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

April 30, 2014
10:32 a.m.

PRESENT

HONORABLE MARTIN O'MALLEY

Governor

HONORABLE NANCY KOPP

Treasurer

HONORABLE PETER FRANCHOT

Comptroller

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Secretary of Public Works

AL COLLINS

Secretary of General Services

T. ELOISE FOSTER

Secretary of Budget and Management

WILSON PARRAN

Deputy Secretary of Transportation

EMILY WILSON

Director, Land Acquisition & Planning, Department of Natural Resources

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MISSY HODGES

Recording Secretary, Board of Public Works

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PROCEEDINGS

GOVERNOR O'MALLEY: Good morning. I see that Unite Here is here. Once again, you're here. Hi. Today is April 30, 2014 and this is the Board of Public Works. We have a very crowded Agenda today, including a hotly contested matter involving, is it DGS or DNR? DGS. The Harriet Tubman Visitor Center, which will be taking some time today. So let's jump right in. Mr. Comptroller, any opening thoughts?

COMPTROLLER FRANCHOT: Good morning, Governor, thank you, and Madam Treasurer. At a time when so much attention is devoted to bad news I wanted to just mention some good news. There are so many people in our great State who are making a true difference in their communities in ways both large and small. And once again this year we are giving out a William Donald Schaefer Helping People Award in all 23 counties and Baltimore City recognizing an individual or an organization in each jurisdiction who embodies my predecessor's legendary commitment to serving others. Last week I kicked it off with a visit to Paul's Place in Baltimore City that serves 80,000 meals a year in the Pigtown neighborhood, which in addition just provides comfort, opportunity, and shelter for those who are in desperate need.

And on a separate note over the past two weekends I've had the opportunity to join two little, two area little leagues in Baltimore City for their opening day festivities. It was great to take some time not only with the players

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and their families but with the volunteers who work so hard without a dime to show for it to provide these kids with a wonderful baseball and softball experience that they will never forget and to learn lessons that will truly last them a lifetime. And mark my words, a few of those players will end up playing in Camden Yards or Nats Park someday. And regardless of whether they go on to play ball or pursue other dreams, these are just tremendous young people who are learning the little league values of loyalty, teamwork, and respect. So I just wanted to take a minute to recognize these folks in our communities who give back so much of their time and energy and talent, truly are the heart and soul of what makes Maryland such a great place to live and raise a family.

And just on a personal note, Governor, on the way down I happened to chat with my dad who just turned 92. He lives near Cleveland, Ohio. And he asked me to give his personal congratulations to you on all things that he reads about you. But I said, well I don't know, Dad, it may not be appropriate. And he said, "Well, you do that for me because he's a really good looking guy." And so you've got a fan out there in Ohio, if I can send him a bumper sticker or something I will.

GOVERNOR O'MALLEY: Thank you.

COMPTROLLER FRANCHOT: But anyway, his personal best wishes to you.

GOVERNOR O'MALLEY: He's a good man. I enjoyed meeting him over these years whenever he would come proudly to watch his son at the Board of Public Works here, and then talking to him back in the office --

COMPTROLLER FRANCHOT: Yes.

GOVERNOR O'MALLEY: -- about his World War II experience and all. So --

COMPTROLLER FRANCHOT: I'm lucky to have him with me.

GOVERNOR O'MALLEY: Well give your dad my best. Madam Treasurer?

TREASURER KOPP: A rather good looking fellow himself.

GOVERNOR O'MALLEY: A very good looking fellow himself, thank you.

COMPTROLLER FRANCHOT: Well at 92 he says he doesn't buy any green bananas. But --

(Laughter.)

COMPTROLLER FRANCHOT: -- he is a big fan of yours.

TREASURER KOPP: Good looking and charming, yes. Governor, I do want to mention one thing. We had a very exciting event last week that I think everybody should know about. And that was the ribbon cutting for the new Physical Sciences Complex at the University of Maryland College Park. This is not only a tremendously exciting site, a beautiful building just

perfect for the purpose, but is the site for major research for the future. This is the model for not just the U.S. but the nation of a site where you bring together different types of physical research. It's the first of three phases, actually right now with physics and going on to the other physical sciences. And is cosponsored by the University, the State of course, and the National Institutes of Health, the National Institute of Standards and Technology, and NASA, all together at College Park in this wonderful new edifice.

The Comptroller and I toured it a couple of months ago --

COMPTROLLER FRANCHOT: Yes.

TREASURER KOPP: -- before it was all fitted out. And it will be a couple of months before all the labs are fitted out. But this is a building and a site and a vehicle for bringing Maryland really to the top internationally in physical science research. And it was terribly exciting and an honor to be there.

And on a completely different note, a sadder note, I would like to mention the passing of a former colleague of ours, Torrey Brown. Torrey was also the Secretary of Natural Resources, he was a great doctor, he did so many things. But we remember him as a colleague, Chairman of the House Environmental Matters Committee. A person of terrific personality. You smile, don't you Addie? You smile when you think of Torrey. He just had a great bearing and a great representative of the City, of the people of the State. And we will miss him.

GOVERNOR O'MALLEY: Yes, a great guy. And we flew flags at half-mast, I do believe, at his passing. We're going to miss him. He did great things for the Bay.

All right. I'm going to exercise a little prerogative here. We're going to call the matter that the Mayor is here on, Mayor Jackson-Stanley. Item 7 on Transportation? Mr. Parran, how are you? And Delegate Eckardt, are you here on this matter as well?

DELEGATE ECKARDT: Yes, sir.

GOVERNOR O'MALLEY: Why don't you all come up and tell us, we'll do this one first so you all can get on with your business of the day.

MS. JACKSON-STANLEY: Good morning.

GOVERNOR O'MALLEY: Good morning.

MS. JACKSON-STANLEY: Madam Treasurer, Mr. Comptroller, of course our wonderful Governor, and all of the secretaries, and everyone in the audience. This is just an overwhelmingly exciting day for the City of Cambridge. I want to introduce the President of our City Council Donald Sydnor. And of course we all know our wonderful Delegate Addie Eckardt. We are here to represent the entire City of Cambridge as we commemorate an occasion that we are now going to be taking control of our own destiny with the transfer or the sale of the property known as Sailwinds.

