASURER KOPP: They speak to the diversity of our State and the wisdom of the appointer and the

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wisdom of the women in our bar. It makes us very proud.

I also want to say what I know is in the hearts of so many of us. It's a beautiful wet day here, but it wasn't in Arizona. And the tragic sacrifice of those great courageous firefighters, I think, out only to save their neighbors and their property and their lives, to give their lives up for that is extremely noble. Especially when we look at the importance of this day and this week, that sacrifice is a real part of our community. Having said that, I know that it will make the day very both tragic and triumphant to know that we have such sterling character in our national fiber.

The bonds. We are seeking approval to go to the bond market, as we have spoken of before, on July 24th with a sale of \$435 million in tax exempt bonds and \$40 million in taxable bonds, all of which as you know go mostly for schools and educational facilities

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in the State and other very poor public purposes. We are not proposing a refunding because of the volatility of the market. And are reserving that for later.

As you know, municipal bond yields have steadily increased in May and June for a number of reasons. And for that reason we do expect the bonds to sell at a slightly higher yield than in the past year. So our good citizens who want to invest in their states and help build their schools and public facilities may see a very good deal coming out at the end of the month for them. This is historically a good time to be in the market. And we hope to take advantage of it.

The Comptroller had asked before and in response to your question, the last bond sale totaled \$665.1 million. And the Series A, which was \$500 million tax exempt, sold at an interest rate of 2.333. And the refunding bonds at an interest rate of 1.087.

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So I presume we will see something north of 2.333 but we don't know how much. And with that, I would ask if there are any questions? And if not, if we could approve the sale?

GOVERNOR O'MALLEY: Item 7 on the Secretary's Agenda?

TREASURER KOPP: Item 7 of the Secretary's Agenda. Amber Teitt, who is the debt manager for the State is here. There she is.

GOVERNOR O'MALLEY: All right.

TREASURER KOPP: So if there are any substantive questions, Amber is the person who can answer them.

GOVERNOR O'MALLEY: So Treasurer moves approval --

COMPTROLLER FRANCHOT: Seconded.

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

THE BOARD: Aye.

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GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

TREASURER KOPP: Thank you very much. Amber now can go back to work.

(Laughter.)

GOVERNOR O'MALLEY: All right. We are going to hold Secretary's Agenda and the Department of Budget and Management, actually. So let's go to DNR Real Property Agenda.

MS. WILSON: Okay. Good morning, Governor -  
-

GOVERNOR O'MALLEY: Good morning.

MS. WILSON: -- Mr. Comptroller, Madam Treasurer. Emily Wilson with Department of Natural Resources. We have 12 items on our Agenda today. Of note on today's Agenda for us I would say would be Item 9A, which is known as Heartwood Forestland Fund, or otherwise known as the Furnace Tract. This is 603

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acres over on the Eastern Shore that is adjacent to the Chesapeake Forest and Pocomoke State Forest. It will become part of Pocomoke. It scored a whopping 127 on our ecological score chart. And it was a nice partnership, really, with private partners and federal partners, including the Conservation Fund and U.S. Fish and Wildlife Service. We were able to leverage some monies in addition to getting a discounted sale. And probably most significant is the habitat on this parcel supports a number of rare, threatened, or endangered species that are extremely ecologically significant.

GOVERNOR O'MALLEY: Terrific.

TREASURER KOPP: Like what?

MS. WILSON: I'm sorry?

TREASURER KOPP: Like what?

MS. WILSON: Well I have Jonathan McKnight here from our Wildlife and Heritage Service who can explain some of those.

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TREASURER KOPP: Oh, all right.

GOVERNOR O'MALLEY: Come on down. I didn't get a paper map, by the way, K. Large. I know we're trying to save trees, but I didn't see the usual --

MR. MCKNIGHT: This site actually contains a cluster of rare and endangered species that occur together. The two most significant species on the site are actually somewhat combined. One is a State endangered and globally rare butterfly, which feeds on a State threatened and globally unusual plant species. So these two are bound together. The butterfly, it's an elfin. It's fairly nondescript. It's not something that you would see in the movies, some dinner plate sized blue thing. But it's a beautiful little butterfly that feeds on this plant. And the fact that we have this cluster of other endangered species occurring together is a pretty strong indication of the unique habitat we've got on this site.

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TREASURER KOPP: So you've got a whole little ecosystem, you're saying?

MR. MCKNIGHT: That's correct. And in fact the acquisition will allow us to give this ecosystem that management that it needs to perpetuate for the long term.

TREASURER KOPP: That's great. Thank you.

MR. MCKNIGHT: Mm-hmm.

GOVERNOR O'MALLEY: Any questions on Department of Natural Resources? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye." All opposed?

(No response.)

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

MS. WILSON: Thank you.

GOVERNOR O'MALLEY: -- thank you, University System of Maryland. Mr. Evans? No, not Mr. Evans, no.

MR. STIRLING: Good morning. I'm Jim Stirling from the University System. We have six items on today's Agenda, and I'd be happy to address any questions.

GOVERNOR O'MALLEY: Any questions?

TREASURER KOPP: Not for me.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR O'MALLEY: 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. Thank you.

MR. STIRLING: Thank you, sir.

GOVERNOR O'MALLEY: We'll move on, we're going to skip over the Department of Information

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Technology and instead move directly to the Department of Transportation. Secretary Smith?

MR. SMITH: Good morning, Governor --

GOVERNOR O'MALLEY: Good morning.

MR. SMITH: -- Mr. Comptroller, Madam Treasurer. For the record, Secretary Smith representing the Maryland Department of Transportation. MDOT is presenting 16 items, as Item 16-RP is being withdrawn. The MDOT Agenda total is \$161,462,645.

GOVERNOR O'MALLEY: Any questions?

TREASURER KOPP: I --

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor. Secretary, welcome.

MR. SMITH: Thank you, sir.

COMPTROLLER FRANCHOT: It's great to see you. I'm delighted, as is the Governor, that you are over there. And this is an item that obviously

predates any of your tenure. But it's something that you may have seen before in your executive experience. The item is Item 2-AE-MOD. And we are being asked today to approve \$21.3 million in additional spending for seven active MTA contracts and in so doing extend each contract by 18 months. And I'm having a hard time in some of these instances figuring out exactly what it is that these consultants are going to be doing. For example, part of the \$21 million is \$2.3 million for work related to the fabled long awaited south entrance to the Bethesda Metro Station over in Montgomery County. I mean, this was a big item for years when I was in the Legislature chairing the House Transportation Subcommittee. I support a south entrance. I understand it's a value both to the Purple Line project as a way of better connecting the existing Red Line Station to business and residential centers in downtown Bethesda. I know the Treasurer, who lives in Bethesda, is aware of this.

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Here is the issue. It's I've been reading and hearing about studies on this south entrance for I want to say years, it might be a decade. And WMATA released a detailed analysis of this proposed entrance back in May of 2005. So I guess what I want to know is the \$2.3 million that MTA is spending on the project, how does it differ from the work that WMATA has already done in the past? Does it actually get us closer to having a south entrance to the Bethesda Station? And I guess once it's all done who exactly is going to be paying for the south entrance? And it's a generic issue that I'm suggesting here. Specific on the entrance, but also are we making sure that these dollars are actually needed for this study? Or are we simply just spending the money?

MR. SMITH: Heidi?

MS. TARLETON: -- Henry Kay --

MR. SMITH: Oh, Henry Kay.

COMPTROLLER FRANCHOT: Oh, good. Mr. Kay?

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MR. KAY: Mr. Comptroller, how are you?

COMPTROLLER FRANCHOT: Welcome.

MR. KAY: Henry Kay from MTA. Thank you, yeah, the Bethesda south entrance is a project actually the MTA is doing with Montgomery County, Maryland. It's connected and very important to the Purple Line but it has independent value. So it's possible that it could be constructed, you know, before, during, or after the Purple Line project. The timing of the construction of the entrance, the design of it, which this contract supports, and then the construction itself is dependent on Montgomery County funding. So we have an agreement with the county to do the engineering on its behalf, actually with this funding, or reimburse us for those costs. And then the county will fund construction of the entrance. And so we will do it at the time that the county makes that funding available to us. So at this point we have authorization from the county to proceed with

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final design and that is what will be undertaken with these particular services.

COMPTROLLER FRANCHOT: Okay. Let me just ask the, since you are here, Mr. Kay, there is a \$700,000 study entitled, "Amtrak Reviews for New Stations." New stations for Amtrak?

MR. KAY: Yeah. There, this is work we undertake jointly with Amtrak, where we share responsibility for doing engineering studies around most of the modifications for the existing stations. So there is, Amtrak has a master plan for the northeast corridor and it includes some consideration of what they call new stations. But it's essentially enhancements of existing ones, an example would be the BWI Rail Station. And so we want to make sure that we can share, that we can pay our part, and provide the services that were obligated under that agreement.

COMPTROLLER FRANCHOT: Okay. So it's not new stations? It's existing stations?

MR. KAY: No. No.

COMPTROLLER FRANCHOT: Okay. And then \$500,000 for a survey of leased Amtrak property? What is that?

MR. KAY: That is also a part of an agreement that we have with Amtrak, where we share jointly in capital improvements to their properties. So this is, we take a look at property that they own that we use for our purposes. And so, you know, it's a question of its environmental condition, boundaries, opportunities to expand, functions on those facilities. These are all questions that are answered through those services.