We have 20 years of effort to come to this day and before I go on too far I want to thank in his absence Secretary of Transportation Jim Smith, but I'll also thank Deputy Secretary Wilson Parran, as well as the staff inclusive of Katie and Andy. But also in addition I want to thank the other secretaries, Dominick Murray, Ray Skinner, Al Collins and the others of authority here who have made this day in one way or another very possible.

It is our request and thankful that you all will be acknowledging that request, that the transfer of that property be given back, sold back to the City of Cambridge. It is an opportunity for us to take one of my campaign slogans that said One Voice, I am that voice, but we are One Cambridge. And it's now time for the One Cambridge to move forward with our destiny. And we are very appreciative of this opportunity.

I could go on and on about the greatness of this project but I will not because I know you have a very full Agenda. But I didn't know if Mr. Sydnor wanted to say something? He never wants to say anything. But I'm sure our Delegate will have something to say.

DELEGATE ECKARDT: Just very briefly, Governor, Comptroller and Treasurer, and to all of the executive branches, thank you very much. Today is a very pivotal point in the life of Downtown Cambridge. And it started many years ago, probably 25, when Governor Schaefer came down and said, "We'll do it." And he got everybody together. And we've tried through the

years to make that happen, as many of the secretaries know, as people have come and gone, trying to get the stars to align. The stars have aligned and it's time to move forward. So thank you so much for your diligence and your patience as we move forward. Thank you very much.

GOVERNOR O'MALLEY: Thank you. Okay. Any questions?
Mr. Comptroller?

COMPTROLLER FRANCHOT: No, I'd just like to compliment the Mayor, and obviously Delegate Eckardt, and City Council President. You have a great community down there. I enjoy going down. And it is having its own renaissance right now, frankly.

DELEGATE ECKARDT: Yes.

COMPTROLLER FRANCHOT: And so this will be added to that. And I appreciate that. And Deputy Secretary Parran, I haven't seen you before here. So welcome. That's great. You and the other secretaries did a great job. Obviously the Governor is, you know, responsible for a lot of this. I wanted to just single out Andy Scott, you mentioned Andy. Andy is Andy Scott, and I want to thank him for protecting the City and the county and the State of Maryland through some really tough, vigorous negotiations with a very sophisticated developer who you are in partnership with. And we love him, we like him, he's a good guy. But he's, you know, you've got to keep both hands on your wallet because he's a very savvy investor. And the fact that Andy Scott was there doing

a lot of the negotiating and making sure that the project moved forward in a cost efficient way, I just want to salute him because it's not easy.

MS. JACKSON-STANLEY: Thank you for that acknowledgment and I did not give his full name. But Andy Scott, as well as Katie Parks because there are many Parks in the scenario as well, but I can't thank the leadership here in Maryland for making sure this was done. We were persistent, patient, and we wanted to know we persevered, and thank you all again.

GOVERNOR O'MALLEY: Thank you.

DELEGATE ECKARDT: One other brief announcement for Cambridge? We were able to launch the Ironman Maryland so you will be hearing more about that. So all of these projects that you will be hearing about will work together for our renaissance in Dorchester.

GOVERNOR O'MALLEY: What is Ironman Maryland?

DELEGATE ECKARDT: Pardon?

GOVERNOR O'MALLEY: What is Ironman Maryland?

DELEGATE ECKARDT: Ironman? Well we will be doing, you know nationally Ironman are triathlons take place.

GOVERNOR O'MALLEY: Ah.

DELEGATE ECKARDT: And in Dorchester County we do one Ironman and one Ironman qualifier. The Chesapeake Man is in September, and the Eagle Man, which is an Ironman in Hawaii, qualifier takes place in June. And

due to some changes in the structure of who ran those we were able to be selected as one of the sites, the best little town sites, for a full Ironman that will take place not only this September but for the next five Septembers. And it will be a great economic development engine for Cambridge as we move forward. So we want to diversify the economic profile in Cambridge and we will find the best of what we have and work it. So thank you.

GOVERNOR O'MALLEY: And when is that event?

DELEGATE ECKARDT: The first one will be September --

GOVERNOR O'MALLEY: You need to start training, Peter.

(Laughter.)

DELEGATE ECKARDT: Yes, you'd better start training now.

MS. JACKSON-STANLEY: Start training now.

DELEGATE ECKARDT: But if you come down in June you can check out what it's all about, to see the half Ironman, and then you will know what you are in for for September. I think --

GOVERNOR O'MALLEY: And then the winner becomes the Chesapeake Man?

DELEGATE ECKARDT: Pardon?

GOVERNOR O'MALLEY: And the winner of it becomes the Chesapeake Man?

DELEGATE ECKARDT: Well not exactly --

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(Laughter.)

MS. JACKSON-STANLEY: You have to keep training, Governor. But it would behoove me not to say as the Mayor of Cambridge, if you have not been to Cambridge you really should start paying attention now. Because once, you know, this is just the beginning of many fabulous things. We are a great community. We are the jewel of the Eastern Shore. I hope none of the other mayors from that area are here --

(Laughter.)

MS. JACKSON-STANLEY: -- but I know that to be true. And we are a great community. And as I'm sure the Comptroller, who is a very welcome visitor many times as well as the Governor. Madam Treasurer, I have not seen you in Cambridge but I think it's time that you came. Because this is the time, this is the place. Thank you again for --

TREASURER KOPP: I actually have been but I come and go quietly --

(Laughter.)

MS. JACKSON-STANLEY: Quietly? What?

TREASURER KOPP: I would be delighted to return.

MS. JACKSON-STANLEY: Please, the next visit, please let me know. I'll be glad to give you my nickel tour.

TREASURER KOPP: That would be very good.

MS. JACKSON-STANLEY: Thank you.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: So just on the triathlon, I have two adult children and they are very competitive and my daughter did several triathlons and challenged my son to do the Washington one, where the Potomac swim, and then bike, etcetera. So he was a college athlete and he came down just loaded for bear and ready to, you know, conquer the triathlon. And afterwards I said, "Hey Nick, how did it go?" And he said, "Dad, I came as close to drowning in that swim," --

(Laughter.)

COMPTROLLER FRANCHOT: He said, "You really have to train for this." I said, "Yeah, that probably is a good idea." So remind folks that they, no matter what they think of their condition they should do a little bit of training for that.

MS. JACKSON-STANLEY: We are one of the few sites in the country for this.

MR. SYDNOR: There are 13, approximately 13 Ironmans in the United States and Canada. And we have been selected for the Mid-Atlantic region to host this.

COMPTROLLER FRANCHOT: Excellent. I think that's great. But if you see any college athletes who think it's just something they can participate in willy-nilly, remind them that they should get out there and check it out.

MR. SYDNOR: We'll make sure we have life jackets.

MS. JACKSON-STANLEY: Thank you.

COMPTROLLER FRANCHOT: Yeah -

(Laughter.)

GOVERNOR O'MALLEY: All right. Item 7, Comptroller moves approval, Treasurer seconds. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: And the ayes have it. Thank you all very much and thanks for being here. Sure, thank you. Okay. Let's move to the Secretary's Agenda.

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have 12 items on the Secretary's Agenda this morning, two reports of emergency procurements. We are withdrawing Item 12 from St. Mary's College but it will be back.

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: And the ayes have it. We move on now to the --

TREASURER KOPP: Ah --

GOVERNOR O'MALLEY: I'm sorry, hold on one second.

TREASURER KOPP: I had one question on --

GOVERNOR O'MALLEY: Madam -- we have reversed the tape-

-

TREASURER KOPP: Just one question on A1?

SECRETARY MCDONALD: Okay. That's the emergency from the Department of Human Resources. It is about the emergency generator they got --

TREASURER KOPP: The generator. And the point is that they always get a generator from the same company, I guess as a matter of principle. And I just wonder why that is?

SECRETARY MCDONALD: I do have either Ms. Spring, Mr. Hatten, could you introduce yourself for the record?

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MS. SPRING: Hi, I'm Pam Springs, Director of Emergency Operations for DHR.

MR. HATTEN: Good morning, Johnny Hatten, Operations Administrator for the Department of Human Resources.

TREASURER KOPP: Good morning. The question, my question simply is since you know you are going to need generators every year apparently you go always to A&E and how does that conform to the goals of procurement to have competition and to go more deeply? And do not all companies offer warranties? You say the reason is because you want the warranty?

MS. SPRING: They actually installed the transfer switches on that site and another site so both of those sites are under a ten-year warranty for parts and services.

TREASURER KOPP: So it's a pre-existing warranty?

MS. SPRING: Correct.

TREASURER KOPP: So you are boxed in?

MS. SPRING: Correct.

TREASURER KOPP: So what do we do to make sure that doesn't happen?

MS. SPRING: I guess in the future we will need to pre-wire facilities or we could put something as far as when we put out the RFP. But it's my understanding because they are, the parts are under warranty what you would

have to do if you got another vendor is get an electrical contractor to go out there and do a site visit and do an inspection which would delay the process. And under extreme weather conditions we are under really tight time constraints to deploy somebody.

TREASURER KOPP: No, I appreciate that. We are going to be increasingly under tight weather constraints. We know this is coming. We ought to do some planning ahead, I'm sure you would agree, and do what is most cost effective. I'm not saying you don't. But looking at this doesn't give me any feeling whether you do or not. So just to take that back.

MS. SPRING: Yes, ma'am. Thank you.

TREASURER KOPP: Thank you. Okay. Sorry.

GOVERNOR O'MALLEY: No problem. Okay, thank you all. We're on the Department of Natural Resources Real Property Agenda items.

MS. WILSON: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Emily Wilson with Maryland Department of Natural Resources. We have five items today. If it's okay, I would like to just briefly highlight Item 4A which is the Bennett easement.

This actually relates to an acquisition we brought before you all in February, the Harman acquisition. This is adjacent to that acquisition that we did in February and it's also within Seneca Creek State Park. So with this easement will not only prevent further development but it will also help protect a

historically significant property. On this property is the Montanverde mansion, where it is reported that then Congressman Abraham Lincoln slept here after attending a political rally. So this is a very historically significant property. And we are very fortunate to have the Bennetts are actually here today in the back, two Naval Academy graduates.

GOVERNOR O'MALLEY: Come on up, Bennetts.

MS. WILSON: We're very fortunate that they are very conservation and preservation minded. And so this easement will help them to restore this very historically significant mansion.

GOVERNOR O'MALLEY: Hi, thank you all for being here.

MR. BENNETT: Good morning, sir. Tucker Bennett.

MS. BENNETT: Meakin Bennett.

GOVERNOR O'MALLEY: And how long, Bennetts, have you owned this property?

MR. BENNETT: Four months now, sir.

(Laughter.)

GOVERNOR O'MALLEY: That's great. And so do you want to tell us anything more about it, and what you've learned?

MS. BENNETT: Well we bought it in January, like Tucker said. And both homes on the property were condemned by the State a couple of years ago. It's been vacant. So we have undertaken the act of restoring it and trying to

save it. It was collapsing on the inside so we are pulling it back up. And we are, it's a big project on our hands but we're very excited about it and excited to put it under conservation so the historic setting will stay the same for hundreds of years.

MR. BENNETT: And there is a tremendous amount of discovery happening, Governor. Every board we pull back we learn more. And very historical significance of a family from Montgomery County, the Peter family. The father was one of the original, the original Mayor of Georgetown. The Seneca Mill, all the Seneca sandstone was from that family. We're learning a ton every time we pull a board away. It's a, again with discovery comes cost as well. So it has been a significant effort. But the people of the Parks Department, DNR, the staff, everyone has been very encouraging with us and supportive and we appreciate all the support of the State of Maryland.

MS. WILSON: The sandstone that he mentioned, it's actually red sandstone in this area. And it's the red sandstone that was used to build the Smithsonian Castle.

GOVERNOR O'MALLEY: Got you. Wow, that's pretty cool. I love all that stuff. I'm glad we're doing this. And what is, and that's a lot of water running through there, huh? Are they creeks, or --

MR. BENNETT: Yes, sir. We actually sit right on top of the Nicehill, which is a tributary to the Seneca Creek --

GOVERNOR O'MALLEY: Mm-hmm.

MR. BENNETT: -- which ultimately is a tributary, a large tributary to the Potomac.

GOVERNOR O'MALLEY: Mm-hmm. That's great. Is it navigable?