COMPTROLLER FRANCHOT: Well I have great respect, as does everyone, Mr. Kay, for your work. And I, obviously this work is very detailed and time consuming. The issue that I'm really delighted that the Secretary is over now in charge of this is making sure that these consultant contracts are managed

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properly and we are not simply spending dollars because you know, there are some hungry consultants out there. Because we have all of the needs, cracked sidewalks, potholes, malfunctioning traffic signals, failing intersections, overcrowded transit buses. Just that you and the Secretary make sure that we are spending these hard earned transportation dollars on things that are going to make it easier for people to get to and from work. That we are actually getting real work out of real projects as opposed to just footing the bill for taxis and expenses and hotel rooms and billable hours. And I mean, you know what the problem is? The end of the year, or at certain points people say, "Can we study something? Because we have some money." And I'm assuming that you are completely on top of that.

MR. KAY: Yes --

COMPTROLLER FRANCHOT: And that you are rigorous in --

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MR. KAY: Yes. Each of these project is tracked as a separate line within our capital budget. And so each of them has to be approved independently, justified independently. Before we sign to a particular civil engineering project we start to draw down on those contract resources. So the work really starts with the justification of the work itself. And then the contract is secondary to that. So each of these was selected from a much longer list and prioritized and then is, you know, tracked based on its value to our overall system.

COMPTROLLER FRANCHOT: Okay. And if you could just give me, and the other Board members if they are interested, bring me up to date on these seven contracts? What we have actually received for our money to date, and what we are going to get from this new expenditure?

MR. KAY: Yeah, certainly. I mean, these are all, these civil engineering projects, they

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support a whole variety of services. We tend to allocate particular contract activities to particular contracts. So for example, we will assign all the MARC tasks to one firm, all the Metro subway tasks to another firm, so they develop particular expertise in that area. I mean, generally these are design activities that are advanced in projects that are in our capital budget in preparation for being advertised for construction. We track each one through what we call a workforce break down structure. So at the beginning of the task the engineer comes up with person hours by type of activity and establishes that at the beginning and then we track the progress of that project against those man hours, to make sure those person hours, to make sure we are getting our money's worth.

That is a number of contracts, there are a variety of projects under each one. I guess I can't

tell you off the top of my head all of the projects that are assigned to them but I can certainly --

COMPTROLLER FRANCHOT: What I want to avoid is when I was in the Legislature I remember someone describing confidentially getting a phone call from someone in planning saying, "Gee, we have some extra money. Do you have something we need to study?" And they said, "Well, actually no." and the person said, "Well, what about studying parking at one of the transit centers?" The person said, "That's already been studied by Metro." And they said, "Hey, we have the money. Let's go back and do it again." And to the extent you are rigorous as far as avoiding spending for spending's sake, I would be grateful.

MR. KAY: Thank you.

COMPTROLLER FRANCHOT: Thank you.

TREASURER KOPP: Could --

MR. SMITH: Mr. Comptroller, I can assure you that I share your concerns about wasting money.

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And I think I have avoided that for, I did avoid that for eight years as County Executive for Baltimore County and I certainly intend to avoid that as your Secretary of Transportation.

We all know that the expectations of our public are now going to be particularly focused on transportation because of the recent revenue sources that have been available to us. We also recognize there is much to be done. And we're going to stretch those dollars as far as we can stretch them. And we are not going to be chasing studies of something that doesn't need to be studied and/or has already been studied. So I can assure you that your comments are certainly compatible with the approach that the department intends to take. Thank you.

COMPTROLLER FRANCHOT: That's why I'm glad you are there.

TREASURER KOPP: Could I ask at some point, not right now, I would appreciate a better

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understanding of how you all interact with WMATA on these projects that are county, State, and WMATA. I suddenly realize I really don't know.

MR. SMITH: Sure.

TREASURER KOPP: Could we --

MR. SMITH: Yes. Certainly, certainly we can do that.

TREASURER KOPP: Thank you.

MR. SMITH: We would be happy to.

COMPTROLLER FRANCHOT: Let me know if the south entrance ever gets built. Because --

(Laughter.)

MR. KAY: Thank you.

TREASURER KOPP: Don't hold your breath.

GOVERNOR O'MALLEY: Okay. Anything else on Department of Transportation Agenda items? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

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GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We move on to the Department of General Services. Secretary Collins?

MR. COLLINS: Good morning, Governor, Madam Treasurer, Mr. Comptroller. I'm Al Collins, Secretary of the Department of General Services. We have 20 items on our Agenda today. We'll be glad to answer any questions you might have at this time.

GOVERNOR O'MALLEY: Any questions, Secretary's Agenda? Hearing, the Treasurer moves -- hold on one second.

MR. COLLINS: Is that Item 11, Matapeake?

COMPTROLLER FRANCHOT: Yeah.

MR. COLLINS: Yes.

COMPTROLLER FRANCHOT: What is that --

GOVERNOR O'MALLEY: Item 11.

MR. COLLINS: Item 11. We're asking the, for this project we're asking to sell two lots from this particular property. And if our, this property has some history here before the Board. The requirement is before we do any transactions here we seek the Board's approval and that is what we're doing today.

COMPTROLLER FRANCHOT: Are there any elected officials here? Or are they --

MR. COLLINS: We have one representative from, yes, sir, various, from the --

MR. TODD: Good morning, Governor, good morning, Treasurer, Comptroller. This is, we have been up before you on a number --

SECRETARY MCDONALD: Introduce yourself.

MR. TODD: Oh, I'm sorry. Gregg Todd, County Administrator from Queen Anne's County. We have been up here a number of times with Matapeake and we are successfully moving forward with selling the

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lots there. A few years ago this Board approved the subdivision of the 50-acre lots into smaller lots for commercial value. We have sold, well you have two lots on your Agenda today. We have two lots that are already sold. And we've got one that will probably be coming to you in August, and that will just about finalize the lots of Matapeake. So we're really excited to get this project moving. This is a real estate transaction where we actually receive money from instead of spending money. So that's always a good thing. So we're very excited about it.

COMPTROLLER FRANCHOT: Good. Thank you, Mr. Todd.

TREASURER KOPP: Thank you.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

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(No response.)

GOVERNOR O'MALLEY: The ayes have it. Let's go back to the, first to the --

SECRETARY MCDONALD: Governor, we can do Secretary's and still hold the wetlands --

GOVERNOR O'MALLEY: Yeah, what's the item number?

SECRETARY MCDONALD: Item 4.

GOVERNOR O'MALLEY: Item 4?

SECRETARY MCDONALD: We already, so, and then we can --

GOVERNOR O'MALLEY: We still have to do DBM, too.

SECRETARY MCDONALD: Okay. Do you want to do that first? DoIT --

GOVERNOR O'MALLEY: Do you have questions on DBM? Oh, I'm sorry. DoIT. Elliot, thank you very, very much. Department of Information Technology.

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MR. SCHLANGER: Good morning, Governor,  
Madam Treasurer --

GOVERNOR O'MALLEY: Good morning, Mr.  
Schlanger.

MR. SCHLANGER: -- Mr. Comptroller. Elliot  
Schlanger, Department of IT. This morning we have  
three items on our Agenda. I would like to point out  
Item 2, which is our request of the Board to approve  
notice to proceed on the next phase of our wireless  
interoperability radio project. I'm not prepared  
today to present. I understand you would like to hear  
something so let me just give you a couple of  
highlights.

This project, which is in its third year, is  
on time, on budget. There are some that would argue  
that we are even a little bit ahead of, on the  
timeline. But we have completed the first region. As  
you know, the Governor last June made the first call  
for service for Region 1A which is the 95 corridor.

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We are in the second region, which is the Eastern Shore, which we will finish on time at the end of this year. And again we are here this morning asking the Board to approve us moving ahead on the next region of the project which will be the central area of the State. So those are the highlights. It's all good news.

GOVERNOR O'MALLEY: That's great.

MR. SCHLANGER: And I'll be happy to answer any questions on that particular item or any other items on our Agenda this morning.

GOVERNOR O'MALLEY: Any questions, Department of Information Technology? That's great. So, and next time you will, maybe you will come back and give us an update on where that is overall? The regions?

MR. SCHLANGER: We can do that for sure.

GOVERNOR O'MALLEY: If anybody is listening online and they would like to check it out go to the

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goals, I mean, go to the State website, click on goals, Homeland Security. And I do believe it is either Item 1, 2, or 3 on interoperable communications core capacity, one of our 13 now along with cyber. Right?

MR. SCHLANGER: Absolutely.

GOVERNOR O'MALLEY: 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. We now move on to Department of Budget and Management.

MS. FOSTER: Governor, Madam Treasurer, Mr. Comptroller, good morning. There are 17 items on the Department of Budget and Management's Agenda for today and I'll be happy to answer any questions you have.

GOVERNOR O'MALLEY: Department of Budget and Management Agenda? Any questions?

COMPTROLLER FRANCHOT: Just quickly, Governor, if I could highlight Item 11?

MS. FOSTER: Item 11, Mr. Comptroller, is a settlement of all damages and attorney fees in the case of *Martin v. Conner*. And from the Attorney General's Office is Phil Pickus.

MR. PICKUS: Good morning, Your Honors. Phil Pickus, Assistant Attorney General. I served as lead counsel on this case. Also with me today is Mr. Bernard Foster who serves as Chief of Staff for the Maryland State Police.