MR. BENNETT: It is, sir. You can put in and reach the Potomac from almost the bottom of our driveway.

GOVERNOR O'MALLEY: Really?

MR. BENNETT: Yes, sir.

GOVERNOR O'MALLEY: In like a kayak or something?

MR. BENNETT: Absolutely. And there's fishing, as you know I'm sure, stocked with trout and bass --

GOVERNOR O'MALLEY: How long a stretch is it? Is it wooded?

MR. BENNETT: It's very wooded, yes, sir. I'm not certain on how far it is but --

MS. BENNETT: I've been jogging out there and I haven't found the end of it yet.

GOVERNOR O'MALLEY: So don't treat me like a poacher if I come on there with a paddle --

(Laughter.)

MR. BENNETT: We've seen a few, actually sir, and had some good conversations but --

GOVERNOR O'MALLEY: So we could put in right at the bottom of that hill, huh?

MR. BENNETT: Absolutely. And --

GOVERNOR O'MALLEY: Is there a road running by there where you put in?

MR. BENNETT: It is, Berryville Road, which is what our property is on Berryville Road. There is actually a turn out right there and a great trail that will take you all the way to Georgetown Pike if you go one direction, and to the other head. It's a significant system there --

GOVERNOR O'MALLEY: And no giant waterfalls or anything that unexpectedly --

MR. BENNETT: Not that we've found.

MS. BENNETT: Nothing too rough, yeah.

MR. BENNETT: I'm sure you can handle it. If you're going to do the Ironman, I'm sure you can handle the creek.

(Laughter.)

GOVERNOR O'MALLEY: Great. Well, this is cool. Anything else on this one, or anything else on Real Property? This isn't where we have an 1814 matter, no? Bicentennial matter we need to take up? That's --

MS. WILSON: No, that's on the DGS Agenda.

GOVERNOR O'MALLEY: Okay. Are we good on this?

TREASURER KOPP: Have fun.

GOVERNOR O'MALLEY: The Treasurer moves --

TREASURER KOPP: That's exciting. I'm going to come visit that one.

GOVERNOR O'MALLEY: 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.

MS. WILSON: Thank you.

GOVERNOR O'MALLEY: And anybody listening at home that would like to see what properties have been maintained or where these easements are, or be able to see the contiguity, connectedness of these various parcels, we have now protected even in the course of this recession over the last seven years an amount of land within our State that is the equivalent of the entire land mass of Calvert County. And that's a tremendous legacy, gift for the future. And some of it has been done with Program Open Space, some of it is with these sorts of easements and the like. But all of these reviewable on GreenPrint, which is on

your State government website. That is our common platform for better managing and protecting the lands that all of us depend upon. So look, thank you all for doing this. We appreciate it. Thank you. All right. Next thing on the hit parade is, what? DBM?

MS. FOSTER: Yes.

GOVERNOR O'MALLEY: I almost have this order down, just in time.

MS. FOSTER: Governor, Madam Treasurer, Mr. Comptroller, good morning. We have 12 items on the Department of Budget and Management's Agenda for today. I'll be happy to answer any questions you may have.

GOVERNOR O'MALLEY: Any questions? Hearing none, 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. University System of Maryland?

MR. EVANS: Good morning. Joe Evans representing the University System of Maryland. We have seven items on the Agenda today, here to answer any questions.

GOVERNOR O'MALLEY: Joe, I brought back a little point of discovery for you. I was recently, like last week, in Ireland with Congressman John Lewis who delivered a lecture which the Irish are now calling the O'Connell/Frederick Douglass, or the Frederick Douglass/Dan O'Connell lecture. And Congressman Lewis gave this lecture. And present on this American delegation of faith and politics with us was Eddie Washington Douglass, who was a descendent of Frederick Douglass. And there was also a woman there present who was a descendent of Dan O'Connell. And Dan O'Connell, for those of you here was the great Catholic emancipator who reached his zenith around about 1840's or 1850's in Ireland. At that time Frederick Douglass to preserve his own life immediately after the publication of Narrative of the Life went to Ireland and traveled around Ireland for about a year, you know, building up support for the abolition movement.

But the reason I bring this up to you is that we have no statute to Frederick Douglass anywhere on the campus of the University of Maryland at College Park, the flagship institution of the State of Maryland. I understand that now we have an area designated for a park there and it is among the great things Frederick Douglass said was what I think should be our State motto: "We are one,

our cause is one, and we must help each other if we are to succeed.”

Bottom line, there is a group over there that commissioned this great statue of Frederick Douglass. And they could easily, you know, two for the price of one type of thing. They could easily make another one and it is very cool, and I might even have a picture of it to show you here. Yes, well, there it was. There is the descendants of -- hold on here. I don't know if you can see this. That's kind of with his cape flowing back there and his hand raised. Can you see that from there? I will send this to you. That's the descendants of Frederick Douglass and Dan O'Connell, by the way.

MR. EVANS: I can see --

GOVERNOR O'MALLEY: It's a great looking statute. Another copy would look really good at the University of Maryland.

(Laughter.)

GOVERNOR O'MALLEY: Two for the price of one.

MR. EVANS: I will pass that on to Mr. Stirling.

GOVERNOR O'MALLEY: Good.

(Laughter.)

GOVERNOR O'MALLEY: Come on over.

MR. STIRLING: -- on my desk, sir.

GOVERNOR O'MALLEY: Of this one?

MR. STIRLING: That paper, yes, sir.

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GOVERNOR O'MALLEY: You have a copy of this one?

MR. STIRLING: Yes, sir.

GOVERNOR O'MALLEY: Really? Who sent it to you?

MR. STIRLING: Our capital funders --

GOVERNOR O'MALLEY: Really? Because somebody just sent it to them? Really? Good man. Way ahead of me, Mr. Stirling. Way to go. You are to be commended.

MR. STIRLING: Thank you.

GOVERNOR O'MALLEY: Any questions on University of Maryland budget items? Mr. Comptroller?

COMPTROLLER FRANCHOT: Item 7, please, 7-S.

MR. EVANS: Yes, sir.

COMPTROLLER FRANCHOT: So we're being asked to award with this item a one-year \$3.8 million contract with up to five one-year renewal options, awarded to Penn Parking to operate the University of Maryland Baltimore's 15 parking facilities. It's my understanding that the losing bidder, SP Plus University Services out of Chicago, is actually the incumbent vendor. Is that correct?

MR. EVANS: Yes, sir, it is.

COMPTROLLER FRANCHOT: How has the incumbent performed over the course of the current contract? And does SP have any other

notable parking management contracts with the State of Maryland? And if so, what do we know about their body of work on these job sites?

MR. EVANS: They're, I mean, they have performed on the contract. Like with all contracts, there have been some issues with their performance on the contract. But as far as how many contracts they have in the State of Maryland? I'm not sure.

COMPTROLLER FRANCHOT: Okay. But they are well known?

MR. EVANS: Oh, they are a national company.

COMPTROLLER FRANCHOT: Okay. So according to my materials this was a competitive procurement and the incumbent actually submitted a bid that was more than \$200,000 lower than the one submitted by the winner, Penn. However, Penn won the contract on the basis of a far superior technical score. Which of the two factors, technical or cost, was given greater weight in this contract award? Or were they weighted equally, 50/50?

MR. EVANS: This was a, technical had more merit than financial. It was weighted 60/40, technical to the financial.

COMPTROLLER FRANCHOT: Okay. And what exactly goes into this 60, the assignment of a technical score for something like the management of parking facilities? And in this particular instance, what was it about Penn Parking's bid that resulted in such a relatively high score? Or

conversely, what was it about the incumbent that caused it to lose this award despite being the low bidder?

MR. EVANS: What goes into it is the technical evaluation, which some of the factors that were evaluated was the team that they, the management team that they proposed. We also checked references, employment retention program. They had to tell us how they were going to retain employees. The organizational plan for how they were going to manage the garages. The vehicle assistance program, we asked for additional information on how they were going to enhance the vehicle services portion of the contract and then Maryland --

TREASURER KOPP: What does that mean?

MR. EVANS: In the garages we have, if you, if you have a flat tire we have the contractor will come and they will change the tire. If your battery, if you have, if you need a jump, your battery is dead then they will come and they will jump your car, charge your battery. What we asked for was for additional services that could be provided and that was graded. Penn in their proposal, they proposed to put in each garage during the winter months a de-icer, antifreeze. They are going to purchase golf carts to help people that can't find their vehicles, like me who park in the same spot on the same floor everyday so I'm not looking for my vehicle. So those were added things that Penn was going to provide.

COMPTROLLER FRANCHOT: So the management of parking facilities technical ratings were as you are describing those kinds of add ons. It is my understanding that two former Penn Parking employees, they are the winning company, actually served on the selection committee that selected Penn for this award and for that reason this matter was referred to the State Ethics Commission for review. Has the Ethics Commission weighed in on this matter as of yet?

MR. EVANS: Yes, sir.

COMPTROLLER FRANCHOT: What did they say?

MR. EVANS: They found nothing wrong with those individuals serving on that evaluation committee. In fact what they said was it was like one had worked for Penn 12 years ago, 13 years ago, the other one seven years ago. They had no financial interest in Penn whatsoever.

COMPTROLLER FRANCHOT: Well I'll be honest with you. Even if the Ethics Commission apparently gave you the go ahead that there is no official breach of propriety, the perception for me is not good that two of how many people were on the board?

MR. EVANS: Five.

COMPTROLLER FRANCHOT: Five. Two of five were former employees. And I recognize that they may not be currently obviously on the payroll. But there is a bias in my personal opinion. Were I in that situation I would definitely recuse myself personally from participating in a procurement

selection committee. But what steps if any do you have that would avoid such conflicts or perception of conflicts in the future? Albeit the Ethics Commission saying this one is okay, but the optic is not good. Really.

MR. EVANS: I will, well I, personally I knew that they had worked for Penn Parking. You know, we did have them sign a responsibility form, and that responsibility form outlined that they were going to be fair and impartial. And when you are doing procurements the departments are part of those procurements and we go out and we hire people from the private sector. So

--

COMPTROLLER FRANCHOT: No problem with that whatsoever. But you have a large workforce, it's a very diverse workforce. And I think it would have been easy to establish a selection committee of capable folks who do not have a previous work experience with the winning bidder who is bidding higher than the incumbent, a higher cost, and for whom there are these technical factors that just conveniently push them just over the goal line in getting the multiyear contract awarded. And I'm not suggesting that there was something there but, boy, does that look like a problem to me given the fact that this is parking lot management, this is not running the physics, new building, the new physics building. This is a task that a lot of companies, and particular the incumbent, has done very successfully around the country. And the fact that two of the five folks were on this committee, and that the awarding of points was,

well, if it didn't look like the technical factors were being shaved in a way that resulted in this award you've got me. Because they only won by, what, 704 points to 700?

MR. EVANS: Well when you look at the actual technical there was a 22-point difference between them, with Penn receiving more technical points than Standard. The difference was the financial, by Standard being lower they received all of the financial points. When you --

COMPTROLLER FRANCHOT: Well that may be your perspective. My perspective is that, my concern is that the narrow victory by the challenger Penn based on clearly, as far as I can tell some subjective criteria about golf carts and other things that are added to this, really causes me to take a second look at it. And the fact that you've got this, what I think is a conflict, and something that I personally would steer away from, and I'm surprised these employees didn't. Anyway, I'm going to vote against this just because I don't like the --

MR. EVANS: The final --

COMPTROLLER FRANCHOT: -- I don't think it's healthy to have this.

MR. EVANS: The final decision, you know like in all procurements, rests with the procurement officer. So I also read these proposals

once they came to me with the proposals. So I read them and came to the same conclusion and I have no bias towards anyone.

TREASURER KOPP: Did you appoint the committee?

MR. EVANS: Yes, I did.

GOVERNOR O'MALLEY: What item number is this?

TREASURER KOPP: This is Item 7.

MR. EVANS: This is Item 7-S.

GOVERNOR O'MALLEY: Okay.

TREASURER KOPP: I'm really sorely troubled by a couple of items on our Agenda, and this is one of them, one of the two. I certainly understand that the gentlemen who were on the committee signed an affidavit that they were not, had no personal interest in one way or another, and I have no reason to doubt them. And the Ethics Commission cleared them of violating any law that they had no personal. But I must, and you have given us a list, both in writing and orally here, of the ways in which the two contestants differed in terms of technical capacity and what was being offered by Penn, and I believe slightly higher MBE participation also and a local firm, than SP. I understand that they both compete all over the country and sometimes they win, sometimes they lose.