We are seeking to settle this case. This amount represents full settlement of the case in full, completely. The case is a Federal Civil Rights case, a 1983 action pending in federal court in Maryland. We filed a motion to dismiss. Judge Quarles granted that in part and denied it in part, leaving us in a

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precarious legal position. We began discovery in the case and were referred to mandatory settlement in front of a U.S. Magistrate. The U.S. Magistrate believed it was in MSP's best interest to settle this case. The Attorney General's Office agreed because the settlement amount is comparable to what we would spend, probably even less than what we would spend, on discovery and experts in this case. So under a risk management analysis we determined that our exposure here was great enough that it made sense to settle this case for an amount that was lower than what we would have to spend just to bring the case to trial.

At the same time even before the case arose, and Maryland State Police and Mr. Foster can speak to this in greater detail, began its own initiatives to eradicate any kind of biased policing within Maryland State Police. Even before this case started we brought in an outside consultant to look at our policies and procedures and make sure everything was

good in his or her view and make any possible recommendations. We are also starting a review committee with external people from outside MSP to look at our unbiased policing policies. The department has also gone to great lengths to improve the diversity of the department, and Mr. Foster can speak on that if you would like to hear it for a minute.

COMPTROLLER FRANCHOT: Great. I'm sorry, who is Mr. Foster? What is --

MR. FOSTER: Bernard Foster, Chief of Staff, Colonel Marcus Brown, Maryland State Police.

COMPTROLLER FRANCHOT: Excellent.

MR. FOSTER: We just sat a class this past, it started Monday. We started the class and the diversity for that class was 27 percent. We had a class that graduated December of last year and that class, 139 was the class number, it stated with 42.9 percent diversity and when the class graduated in

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December, of course we lost a few candidates, it was down to 38 percent. But we believe that that is very significant. The class prior to that, the 138, stated with 29.7 percent diversity and graduated at 29.7.

To be able to reach these numbers and have qualified candidates come to the Maryland State Police we have worked closely with a number of different organizations and some other State agencies.

Secretary Chow, we have worked with DLLR, we've worked with the Black Caucus, we have worked with the Coalition of Black Maryland State Troopers. We have launched an intensive recruitment effort to be able to attain these numbers. We realize that the struggle for us right now is recruiting and having enough minority representative to be able to compete in the promotional process.

COMPTROLLER FRANCHOT: I love the Maryland State Police. I think they are a great organization. But thank you for that update. Nobody, obviously, supports any bias of any kind. My concern here is we

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are paying \$55,000 to Mr. Martin who apparently was, had a traffic stop in 2009, was arrested and charged with handgun possession. And then later on he was pulled over again for speeding and by State Police and given a warning. Subsequent to that he was arrested by the Philadelphia Police for gun charges. And we are paying Mr. Martin \$55,000 for bias?

MR. FOSTER: We are paying Mr. Martin because we really believe based on the action that we were involved in and the fact that if we moved forward with the case that we would spend that amount of money or actually more in going to trial. And if we were not to prevail in that case that we would spend significantly more.

COMPTROLLER FRANCHOT: Okay. Well maybe this, thank you for your, I have no complaint with what you said. But if you could just convey back to the Attorney General, I wish people would get a backbone over there and take these cases to court. I

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mean, this is outrageous that someone who is convicted of, or not convicted, but he is accused multiple times of gun charges, he's pulled over for speeding, and he files a Civil Rights case and we get apparently concerned about losing it. And so we settle. And now I've seen, you know, a little bit of a series of these things. Go for it. Defend the State.

MR. PICKUS: Mr. Comptroller, we defend the State on numerous cases. We settle an extremely small minority of our cases, very small. And respectfully, I have a backbone and all of my fellow workers have a backbone. We try many cases. The two gun charges that you refer to were both dropped. The Philadelphia gun charges were determined by a Philadelphia judge to be unlawful. The Maryland gun charges were dropped because of alleged discovery violations. We had no room to maneuver to use those gun charges to our advantage in this case.

COMPTROLLER FRANCHOT: Well, you know what I'm talking about. I mean, this is real money. It's

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\$55,000. It goes to somebody. It certainly looks a little bit odd from the outside that someone is in this situation claims there is a Civil Rights violation. So anyway, maybe you could summarize later in writing the number of settlements that have occurred. Because my recollection is that there have been more than a few. And I get the same argument every time, which is a slippery slope. I mean, obviously if we can settle for the costs that we would move forward litigating we could settle everything, if people were willing to do that. And how do you prevent and deter frivolous claims being brought? And the fact that Mr. Martin is carrying around a gun and committing violations in the State certainly gets my attention.

MR. PICKUS: I agree this analysis should not apply to frivolous claims. But a federal judge determined that the claim needed to proceed and it was not frivolous.

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COMPTROLLER FRANCHOT: Well --

MR. PICKUS: I would be happy to provide --

COMPTROLLER FRANCHOT: -- please give me a list of all the settlements if you could so that, you know, I can be proven wrong, I guess. Anyway, thank you.

MR. PICKUS: Thank you. Thank you, Your Honors.

TREASURER KOPP: Can I ask, no, the chief of staff?

MR. FOSTER: Yes, ma'am.

TREASURER KOPP: I assume you gave us the statistics on the significant increase in diversity in the ranks and I assume that we are making progress in diversity in fact in the upper ranks in leadership?

MR. FOSTER: Yes, ma'am.

TREASURER KOPP: But I assume you told us that because there is a linkage between diversity in the force and change in behavior regarding what some

people call racial profiling. Is that, do you think that is actually so?

MR. FOSTER: I think that what we are doing is that it's a continuing effort to address those concerns. I don't believe that we have problems but the fact that we don't recognize that we have problems, there are things that we can do. Yesterday the Superintendent's Diversity Council met and I did a presentation on implicit bias, which is a new concept from a professor at UCLA that presented in Connecticut. And what he said is that we all have biases and that the important thing is for an organization to be on a path of continuous learning. And in learning you are aware of those biases and that you can deal with them effectively. Our goal is to become the model for the entire nation with regards to this topic.

TREASURER KOPP: That's what I wanted to hear. I appreciate that. I think, I'm not so sure

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it's a new concept as one that has come back. Because I think there is no doubt that we could not live without implicit bias. Every time you walk down the street you assume certain things --

TREASURER KOPP: -- based on your experience and what you hear and everything. And the trick is, the important task is, to become sensitive to that fact. And I think that can happen with anyone regardless of race, color, creed. We all live in the world. So if, I would say the increasing diversity is terrific and is appropriate and should be done. But increasing training and awareness of bias on the part of everyone is also --

MR. FOSTER: And I'll --

TREASURER KOPP: -- has to be pressed at all times regardless of the degree of diversity of the force.

MR. FOSTER: And I'll --

TREASURER KOPP: And that's what I hear you saying.

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MR. FOSTER: Yes, ma'am. I would just like to add that our command staff, from the rank of captain to lieutenant colonel, is 36 percent minority.

TREASURER KOPP: That's what I, that's excellent. Thank you.

GOVERNOR O'MALLEY: That's the highest it's ever been, is it not?

MR. FOSTER: Yes sir, it is.

COMPTROLLER FRANCHOT: And Governor --

TREASURER KOPP: That's really important --

COMPTROLLER FRANCHOT: -- just one more request. Could you update me on Mr. Martin's status as far as I noticed 2009 the Philadelphia gun charges were dropped, as you said, for some reason, if there have been any subsequent criminal sanctions taken against Mr. Martin?

MR. PICKUS: No sir, there have not.

COMPTROLLER FRANCHOT: Thank you.

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GOVERNOR O'MALLEY: Any other questions, Department of Budget and Management Agenda items? 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. All right. Secretary's Agenda. Every item except Item 7.

SECRETARY MCDONALD: Well let me just, because I have to withdraw some so --

GOVERNOR O'MALLEY: Okay.

SECRETARY MCDONALD: This morning the Secretary's Agenda contains 19 items and one report of an emergency procurement. We are withdrawing Item 9. You have already ruled on Item 7, the bond resolution. We want to hold Item 4 until the conclusion of this. So the rest of the items you can move on or discuss. And we will hold Item 4 until this --

GOVERNOR O'MALLEY: Okay. Repeat again the items you are withdrawing?

SECRETARY MCDONALD: We are withdrawing Item 9 only.

GOVERNOR O'MALLEY: Only Item 9?

SECRETARY MCDONALD: Right.

GOVERNOR O'MALLEY: And we are holding Item 4. Any questions on the balance of the Secretary's Agenda items? Namely, the Secretary's Agenda sans Items 4, 7, and 9? Any questions?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR O'MALLEY: 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. All right. That should limit us now down to the mother of

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all wetlands permits. So let's do this. Anyone that is not here on the wetlands permit is free to go.

We're going to take a one minute pause just to change over the crowd. So secretaries, if you are not here on the wetlands permit you are free to go back to your points of origin. Thank you.

(Recess.)

GOVERNOR O'MALLEY: This is one of those anomalies where we have to rule on a wetlands permit. It's where your Board of Public Works sits as a --

SECRETARY MCDONALD: It's the steward of State property.

GOVERNOR O'MALLEY: Steward of State property.

SECRETARY MCDONALD: It's not a regulatory -  
-

GOVERNOR O'MALLEY: Mediator of condominium disputes. Uh-huh.

SECRETARY MCDONALD: Proprietary functions -  
-

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GOVERNOR O'MALLEY: Okay. And so we are on Item 4. Item 4 of the Secretary's Agenda.

MR. MOORE: Good morning, Governor, Comptroller, Madam Treasurer. For the record, I'm Doldon Moore, Wetlands Administrator for the Board. Before you today is wetland license case Queen Anne's Landing Marina. The case number is 11-WL-0208. The applicant has requested an authorization from this Board to reconfigure and improve the existing marina. The marina is located off the Chester River in an unnamed basin on Kent Island. It is the marina for the community of Queens Landing. Currently there are 62 slips and there will be no increase in the number of slips.

The proposed scope of work is minimal and is as follows. To construct a 20-foot by three-foot pier extension at the channelward end of Pier C. North end of Pier F, construct a 26-foot by four-foot pier extension and a 25-foot by two-foot finger pier. On

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the south end of Pier F, construct one 22-foot by two-foot finger pier and one 25-foot by two-foot finger pier. Install one support pile and replace eight mooring piles.

MDE reviewed this proposed project for over two and a half years. Many of the issues --

GOVERNOR O'MALLEY: I'm sorry, excuse me. Do you have anything on paper or anything that shows in a spatial way? I mean this is all very, I'm sure if I replayed the tape I would understand it. But is there anything we can see what it is? What it is proposed to be, K. Large?

MR. MOORE: I have a plan.

GOVERNOR O'MALLEY: Okay, so that's what it is now?

MR. MOORE: Yes.

GOVERNOR O'MALLEY: So what is it now? Which one is it now?

MR. MOORE: This is Pier C, Pier A.

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COMPTROLLER FRANCHOT: And what's being proposed.

SECRETARY MCDONALD: You need to speak louder or --

MR. MOORE: Well this extension here, Pier C, is being proposed. Here's supporting piles. Here's more piles being installed here on it.

GOVERNOR O'MALLEY: So this is what's proposed? So here is what's proposed?

MR. MOORE: Mm-hmm. And here is another extension proposed, more piles being proposed. Yeah. And then these drawings are just showing --

GOVERNOR O'MALLEY: -- this is the current -  
-

MR. MOORE: Current, mm-hmm. Yes. And this here, again, this is being proposed on C, we talked about, and F. These plans are fairly hard to read.

GOVERNOR O'MALLEY: You're not kidding.  
Okay.

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MR. MOORE: And then these were based, these were aerials just to show, again, that there are the 62 slips that the department required.

GOVERNOR O'MALLEY: Okay. So no additional slips but a reconfiguration of the slips adding them to protrude further out into the water rather than --

MR. MOORE: They will not protrude channelward anymore and all, they are going to go laterally. And there is in this space, and there has been, what's called a harbor line established for both this marina and Castle Harbor Marina, which is in the other side of the basin, so that they can maintain the fairway.

GOVERNOR O'MALLEY: Okay --

MR. MOORE: Okay. As I was just saying, that MDE has reviewed this project for two and a half years. Many of the issues were not related to tidal resources that were brought up by the opposition and in my opinion MDE has completely vetted and addressed these concerns in their report and recommendation.

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Again the only elements that are located in the waters of the State before this Board for consideration are the two pier extensions, the three new finger piers, and support pile, and eight mooring piles. The applicant is requesting to be allowed to exercise their riparian rights. I would respectfully request that this Board grant this request. It has been determined that this project will not result in any negative impacts to the tidal resources or movement of vessels in the marina basin.

We also have present staff from MDE and the Office of the Attorney General. The President of the Homeowners Association is present and would wish to address the Board. We also have other people speaking in opposition of granting the request.

Throughout the review process there has been questions about the notice of interested persons. Please be advised that I mailed the department's report and recommendation to 95 people. Of that, U.S.

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mail returned 18 as non-deliverable. The notice of today's meeting was mailed to 77 people. My interested persons list starts with the public hearing which was conducted back in 2010. At that public hearing 25 people attended. Those were the first people that I notified and then the second group was a petition that was presented by the opposition to the department of another 70 people. So that was the 95 people that I notified with the report and recommendation, to allow them the 28-day comment period.

GOVERNOR O'MALLEY: And this has been going on for two years?

SECRETARY MCDONALD: If you are going to speak --

GOVERNOR O'MALLEY: Okay. The answer for the record the application was --

SECRETARY MCDONALD: -- 2010, the application was filed September 27, 2010.

GOVERNOR O'MALLEY: Thank you.  
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MR. MOORE: Yes.

GOVERNOR O'MALLEY: Ms. Childs, what is our criteria for review in this? And what is the standard --

SECRETARY MCDONALD: I think you mean Mr. Bedward. She's the Procurement Advisor --

GOVERNOR O'MALLEY: I'm sorry.

SECRETARY MCDONALD: -- he has recommended that your staff receive the --

GOVERNOR O'MALLEY: You can come on up to the microphone, then.

SECRETARY MCDONALD: But I think he can give you that advice --

MR. BEDWARD: Hi, good morning. Greg Bedward, counsel to the Board. The standard for the Board to review as set forth most recently in the K. Hovnanian case is for the Board to determine, is limited to the nature of the actual wetlands license specifically as set forth in the Environmental Code to

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focus on the, the Board is required to focus specifically on the ecologically, economic, developmental, recreational, and aesthetic values presented in the specific wetlands license and the impact of the proposed activity, in this case the 250 to 300 square feet represented by the reconfigured marina. That is the standard as set forth most recently in the K. Hovnanian.

GOVERNOR O'MALLEY: That's a pretty broad, those are pretty broad standards. So we can consider the ecological, the economic, the developmental, the recreational, the aesthetic values?

MR. BEDWARD: Presented by the proposed activity and the impact of the specific license. So as the wetlands administrator stated in his remarks and as MDE stated in its report and recommendation that impact is minimal. And that both the R and R, the report and recommendation, MDE's document, and the wetlands administrator's report focus specifically on

the limited proposed activity and that is the standard set forth here.

GOVERNOR O'MALLEY: And so in order for us to deny the application we have to be convinced by what standard that --

MR. BEDWARD: Convinced that the proposed, the limited proposed activity is essentially not in the best interests of the State and does not fit within the parameters as articulated in the memo.

GOVERNOR O'MALLEY: And who has, who holds that burden?

MR. BEDWARD: I'm sorry, sir?

GOVERNOR O'MALLEY: Who holds that burden? The applicant?

MR. BEDWARD: The applicant, well that's the Board's standard of review in approving the license. So the applicant has proposed this activity to reconfigure the marina and the Board's standard is the best interests of the State standard, is to look at

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the very limited proposed activity and determine whether or not it is consistent, looking at these factors, whether or not it is in fact in the best interests of the State, looking at the ecological, economic development. I know it's quite broad. But the proposed activity, and the Board's standards, is actually quite limited.

GOVERNOR O'MALLEY: So we have to be convinced beyond a, just be a preponderance?

SECRETARY MCDONALD: The Board, well yeah, the applicant has riparian rights to do activity.

GOVERNOR O'MALLEY: Right. So I would think the --

SECRETARY MCDONALD: So the burden would be to show you that exercising those riparian rights does not comport with the ecological, environmental standard there. But the right is the riparian right of the owner --

GOVERNOR O'MALLEY: Right.

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SECRETARY MCDONALD: -- next to the water.

And then, the people who opposed it would convince that that actual activity, which is what, 250 square feet of extra pier here. Instead of I think what we saw in the Four Season case --

GOVERNOR O'MALLEY: I'm sure Judge Wilner can correct me. But it would seem to me that the burden then would be on the opponents to convince us by a preponderance of the evidence that there is something offensive about this use when it comes to the ecological, economic, developmental, recreational, or aesthetic values of the place. Okay. Mr. Comptroller?

COMPTROLLER FRANCHOT: Can I ask a question? Your, can I ask a question of counsel?

MR. BEDWARD: Please.

COMPTROLLER FRANCHOT: You are not with the Attorney General? You are our counsel?

MR. BEDWARD: That is correct.

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COMPTROLLER FRANCHOT: Okay. Great. Are there outstanding court cases right now concerning this?

MR. BEDWARD: Yes, as I understand it. And I believe the AG's Office is here to address it. But there are outstanding issues related to the Maryland Condominium Act and some other issues not directly related to the wetlands license presented here.

COMPTROLLER FRANCHOT: Okay. And --

MR. BEDWARD: So the answer to that is yes.

COMPTROLLER FRANCHOT: And in your opinion is there any harm in waiting to see what happens with those court cases?

MR. BEDWARD: There is no harm in, well I think that's a good question. I think K. Hovnanian says that we are strictly limited to looking at the proposed activity. I guess my concern would be those issues presented by the Maryland Condominium Act and those issues that are being currently investigated by the Attorney General's Office are the types of issues

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that the court in K. Hovnanian said should not, the Board should not bear in mind when considering the issuance of the wetlands license. So that would be my concern. And certainly in these reports they are satisfied the existing OAG investigation does not impact this particular license. We had a briefing with the attorney with the AG's Office who is actually heading that investigation and she has given us her confidence that what she is doing should not have an impact on the Board's deliberations here today. So --

COMPTROLLER FRANCHOT: Okay. Well with all due respect to the court --

MR. BEDWARD: Sure. Sure.