But I have to say, Mr. Evans, that not only the appearance of the potential of conflict, which the Ethics Commission doesn't look at but which you seem to think is not of great significance, troubles me very much. This is the

place, the Board of Public Works, where we are looking at not only at whether it was legally correct, and I have no reason to doubt that it was legally correct, but what it says about our procurement process and the perception of our procurement process and its evenhandedness. And the fact not that they would participate necessarily but that you would appoint people who may have an interest for or against. It's not necessarily in the interest of people for whom they work. Maybe it was an unhappy relationship. It could be against them. Why you would not think that it would create a problem surprises me. And I think that the Comptroller's question is my own question, and if the answer is no then I guess I have to accept it. Are there no other people who are expert in this sort of field in the State working for the State who could be on a committee other than people who work for one party or the other? Or who, I mean, I guess one answer could be that you didn't know who the contestants would be? I mean --

MR. EVANS: That's true. We did get three, we did get three proposals. But we don't normally go to other agencies to have them on the evaluation committee.

TREASURER KOPP: I see you don't. We do. Why do you not?

MR. EVANS: It's just something that we haven't done.

TREASURER KOPP: There expertise across the State.

MR. EVANS: So we look to the departments for, within that department for them, they are --

TREASURER KOPP: And there are how many campuses in the system? There are a lot, yeah?

MR. EVANS: But not many of them manage or have their own garages, or have the same mixes as we do. It's, you know, with hindsight, like I said, we have, we have always gone to the departments. And like I said, these people are hired from the public sector --

TREASURER KOPP: I can understand that.

MR. EVANS: -- and it was just, it just never appeared that there would be a conflict of interest. Because the previous contract that Standard won, the person that sat on that was a Penn/Central employee. So it just --

TREASURER KOPP: And it went to the --

MR. EVANS: -- and it went to Standard. So it just never dawned that, you know, it's this appearance of --

TREASURER KOPP: But do you understand the concern about appearance now?

MR. EVANS: I understand what the Board is saying. I understand what the Board is saying.

TREASURER KOPP: And it's not only this contract. It's the procurement process all together, all contracts. There is a concern about appearance as well as reality of conflict. It seems to me that the Board of Public Works and its chief procurement official ought to be doing something to sensitize,

this is not the only agency that seems not to have the same feeling that we do about the appearance of conflict and the appearance of partiality. What is being done, what can you do to help these procuring agencies?

MS. CHILDS: Madam Treasurer, I am on the Agenda for the next Senior Procurement Advisors Group meeting in May and we are going to be briefing best practices for the selection of evaluation teams, and we will also be discussing it at the PAC meeting in May. And you are exactly right. The appearance of impartiality is I think as equally important as whether laws were violated so --

TREASURER KOPP: It's difficult.

MS. CHILDS: Yes. Yes.

TREASURER KOPP: I mean, and I understand that there are instances in which there is no one who has not had an experience one way or another. But that fact ought to be transparent to the public as well. Shouldn't it?

MR. EVANS: I agree.

TREASURER KOPP: I'm going to vote for this one. I think this award is in the interest of the State, quite candidly. I don't think that there was in fact a conflict that can be pointed to. But I am very, very troubled by the process and the fact that you would not have hesitated, that you did not hesitate or even think about this when you appointed this group. I think that's very disturbing.

GOVERNOR O'MALLEY: I would imagine that you were looking for people that had backgrounds in parking management.

MR. EVANS: Parking management.

GOVERNOR O'MALLEY: And so, I mean, it's not --

TREASURER KOPP: Well that's why I say, this may be one of those cases when there are a small number of companies, you don't know who is going to be bidding, and perhaps there is no way to avoid it. But in that case it should be totally transparent.

MR. EVANS: Well that certainly one thing to put on my radar for future procurements, if we are in the procurement process and we find out who the vendors are is did we ask the question.

TREASURER KOPP: Maybe you could report back to the Board how you can --

MS. CHILDS: -- we do have templates where this kind of issue is fully disclosed at the very beginning. Then the procurement officer using their best judgment can decide is this evaluator's expertise so important that we cannot lose --

TREASURER KOPP: Right.

MS. CHILDS: -- their judgment? Or is this a case where we can find another person without any kind of conflict? So we do have a process in place. And I'd be certainly happy to --

TREASURER KOPP: And I understand that the University has a separate procurement process from the State. But this seems to be one of those instances where it's not clear to me at least why you shouldn't be following the State's process when that State process is perfected.

COMPTROLLER FRANCHOT: Yeah, well I'm going to continue to --

TREASURER KOPP: Thank you for letting me interrupt that --

COMPTROLLER FRANCHOT: Yeah, no, not at all. I'm just going to continue to vote no. Frankly if it passes I'm going to continue to look at this because I don't like it. And you have mentioned that the closeness of the vote, the, you know, four points out of 1,400 separating these two parties was attributable to the low bid of the incumbent. I don't agree with you. I think the closeness was attributable to the technical score, which has a lot of subjectivity in it. And I don't like the feel of it or the, and I don't have any specifics but I certainly don't have enough to say, to counter, to say there is something specifically wrong. But I am sure going to keep on this. So if you could alert all the parties that I am not, well I don't know what is available to me, but I am going to try to figure out what if anything that was done here is not meeting our quality standards.

GOVERNOR O'MALLEY: What does it hurt if we were to reject this? I mean, why couldn't you just go back out and understanding our instructions on this?

MR. EVANS: Right now the contract is to expire today.

GOVERNOR O'MALLEY: Mm-hmm.

MR. EVANS: And I tried to get it extended by Standard Parking. But because this has been in a such a flux, they originally did protest it. I denied their protest. They didn't appeal it to the Board of Contract Appeals. And so it has been, the contract has been in flux. I had it here at the last Board meeting. I was asked to withdraw it and go to the Ethics Commission, which I did.

GOVERNOR O'MALLEY: Mm-hmm.

MR. EVANS: And put it back on this meeting. And so I tried to get them to extend it for another 15 days. But without changing the terms of the current contract they are not willing to do that.

GOVERNOR O'MALLEY: Okay. Well that's an answer. All right. We're on Item 7-S. We need some better guidelines for this stuff in the future.

TREASURER KOPP: Yes.

GOVERNOR O'MALLEY: Okay. Ms. Foster, I imagine when you guys are looking at things like the healthcare stuff, you try to find people that have a professional background in evaluating those proposals?

MS. FOSTER: We try to get people from other agencies, try to get

--

GOVERNOR O'MALLEY: But they are mostly public sector people and not people that ever worked for the, I mean, there are only a few healthcare companies that bid on something as large as ours.

MS. FOSTER: We try not to get people that worked for them.

GOVERNOR O'MALLEY: Okay. Well I think we would be best advised doing that here in the future. The Comptroller makes some good points, as does the Treasurer.

TREASURER KOPP: Can I suggest, Joe, you might also wish to speak with the Chief Deputy Treasurer, who faces this sort of situation and seems to be able to create these committees without for instance people who worked for banks sitting on judging banks?

MR. EVANS: Yes, ma'am.

TREASURER KOPP: There may be some tricks of the trade.

GOVERNOR O'MALLEY: Okay. This is item, we're going to handle this one separately. This is Item 7-S. The Governor moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye." Aye.

TREASURER KOPP: Aye.

GOVERNOR O'MALLEY: All opposed?

COMPTROLLER FRANCHOT: No.

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GOVERNOR O'MALLEY: The Comptroller votes no for the aforementioned reasons. Okay. Let's look at the balance of the University System of Maryland Agenda items. Mr. Comptroller?

COMPTROLLER FRANCHOT: Item 5-S.

MR. EVANS: Jackie Collins, the Director of Procurement at the University of Maryland Eastern Shore.

MS. COLLINS: Good morning. Jackie Collins --

COMPTROLLER FRANCHOT: Hi, welcome.

MS. COLLINS: Thank you.

COMPTROLLER FRANCHOT: So thank you for being here. We're being asked to award a five-year, \$26.5 million contract to Thompson Hospitality Services based in Reston, Virginia to serve as the official dining services vendor for the University of Maryland Eastern Shore in Princess Anne. These services are currently being delivered by an in house University dining services staff. I have read the item. I am familiar with the stated economic benefits of privatizing these services. But I do have some questions, none of which frankly should be surprising to those who follow this Board and have heard me express similar questions to the System staff in the past.

First, what provisions are built into this contract to ensure that Thompson delivers the most healthy and nutritionally balanced dining options possible to UMES students? As a related question, does UMES have a

professional nutritionist on its staff? And to what extent will it work with Thompson to enforce high nutritional standards, as is the case at other State universities that I am familiar with?

MS. COLLINS: Mr. Comptroller, could you start over please?

COMPTROLLER FRANCHOT: Okay.

MS. COLLINS: That was fast --

COMPTROLLER FRANCHOT: The question is, other university staffs, university members of the System have nutritionists assigned to their dining facilities in order to make sure that the dining options are healthy and nutritionally balanced. I'm wondering whether UMES has something in its contract with Thompson vis a vis that subject?

MS. COLLINS: Yes, we do. There was a particular section in reference to the food dining services in regards to dietary needs, of special needs of students who are vegetarians and so forth and so on.

COMPTROLLER FRANCHOT: Okay. Frankly I'm a little surprised that you folks are taking this privatization route, given the reputation for UMES throughout the State and region, frankly, for having an elite hotel and restaurant management program. It's my understanding that this elite program is the only one of its type in the entire University System. And I'm not completely informed on all of this, but I assume right now the fact that you have your own employees doing the dining services, that you are including the students within

your elite program because it gives them a great opportunity to cultivate their hospitality management skills in a practical, real world setting. So here is the question: what happens to those learning opportunities if these in house services as they currently are are replaced by the private company Thompson?

MS. COLLINS: The current contractor has agreed to work with students to employ those students and it will also offer internship programs. So if anything it will better the program.

TREASURER KOPP: The current, you mean Thompson?

MS. COLLINS: Yes.

COMPTROLLER FRANCHOT: Okay. I've visited your campus. It's beautiful.

MS. COLLINS: Mm-hmm.

COMPTROLLER FRANCHOT: And frankly, I like to go there because the food is very good, which doesn't surprise me --

MS. COLLINS: Mm-hmm.

COMPTROLLER FRANCHOT: -- because of the elite program that you have in restaurant management. And so what assurances are, forgive the word, baked into this contract to ensure that the quality, presentation, and diversity of menu offerings will be comparable to what is currently in place at UMES?

MS. COLLINS: Well there was the technical proportion of the proposal where the University requested certain requirements and all vendors complied to that. And Thompson had a very good menu setting, food variety, they will be offering national brands and a lot of that is what the students are requesting. They want something different. So the vendor has complied to that and adhered to that.

COMPTROLLER FRANCHOT: Okay. And Thompson I see is based in Northern Virginia, in Reston. You are located, where, in Somerset County is it?

MS. COLLINS: Yes, mm-hmm.

COMPTROLLER FRANCHOT: Okay. So that's about a three-hour drive without traffic. Is Thompson planning to open and permanently staff an administrative office on the UMES campus with executive level management on hand to enforce standards of quality control and address day to day problems as they arise?

MS. COLLINS: Yes they will, yes.

COMPTROLLER FRANCHOT: Where is that office going to be?

MS. COLLINS: It will be in the Student Services Center, in the dining hall area.

COMPTROLLER FRANCHOT: And they will have executive level management there during the operation of --

MS. COLLINS: Correct.

COMPTROLLER FRANCHOT: Okay. And this is a question for the System. Is the University System ever going to articulate a standardized policy on the privatization of dining services? Or will the System continue to encourage institutions to make their own decisions, develop their own policies on a case by case basis? I guess that's for the System spokesperson.

MR. EVANS: I cannot answer that question. However, I do know that they are looking at dining services in general. In fact, the last couple of weeks there was an email that came out for System to help us identify those campuses that either had dining services that were contracted out or if they were doing them themselves, and different information as to why they were doing certain things and why they were going to be contracting it out. But that information went back to the System headquarters and I don't know.

COMPTROLLER FRANCHOT: Right.