COMPTROLLER FRANCHOT: -- I don't particularly agree with their decision that you cite. So that's an opinion. And I'm glad to take it under advisement.

MR. BEDWARD: But my recommendation to you and to the Board as your counsel would be those, all

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those other issues presented by the, related to the Maryland Condominium Act and the ancillary investigations are the types of considerations that the K. Hovnanian court said should not bear into the decision making of the Board.

COMPTROLLER FRANCHOT: In their opinion.

MR. BEDWARD: Yes, sir.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR O'MALLEY: Okay. Madam Treasurer?

TREASURER KOPP: Is there someone here from the Attorney General's Office?

MR. BEDWARD: Yes.

SECRETARY MCDONALD: You have two representatives. One represents the Department of the Environment and is the --

TREASURER KOPP: No.

SECRETARY MCDONALD: -- be able to attend but apparently not. So anyway, Emily, why don't you introduce yourself for the record.

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MS. VAINIERI: Hi, good morning. My name is Emily Vainieri. I'm an Assistant Attorney General for the Maryland Department of the Environment. I did speak with the Assistant Attorney General for the Consumer Protection Division earlier, I guess, last week after the pre-Board meeting. She attended the pre-Board meeting. And just to clarify one thing that Greg said there are actually, as far as the Attorney General's Office is aware there are no open court cases involving any of these parties. There are no county enforcement cases that are pending. There are no Attorney General court cases that are pending. What is active and what is pending are complaints from some of the opposition to this license, complaints to the Consumer Protection Division of the Attorney General's Office and I think Karen said that there are five cases open right now? Those complaints all have to do with whether there have been alleged violations of the Maryland Condo Act. None of those

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investigations have to do with the marina or this wetlands license in any way.

TREASURER KOPP: That was my question.

MS. VAINIERI: Okay. Is that all? Okay.

SECRETARY MCDONALD: Mr. Moore is finished with the presentation so if you want to hear from --

TREASURER KOPP: Yeah.

MR. MOORE: Would you like to hear from the --

GOVERNOR O'MALLEY: Yeah, let's hear from the opposition. Who is opposed? Do you want to come up and tell us why?

SECRETARY MCDONALD: Mr. and Mrs. Elasik were the first people to register --

GOVERNOR O'MALLEY: Yes.

SECRETARY MCDONALD: Mrs. Elasik, do you want to come up and introduce yourself please?

MRS. ELASIK: Thank you. I'm Sue Ann Chester Sly Elasik and I live in Queen's Landing. And good morning, Governor, Comptroller, and Treasurer.

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GOVERNOR O'MALLEY: Good morning.

MRS. ELASIK: Queen's Landing consists of 349 condo owners on Kent Island contiguous to the Queen's Landing Community Marina. Although Doldon Moore said it was Queen Anne's Marina it's really called Queen's Landing Community Marina. It is important you recognize the community does not own the marina. The 62-slip marina is owned by SCM and 16 slip purchasers. SCM, Inc. receives the income from the leasing and selling of slips, not the community. I am spokesperson for Queen's Landing Homeowners for Transportation, QLHFT. We are a large group of homeowners in Queen's Landing who look to our Board to follow the Condo Act, bylaws, and work in the best interests of the community.

I am here today on behalf of QLHFT asking for your help. 349 Queen's Landing homeowners have been denied their rights because MDE withheld information from the Board of Public Works regarding

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this wetlands license. March 15, 2012 MDE Secretary Robert Summers wrote to QLHFT promising, "upon receipt of MDE's report and recommendation the Board, BPW, will distribute the documents to a list of interested persons comprised of contiguous property owners, etc." Which would be us. That did not happen. In fact, according to BPW's files, which we have here and we turned into your staff, the MDE report was never even sent to the Queen's Landing Association Council unit owners, 500 Queen's Landing Drive, or even to the 349 contiguous homeowners. It was only sent to the Queen's Landing Community Marina, which is a separate entity which is not owned by the community.

With no response from MDE, and we tried, we questioned BPW and Mr. Gregory Bedward, counsel, kindly directed us and copied Mr. Gary Setzer to provide the list from MDE of the Queen's Landing homeowners. No list was ever provided.

We then submitted a PIA request to MDE as we knew they had the list in their files since 2011. We

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saw it there when we went up for PIA visits. MDE was then forced to provide 12 pages of 349 mailing list Queen's Landing homeowners. They had it in their files all along and never turned it in to BPW. This is really inexcusable for a government agency to withhold this important information. What is wrong with our process? Where is the transparency here?

So we are today before you. We have lost confidence in our Board of Directors, who by the way, Ms. Karen Stalling put our President Mr. Bergsman and the Board, they are on three-year probation by the Maryland Attorney General because they violated the Maryland Condo Act 11-109.1 and held closed meetings about the marina for a year. We lost confidence in our privately owned marina that has had many county and State violations and they have made many representations to the community. You know, but worst of all we have lost confidence in MDE, the government who should serve the people of Maryland.

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We are asking you today to please do the right thing and just for now delay the vote on this approval of the wetlands license until all 349 contiguous Queen's Landing homeowners have the opportunity to receive the review the MDE report as Mr. Summers promised from MDE. Thus then we Queen's Landing homeowners and citizens of Maryland will be afforded our rights as promised. Thank you very much.

GOVERNOR O'MALLEY: Thank you. Anyone else?

MRS. ELASIK: And I have here, by the way, Mr. Doldon Moore's list that he sent out that I gave to your staff. Nowhere on here was it sent to the association or to the 349 homeowners. If you would like it, your staff has it. Thank you again.

GOVERNOR O'MALLEY: Thank you. Okay. Ron Elasik?

MR. FOLEY: Hey, good morning, Governor --

GOVERNOR O'MALLEY: Hi.

MR. FOLEY: -- Madam Treasurer, Comptroller.

GOVERNOR O'MALLEY: And your name?  
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MR. FOLEY: My name is Robert Foley. I live in the community of Castle Marina which is adjacent to and part of the complex of Bayside and Queen's Landing. I'm also a contiguous landowner to the Four Seasons project, which we all know and love.

My son Brian is a Queen's Landing homeowner and since his work prevents him from attending this meeting he asked me to represent and speak for him as an interested party. My son wanted to express to the Board the concerns regarding this license application.

The marina at Queen's Landing has been a source of contention in the community as long as I can remember and I am a former slip holder of that wonderful marina. Although it is contiguous to the Queen's Landing community it is privately owned. After speaking with neighbors regarding the proposed marina construction my son Brian realized that not all 349 homeowners had been notified properly regarding

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this construction. My son's condominium is directly facing the marina. He and several of his neighbors are really concerned that any reconfiguration of the marina will affect their view, their property values, and of course the crowded conditions that presently exist. It is completely unfair to the homeowners of Queen's Landing that they were not properly notified of the proposed construction in the marina.

Homeowners in Queen's Landing are being silenced on this issue by not being notified of this hearing and having a right to comment. I'm sure if all Queen's Landing homeowners were notified of this proposed work in the marina their voices would be properly heard whether they would or would not approve of the project. They have the democratic right to be heard. Thank you.

GOVERNOR O'MALLEY: Thank you. Okay, who is next?

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MR. ELASIK: Good morning. My name is Ronnie Elasik. I live at 15G Queen Anne Way, Queen's Landing, Chester, Maryland.

I'm going to cover not everything I planned to cover, just due to the fact that I want to get to the heart of the matter here. What is at stake here this morning, ladies and gentlemen, is not the Board's approval or denial of the wetlands license. What is at stake is the trust, integrity, and transparency of our governing officials. Trust, integrity, and transparency are the foundation and the heart of the democratic process, be it at a local, State, or federal level. Citizens should not be denied access to government public documents that are not classified. They should have the ability to review and have access to all information that would affect them.

In this case I am referring to MDE Secretary Robert Summers' March 15, 2012 letter that was

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provided to your staff members. Mr. Summers stated in that letter, and I quote, "upon receipt of MDE's report and recommendation the Board will distribute the document to a list of interested persons comprised of contiguous property owners, local officials, individuals, etcetera." Unfortunately only a few of the 349 contiguous homeowners who make up the Queen's Landing Council of Unit Owners were sent and received the MDE report and recommendation.

The real issue that has to be questioned today is the process. The process Secretary Summers promised in his March 15, 2012 letter which you have in your possession was not carried out. Thus the 349 Queen's Landing homeowners were denied their rights to review the MDE report and express their opinions on any unresolved issues surrounding this license application, whether they approve of it or not. I am respectfully requesting that you, Governor O'Malley, Comptroller Franchot, and Treasurer Kopp simply delay the vote until all 349 contiguous homeowners in

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Queen's Landing have an opportunity to review and comment on the MDE report. That's all we ask for.

Thank you.

GOVERNOR O'MALLEY: Thank you. Stan Ruddie?

MR. RUDDIE: Good morning, Your Honor.

GOVERNOR O'MALLEY: Good morning.

MR. RUDDIE: My name is Stan Ruddie and I'm a new member/owner of Queen's Landing community. And I was here to ask you first I'm kind of behind the eightball a bit. I am late joining this. But I understand that the applicant bought 40-some slips and that subsequently a few years later, about 2010, paid a fine to authorize that it is 60 slips, and now he is asking for permission to extend that even further into public waters. I was able to see the report recently but I do think I should have gotten the MDE report, had the opportunity to respond to it. I think there are a lot of errors on it. It's not a community marina, it is a profitable singly owned marina. It is

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not open to rent by owners of the condominiums. It is being leased to other people that don't live in the community, family members of the owners of the marina. They are being sold. And the condo fees are being kept for -- those are condominium issues. Condo fees for the marina are being kept by the owner where they have access to the condominium clubhouse and facilities.

So I also ask just that the decision today be tabled for the future and that all 350 owners of the condominium be notified of this report, sent a copy of the report, as well as the adjoining, there is a marina next to it. The last thing the settlement agreement for these, the upgrade to the 60 slips was signed by a contiguous landowner who was also a county commissioner. So there is unresolved issues that need to be addressed before this permission is granted. Thank you for your attention.

GOVERNOR O'MALLEY: Thank you. Anyone else in opposition that wants to be heard? Mr. Bedward,  
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what about the claim that the MDE report should have been, Mr. Elasik was reading from, was it reg? Was it statute?

MR. BEDWARD: Statute, Section 5-204 of the Environmental Code which requires MDE to compile a list of contiguous property owners and send notice of the public hearing to the contiguous property owners and appropriate local officials. But that issue aside I believe, I think, in my mind there is a question as to whether or not all 350 residents are contiguous property owners. I walked the property myself yesterday and so there is a marina, and in between the marina and the actual property there is common property owned by the homeowner's association. And the President of the homeowner's association did get a copy of the MDE report and their recommendations. It's my view that the wetlands administrator complied with that portion of the statute. And certainly with the regulations governing notice and issuance of the

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report and the recommendation, which is his responsibility.

GOVERNOR O'MALLEY: So you believe he did comply with notice by merit of having sent it to the -  
-

MR. BEDWARD: To the President of the HOA which, which is the contiguous, looking at the strict reading of the law and what contiguous means, which is the contiguous property owner. The Elasisks respectfully are arguing that each member, each unit member is a contiguous property owner. You know, that's not something that I agree with. I do think that strictly speaking from a legal perspective the contiguous property owner is the HOA because there is common property between the unit and the marina itself and the President of the HOA, the representative of the unit owners, did get a copy of the report and recommendation. In addition Mr. Moore did comply with COMAR as it governs the issuance of the report and recommendation and did send a copy of that document to

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individuals who attended a public hearing. Also to anyone who made a comment during the hearings, comment period. Those individuals also got a copy of that report and recommendation. So both with respect to the statute governing issuance of the notice and the, and COMAR I believe are in compliance.

GOVERNOR O'MALLEY: Mm-hmm. Mr. Comptroller?

COMPTROLLER FRANCHOT: Is there anyone from MDE here?

SECRETARY MCDONALD: Mr. Setzer.

COMPTROLLER FRANCHOT: Who?

MR. BEDWARD: Gary Setzer.

COMPTROLLER FRANCHOT: Oh, great.

MR. SETZER: Gary Setzer, Wetlands Administrator for the Wetlands and Waterways Program.

COMPTROLLER FRANCHOT: Thank you. This item has kind of a checkered past.

MR. SETZER: Absolutely.

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COMPTROLLER FRANCHOT: But three years ago it was on the Board's Agenda and then it got pulled. Apparently because of this notification issue?

MR. SETZER: That's correct.

COMPTROLLER FRANCHOT: And did the applicant provide false documentation to you guys that everyone had been notified?

MR. SETZER: The original application, the application that you are talking about was formally withdrawn. Part of MDE's review required the applicant, and at that time the marina was privately owned, the applicant was Queen's Landing Marina, LLC. Instead of contacting each community or condominium owner he explained to the department that there were other avenues available to notify the condominium owners. So we told him that he could notify the condominium owners through its board. We subsequently found out that that didn't happen. And as a result MDE met with the applicant. We convinced him that the

best path forward was to withdraw the application,

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which he did. MDE rescinded its report and recommendation and basically the process started over again.

COMPTROLLER FRANCHOT: Okay.

MR. SETZER: Under this application MDE notified 349 --

COMPTROLLER FRANCHOT: Got you.

MR. SETZER: -- property owners.

COMPTROLLER FRANCHOT: My concern is with the applicant, how given that past, and someone mentioned 40 units becoming 60 slips, or something. How can you, how can we trust them to honor the terms?

MR. SETZER: The applicant is different on this application. There was a series of transactions in 2009 that basically transferred ownership of the strip of property along the bulkhead and the piers and the platforms associated with the marina to the Queen's Landing Community Marina, LLC. Which is a component of the homeowner's association. So it's

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actually a component of the condominium association who is the applicant.

GOVERNOR O'MALLEY: Hm. And you said all 349 were notified?

MR. SETZER: MDE notified all 349 in its public participation process.

TREASURER KOPP: Notified them of --

MR. SETZER: Of the application.

TREASURER KOPP: Of the application. That's a different mailing --

MR. SETZER: It's a different mailing, that's right. The way the process works is MDE completes its public participation component, puts together a report and recommendation, which in this particular instance is quite substantial. It's, you know, taken 33 months to get to this particular point. We have addressed issues that are clearly outside the purview of the Tidal Wetlands Act. But we told the applicant, we told the community that we weren't going forward until all the issues were satisfied as far as

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the department was concerned. And we submitted that report and recommendation to the Board. The Board has separate or different regulations in terms of notification with the report and recommendation. And therein lies the confusion.

Secretary Summers' statement in his letter quotes 5-204 of the Environment Article. That's the definition of the department's interested persons list. The Board has a regulation which sets out a different mailing list for the report and recommendation. When the issue came, when the issue arose it was MDE's recommendation that the Board submit the report and recommendation to the 349 property owners just to avoid the confusion. In fact if it would have helped matters I would have suggested we send it to the entire population of Kent Island. I mean, we've been dealing with this for, you know, close to four years.

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GOVERNOR O'MALLEY: So did you or didn't you then?

MR. SETZER: I'm sorry?

GOVERNOR O'MALLEY: So did you or did, I'm confused. So did you mail them --

MR. SETZER: There's two separate --

GOVERNOR O'MALLEY: -- to the 349 the MDE report? You mailed them a notice that --

MR. SETZER: Not the report, Governor.

GOVERNOR O'MALLEY: -- the application was made. But did you mail them the notice pursuant to what I guess I understand to be a State statute governing the Board's hearing of these matters?

MR. SETZER: Right. There's two mailings.

GOVERNOR O'MALLEY: Uh-huh, right.

MR. SETZER: One mailing is part of MDE's application review process.

GOVERNOR O'MALLEY: Mm-hmm.

MR. SETZER: In that mailing the department mailed --

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GOVERNOR O'MALLEY: To all 349?

MR. SETZER: To all 349 --

GOVERNOR O'MALLEY: And then when you --

MR. SETZER: -- as well as public officials.

We submit the report and recommendation to the Board. From there it's the Board's responsibility to move the report and recommendation to its interested persons list.

TREASURER KOPP: But its interested persons list is a different definition?

MR. SETZER: It's regulations are different than what's the Environmental Article.

TREASURER KOPP: So everybody did what their regulations said they should do. But the question is was it, I would think the question is whether that inconsistency ought to be looked at and corrected.

SECRETARY MCDONALD: I think 349 who may have received it depending, I mean who did receive it, that's why depending on the definition of contiguous

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homeowners but let's go with the 349. What happened then is Mr. Moore, you are wetlands administrator, those 349 are notified that there is an application.

TREASURER KOPP: Got it.

SECRETARY MCDONALD: If you want to hear anything about this, if you want to be on our list, if you care about this, let us know. Email us or whatever, let us know.

TREASURER KOPP: And then the second one goes out to those who indicated an interest?

SECRETARY MCDONALD: -- who have either testified, who have shown up, who have responded to that. And so it does get limited. And in this case it got limited to 95 of 349. I think Mr. Bedward's secondary point was that if you are looking at a law that says contiguous owners have to be notified that technically that the condo, the individual condo units were not contiguous owners. But the main thing is that the Board's regs take you from this let's let everybody know there is an application and let them

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know they can participate and let them know that they can have their name here and we will let them know what's going on, down to a more manageable and here is the 95 people who cared about this at some point. But as we see, 21 of them were returned to us which we don't, I mean, address wise, U.S. mail wise, so I think they weren't there anymore. So that is confusing. You're right, there is, it is not, there are two different standards.

GOVERNOR O'MALLEY: So what do you want to do? Almost like --

SECRETARY MCDONALD: I think there is an applicant might be here. The applicant might, is Mr. Bergsman here who would like to talk about --

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

SECRETARY MCDONALD: Yeah, he is the applicant who has asked for a wetlands license. So he

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is representing I believe the riparian owner of the property.

MR. BERGSMAN: Yes, but I'm not sure I can answer the questions about --

SECRETARY MCDONALD: Maybe not, but introduce yourself --

MR. BERGSMAN: Excuse me --

SECRETARY MCDONALD: -- and then maybe tell us why you want a wetland, why Queen's Landing Community Marina, LLC, why it wants this wetlands license.

MR. BERGSMAN: Thank you. May it please the Board, my name is Marc Bergsman. I am the President of the Board of Directors for the Queen's Landing Council of Unit Owners. We are the governing body for the Queen's Landing Condominium Association and the Queen's Landing Community Marina, LLC.

The Queen's Landing Community Marina, LLC was formed to operate the marina and shield the Council of Unit Owners from liability. It is a live

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entity organized and existing under the laws of Maryland. It is the proper applicant for the license and that was fully vetted by the Consumer Protection Division in the Office of the Attorney General for the State of Maryland and that's on pages 16 through 19 of the report and recommendation. I am the only person authorized to speak on behalf of Queen's Landing.

Queen's Landing is in favor of the license for three primary reasons. Safety, the license is designed to improve the circulation of the boats coming in and out of the marina, particularly B Dock and C Dock. Second, it completes the marina transaction. The license that we are asking for for the modification is a key component of the agreement between the Council of Unit Owners, Queen Anne's County, and the seller of the marina. We have been waiting for three years to get approval so that we can complete this transaction. And the third reason is increased community participation. When this is

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approved and the modifications are completed we have two slip owners that are going to put boat lifts so that they can continue to use it and increase their usage. And we have two, maybe three, unit owners who intend to buy the slips on the reconfigured pier.

The license does not impact the tidal basin. It has no negative impact on navigation. It maintains the status quo. There is no issue from a wetlands perspective. That's why all the government bodies that have looked at this have approved the license: Queen Anne's county, the Maryland Department of Natural Resources, the U.S. Army Corps of Engineers, and the Consumer Protection Division of the Office of the Maryland Attorney General.

The opponents have not raised one relevant issue. Not one fact that relates to the ecology, the economy, the development, the recreation, or the aesthetics of the marina. And that's why Queen's Landing respectfully requests that the license be approved. If you have any questions?

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GOVERNOR O'MALLEY: Thank you.

MRS. ELASIK: May I say something?

GOVERNOR O'MALLEY: If you must. If you would like to, sure.

MRS. ELASIK: May I? Thank you. I want to just clarify something, when Mr. Setzer was speaking. Here is what happened. The application went in in 2010. In 2011 there was a public hearing at the library and 349 people were notified. So that did happen and MDE did have that list. What didn't happen is according to Mr. Setzer's promise 349 people would get the MDE report and recommendation. So that's that. The 21 that were returned by the way were not Queen's Landing, a few were, the people that moved, but it was Castle Harbor Marina, a lot of them were returned because of the post office box number apparently was correct. So then the other thing is on the list I just gave you nowhere is there a mailing to Mr. Bergsman, President of the Queen's Landing

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Association. There is a mailing to the Queen's Landing Community Marina. So I don't know where they are telling you that it was mailed to the President and he didn't tell us, because according to the PIA that Mr. Moore gave us, nowhere on that list was it mailed to our association. It was concealed from our association. Thank you.

GOVERNOR O'MALLEY: Mm-hmm. Okay.

TREASURER KOPP: I have a, I have a question of MDE that I am sort of confused after that last, MDE?

SECRETARY MCDONALD: I think --

TREASURER KOPP: Just the question of the ownership, which confused me a bit after this gentleman. My understanding is that the marina was owned by the first party.

MR. SETZER: Correct.

TREASURER KOPP: And is being sold to the second party, which is the creation of the homeowner's association.

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MR. SETZER: Queen's Landing Community  
Marina, LLC.

TREASURER KOPP: Has it been sold?

MR. SETZER: That transaction has occurred.  
The one part that may be confusing to you is after  
that sale occurred there was nothing in that  
transaction that was established to eliminate the  
property rights of the individual who originally owned  
the marina. So what happened was, is the marina was  
subdivided into 62 mailboxes, which represent, each  
represents a slip. And a 63rd component which is what  
is owned by the Queen's Landing Community Marina, LLC.  
Which includes the strip of land along the bulkhead  
and the structures of the marina. The 62 mailboxes  
represent the slips. And the majority of those slips  
remain in private ownership with the original property  
owner who owned the marina outright from 1994 to 2009.  
So that's probably where the confusion is.

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MR. BERGSMAN: The transaction, I think it is simpler to look at it this way. The Queen's Landing Community Marina, LLC owns the marina. The Council of Unit Owners controls the Queen's Landing Community Marina, LLC because two, there's three members on the marina's board of directors. Two of those directors have to be in the Queen's Landing Board of Directors. So we control the marina but we don't own it. The marina is owned by the Queen's Landing Community Marina, LLC.

TREASURER KOPP: Right. But the issue was raised, at some point I read a statement that the condition in the sale was to, a condition in the sale was to reconfigure the marina. Is that --

MR. BERGSMAN: Yes, that's correct. As part of the, there's kind of a universal or a global settlement between Queen Anne's County and the prior seller and Queen's Landing Council of Unit Owners. We wanted to make sure that the marina, Queen Anne's County was challenging the prior owner as to whether

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it was a community marina or a commercial marina.

Well when that challenge was -- and the court said it was a commercial marina. We didn't want it to be a commercial marina. So we got involved. And we had a universal settlement and it became, it was a community marina, 62 slips that was to be reconfigured according to the license that came in this way.

TREASURER KOPP: Right. Right. But it hasn't been reconfigured.

MR. BERGSMAN: No, because we're waiting for approval to put the pylons in.

TREASURER KOPP: Right. Right. So the status of that settlement is what?

MR. BERGSMAN: Well we are proceeding. We are just, we are waiting, we are waiting for approval so that we can complete the transaction. Everything has gone through.

TREASURER KOPP: Everything has gone through. So there actually was a sale even though the sale was part of the settlement --

MR. BERGSMAN: Yes.

TREASURER KOPP: -- that was conditioned on the reconfiguration?

MR. BERGSMAN: Yeah.

TREASURER KOPP: Okay.

GOVERNOR O'MALLEY: So the sale is conditioned on the reconfiguration.

COMPTROLLER FRANCHOT: So a last question, if I could?

MR. BERGSMAN: Yes, sir.

COMPTROLLER FRANCHOT: Is the 2010 applicant connected in any way to this applicant?

MR. BERGSMAN: No.

COMPTROLLER FRANCHOT: No? That's true? I'm sorry, I didn't ask you. But if I could --

MR. SETZER: The original applicant owns slips in the marina. Owns mailboxes that are  
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basically the slips in the marina. But he is not the applicant. The applicant is the community. It says -

-

COMPTROLLER FRANCHOT: How many applicants, how many slips does that previous applicant own?

MR. BERGSMAN: About 38.

COMPTROLLER FRANCHOT: Thirty-eight of the -

-

MR. BERGSMAN: Right. The, right. Right. The Queen's Landing Council of Unit Owners does not have the money to purchase the marina. So we were deeded the ownership and we got the control. Well, we weren't deeded, it went to the Community Marina, LLC which we control. And then the prior owner had the slips and then he was going to sell the slips and that's how he was going to get paid for the transaction. So he owns those slips. He's trying to sell the slips. And he has to sell the slips to



owners of Queen's Landing Condominium Association in order to retain its status as a community marina.

GOVERNOR O'MALLEY: Hm.

MR. SETZER: Mr. Comptroller at the end of the day, I think at the end of the day for the Board the important issue is that Queen's Landing Community Marina, LLC, which is a component of the community government, is the proper applicant, the riparian property owner, and they have the right to make the application to the Board for the improvements to the marina.

COMPTROLLER FRANCHOT: Right. And my only question is, is it a new application? Or is it the old players?

MR. SETZER: It was --

COMPTROLLER FRANCHOT: And I think what I've learned today is that it's a mixture.

MR. SETZER: Yeah, but it was a new application.

COMPTROLLER FRANCHOT: Got it. Thank you.  
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MR. SETZER: The original application in question was withdrawn.

COMPTROLLER FRANCHOT: Okay. I'm not going to --

GOVERNOR O'MALLEY: Was the head of the condo association notified or not?

MR. BERGSMAN: Pardon?

GOVERNOR O'MALLEY: Was the head of the condo, so the head of the condo association --

MR. BERGSMAN: Yes. Because the notice went to the Queen's Landing Community Marina, LLC, so we got it.

GOVERNOR O'MALLEY: So I mean the question, what the opponents were saying was that there is no evidence that the head of the condo association was given notice --

MR. BERGSMAN: Yeah, we know. That is incorrect.

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GOVERNOR O'MALLEY: Well not the notice.

More sent the report, right? Sent the MDE --

MR. BERGSMAN: No, we have the report. We have the report.

GOVERNOR O'MALLEY: All right.

MRS. ELASIK: But was it sent to you directly --

SECRETARY MCDONALD: I think we need to have one person --

GOVERNOR O'MALLEY: So was that, I don't know, so was that, so it was sent to the head of the condo association. It was sent to you. So the applicant is the condo association.

MR. BERGSMAN: No. It's the Queen's Landing Community Marina, LLC. That is the owner.

GOVERNOR O'MALLEY: Okay.

MR. BERGSMAN: But that is controlled by the Council of Unit Owners.

GOVERNOR O'MALLEY: And so did the Council of Unit Owners, did they get the MDE report?

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MR. BERGSMAN: Yes. It went to the Community Marina, LLC and therefore I got it.

MRS. ELASIK: But the homeowners didn't --

GOVERNOR O'MALLEY: Okay. Yeah, the question is did the homeowners get it?

MR. BERGSMAN: I think that Mr. Setzer said that they sent notice to every, to every homeowner --

GOVERNOR O'MALLEY: No, there's two different, let me ask the question of our counsel. Thanks. Mr. Bedward, Greg, the, so there are two different notice requirements?

MR. BEDWARD: Yes, sir.

GOVERNOR O'MALLEY: One is that you have to send to the 349 people once the application is made.

MR. BEDWARD: That's correct.

GOVERNOR O'MALLEY: The other one is for this Board when we are about to approve an application that the copy of the report go to, that MDE's report go to all the contiguous property owners.

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MR. BEDWARD: No.

GOVERNOR O'MALLEY: No?

MR. BEDWARD: If I may, no. The second, you are right on the first one. The second point is that the, under the regulations the wetlands administrator is supposed to send the MDE report and recommendation to anyone opposed to the project who expresses opposition to the project at the public hearing.

GOVERNOR O'MALLEY: Mm-hmm.

MR. BEDWARD: So if you attend the public hearing and you are against it, and I'm just quoting from COMAR, and you are against it you get a copy of the R and R. And that's in COMAR. The wetlands administrator's practice has been if you attend the public hearing, irrespective of whether or not you are for or against it, you get a copy of the R and R.

GOVERNOR O'MALLEY: Mm-hmm.

MR. BEDWARD: Also if you make a comment during the public hearing's comment period after the

public hearing, you call in and say this, that, or the other thing, he will also send you a copy.

GOVERNOR O'MALLEY: And did we do that in this case?

MR. BEDWARD: Yes. Yes.

GOVERNOR O'MALLEY: Okay. All right. Yes, you wanted to be heard again?

MR. FOLEY: I just wanted --

GOVERNOR O'MALLEY: Sure. Absolutely.

MR. FOLEY: I know this is worse than Four Seasons, believe me.

GOVERNOR O'MALLEY: No, not worse than Four Seasons. In fact, I'm half inclined to remand this to Judge Wilner altogether and see what he has to say before we rule.

MR. FOLEY: Yeah, I, through all the confusion here is, you know, who owns the marina, who doesn't own the marina.

GOVERNOR O'MALLEY: Mm-hmm.

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MR. FOLEY: I think the fact of the matter is that regardless of who owns the marina that the Secretary of the Department of the Environment told us as citizens that live in Queen's Landing that all, once MDE provides the report to BPW, BPW will distribute the R and R report to 349 contiguous homeowners.

GOVERNOR O'MALLEY: Okay.

MR. FOLEY: That has not been done.

GOVERNOR O'MALLEY: He misspoke then. He shouldn't have said that. He was confusing it no doubt with the application process instead. Okay. Any other questions on this?

I have not heard any, I mean, and in looking at the standard of review while all of the, I mean, I appreciate you making the procedure argument on the, for the postponement, and that the notification process has not been followed. While admittedly it is confusing and was somewhat confusing for us to

untangle here, there appears to be two requirements of  
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notice. The one at the point of application, the other once there is a report and recommendation from MDE. It would appear from everything that our counsel has shared with us that the, I'm convinced that those procedures were in fact properly followed with regard both to the notice of the application and also with regard to providing the copies of the report and recommendation to those who testified against or had any comments. So I believe that the notice requirements and the notifications, that all of that was followed properly.

Having reached that conclusion I am further, and in listening to the testimony, I have not heard by any evidence that this does some sort of damage or harm to the ecological, economic, developmental, recreational, or aesthetic values involved in this particular wetland. And so I am prepared to move approval of this permit at this time. Is there a second?

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TREASURER KOPP: And I heard the Governor just ask, I have one more question. If, just in terms of the process, I don't disagree with what the Governor said. I am concerned about this inconsistency in the process. And I think we should actually alter it so that the two lists coincide. But I don't doubt that what was done was done according to the regulation, properly according to the regulations. If it were deferred as is requested to assure broader notification, so you do that, and you notify the people. You had the hearing already but the administrator has come to a conclusion already. I'm not sure, what is next in the process? I mean, so everyone is notified. You had the hearing and you have notified everybody that there would be a hearing.

MR. MOORE: Correct. And you, typically what, you know, I see in these cases is we have a broad number of people in the beginning and that number continually wedges, comes down. In this particular case not only the 25 people that were at my

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hearing, I also was then informed during my 14-day review period of the R and R that there was another petition that had been presented to MDE of 70 people during their initial comment period. When I was informed that, I did get a copy of that petition from MDE, I did a second 14-day mailing to those 70 people. So I mailed it out to 95 people. I think, you know, I even went beyond but --

TREASURER KOPP: I don't doubt that you mailed it out to 95 people. And I don't doubt, at the hearing were the opponents and proponents?

MR. MOORE: There was five people who spoke against it out of the 25.

TREASURER KOPP: Okay.

MR. MOORE: Yeah, very rarely at my hearings do I have other than the applicants supporting it.

TREASURER KOPP: I understand.

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MR. MOORE: A lot of times, people come in there to just get more information because all they see is a paragraph.

TREASURER KOPP: Right. Yeah, that's okay. I guess the question would be what you would learn from here? Since you've got, I mean, this is a very limited question that you --

MR. MOORE: I understand.

SECRETARY MCDONALD: She was, okay, if we use, the Board asked to defer the item and to send it out to the 250 people --

MR. MOORE: 350.

SECRETARY MCDONALD: -- who didn't get it, what we would do is send out the same report and recommendation --

TREASURER KOPP: Right.

SECRETARY MCDONALD: -- and say you can send comments back and you can know that the Board of Public Works is going to consider this at such and

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such a meeting and you can show up for another hearing. There will not be another public hearing --

TREASURER KOPP: Right.

MR. MOORE: Right.

SECRETARY MCDONALD: -- by the Board's wetlands administrator. It would give an opportunity for 250 apartment owners who don't know, who may not have on record, they did not have the notice on record, those 250 people would now read this thing and be able to write you all a letter and show up at your next --

TREASURER KOPP: And see if there is anything, on this specific question before us. Not all of the other stuff, but just the impact.

SECRETARY MCDONALD: The impact of the --

TREASURER KOPP: Of the reconfiguration.

MR. MOORE: I was going to say I think at the end of the day, you know, we would still have the same answer. That there is no environmental impacts.

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This again, it's 300 plus or minus feet of decking on an existing marina and eight piles. No new channel or encroachment. No resources. In the end my report would say the same.

TREASURER KOPP: So then it is simply a question of making sure that everybody knows and has read the material and why you came up with the conclusion that you came up with?

MR. MOORE: Right.

TREASURER KOPP: Do we have that flexibility to be able to do that?

GOVERNOR O'MALLEY: What do you mean? To delay it and mail it to all of them? So, you all haven't been keeping the report from your neighbors, have you?

MRS. ELASIK: No --

MR. RUDDIE: No. But see there are 180 of them who do not live in the community.

GOVERNOR O'MALLEY: Well then that would appear to make them not contiguous.

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MRS. ELASIK: -- Mr. Bergsman and the Board  
of Directors --

GOVERNOR O'MALLEY: Okay --

COMPTROLLER FRANCHOT: Let me just, if I  
could, Governor, jump in and just say I would be happy  
to support the Treasurer if she wanted to postpone it.  
I think what we get from that is transparency. And  
you know, obviously this is an intense issue for the  
local people there. So I don't have any problem with  
that.

GOVERNOR O'MALLEY: Okay, let's do this. I  
will then withdraw my motion. And the Treasurer is  
making a motion to postpone this and to direct the  
administrator to pay the United States Postal Service  
whatever it costs --

TREASURER KOPP: God knows it needs it.

GOVERNOR O'MALLEY: -- to mail the, God  
knows it needs it, to mail to the remaining 349, to do  
it forthwith, and to get this back on the Agenda

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however quickly we might. Yes? How quickly can we get it back on the Agenda? I'm serious.

SECRETARY MCDONALD: Well it's going to take a little while. Because I don't know that we have a list of 349 addresses --

MR. MOORE: We don't have an updated list.

SECRETARY MCDONALD: -- we do actually have to --

TREASURER KOPP: Well the Secretary will have one --

MR. SETZER: I have the list that was compiled --

GOVERNOR O'MALLEY: Good.

SECRETARY MCDONALD: So we will send it, so the Board is instructing us to send it to the same 349 --

GOVERNOR O'MALLEY: Yes.

MR. RUDDIE: We could get a new list from the --

SECRETARY MCDONALD: See, that's what's going to take a while.

GOVERNOR O'MALLEY: All right. Well that should take all of about one hour.

TREASURER KOPP: -- I mean if there is a list.

MR. MOORE: We can do it. I can do it, sir.

GOVERNOR O'MALLEY: Okay. Yeah, do it as quickly as you can and get it back in here as quickly as you can.

MR. MOORE: Yes, sir.

GOVERNOR O'MALLEY: And let's get back with this, okay?

TREASURER KOPP: But I would ask you folks to understand really what we are focusing on. You have a lot of concerns. I respect that. But that's not the function of this Board.

MRS. ELASIK: We understand.

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GOVERNOR O'MALLEY: Okay. Thank you all very much.

MR. MOORE: Thank you.

GOVERNOR O'MALLEY: All right, this concludes our meeting of the Board of Public Works. That motion, by the way, from the Treasurer was seconded by the Comptroller and approved. Thank you.

(Whereupon, at 12:14 p.m., the meeting was concluded.)