MR. EVANS: But I will get a response from System headquarters when I get back.

COMPTROLLER FRANCHOT: Thank you. And then last question for the Procurement Officer. Are the current campus dining services workers, who I take it are University employees, of them I assume that they apparently are going to be retained by Thompson following the transfer. How many of them will be compensated at or greater than their current wages or

salaries? And conversely, how many of your current employees are in line for a pay cut?

MS. COLLINS: Okay. There are 11 State employees. Three of those have the eligibility to retire. And I think a couple of those have since then. Thompson has agreed to interview those, give priority interviews to those who apply and hiring considerations. There are 70 that are displaced and they will be applying. And those that do not apply or don't have another job to go to will be placed somewhere else on campus, depending on their skills.

COMPTROLLER FRANCHOT: And their current wages and salaries will be respected, or no?

MS. COLLINS: Yes. It will be even or higher. It will not be any less.

COMPTROLLER FRANCHOT: Including with Thompson?

MS. COLLINS: Correct.

COMPTROLLER FRANCHOT: Okay. If you could give me a report once all that happens I would be appreciative.

MS. COLLINS: Okay. Okay.

COMPTROLLER FRANCHOT: Thank you, Governor.

GOVERNOR O'MALLEY: Thank you, Mr. Comptroller. For the balance of the Agenda -- do you need to handle this one separately or --

COMPTROLLER FRANCHOT: No.

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GOVERNOR O'MALLEY: Okay. For the balance of the Agenda, the Comptroller moves approval, the Treasurer seconds. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. Thank you.

MR. EVANS: Thank you.

GOVERNOR O'MALLEY: All right. DoIT, Department of Information Technology.

MR. URBAN: Good morning, Governor, Madam Treasurer, Mr. Comptroller. I'm Greg Urban, Department of IT. I have nine items. We are withdrawing Item 7 for your consideration today. And I am happy to answer any questions that you may have.

GOVERNOR O'MALLEY: Any questions?

COMPTROLLER FRANCHOT: No, I'm fine.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: The ayes have it.

MR. URBAN: Thank you.

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GOVERNOR O'MALLEY: We now move on to the Department of Transportation. Hold the microphone there --

MR. PARRAN: Governor, Madam Treasurer, Comptroller, good morning. For the record, I'm Deputy Secretary Wilson Parran representing MDOT today. We are presenting ten items. You have already approved Item 7. So I will be happy to answer any questions you may have about the remaining nine items.

GOVERNOR O'MALLEY: Okay. On Item 3-E, Unite Here is here and wants to be heard again.

TREASURER KOPP: On Item --

SECRETARY MCDONALD: Do you want to explain Item 3, what Item 3 is from the Agency?

MR. PARRAN: Okay. Item 3 is the, this is the purchase of the high speed snow blowers at BWI International Airport and it's in the amount of \$565,000.

TREASURER KOPP: Why do I think we're not here just to talk about snow blowers?

MS. SCHULER: Governor O'Malley and members of the Board, we're here once again to talk with you about the condition of jobs at BWI Thurgood Marshall Airport. Over the past year we have been here

SECRETARY MCDONALD: Can you identify yourself for the record, please?

MS. SCHULER: Yes, Betty Schuler.

SECRETARY MCDONALD: Thank you.

MS. SCHULER: Okay. Over the past year we have been here to talk with you repeatedly. We have offered you the solution of implementing policies for worker retention. You told us that you support us but unfortunately we have not seen any meaningful action. Today yet another group of my coworkers are facing the loss of their jobs.

We're frustrated because despite your stated good intentions the fact that these solutions have not been implemented means that these workers will be without a job as of today, although this situation could have been avoided. I am particularly touched by their plight because I was also laid off from the Airport after having worked there for 40 years for more than a year and a half. Back in November I was finally able to return to work at the Airport at HMS Host. But now I too am in fear that without meaningful worker retention policies I could be laid off again when HMS's lease expires this year.

I am here with a number of my coworkers from BWI and I would like to ask them to all stand, please? Thank you. And I would like you to hear from my friend here coworker Kareem who has lost his job today, again. Thank you.

GOVERNOR O'MALLEY: And the jobs are lost from where?

MS. SCHULER: Creative Food Group.

GOVERNOR O'MALLEY: Creative Food Group. And Creative Food Group is what? The Airmall manager --

MS. SCHULER: Creative Food Group is one of the companies that has been leased from Airmall USA.

TREASURER KOPP: Is that, does that have another name that we would know --

[VOICE]: Sam Adams Brew House

GOVERNOR O'MALLEY: Sam Adams Brew House.

MS. SCHULER: One of their restaurants is shutting down for renovations.

TREASURER KOPP: Okay.

GOVERNOR O'MALLEY: Okay. So a restaurant is shutting down for renovations. That's Sam Adams. And all of these good people will be out of work because the restaurant shut down. Okay, thank you.

MR. BOYD: Hi, my name is Kareem Boyd and today is my last day of work at BWI Airport where I have worked for more than ten years. My first job at BWI was at Garden Café in 2002. Since then many restaurants have closed and new ones have opened. I have switched jobs several times because the restaurants changed. At that time, HMS Host ran all the airport restaurants and

when new restaurants replaced old ones we did not lose our jobs. Since Airmall came in, all of that has changed. Now the restaurants are run by many different companies. I am paid less than I used to be paid to do the same job and we have no job security when the restaurants changed.

Two weeks ago our general manager dropped a bomb on us. He told us that in two weeks our jobs would not exist anymore. The store that we were working in, Sam Adams Brew House, is closing down and we will not be automatically transferred to one of the other stores that is still open.

Airmall started a program where they have offered to arrange good faith interviews with other employers at the Airport. I filled out the form for that program but still we have no guarantees of our employment after tomorrow.

It is only truly beginning to hit me now, as I prepare for my last shift, that tomorrow I will not have a job. This store and all of the people that I've worked with over the past two years will all be gone. This is what happens when the developer model that is currently in place at Thurgood Marshall Airport. Stores close down and the workers, with no job security whatsoever, are out of the job. Just over the past three years, Bayside Landing, Bill Bateman's, Rum Island, Shannon's, Formaggio's, Au Bon Pain, Wendy's, Panda Express, Charlie Chang's, and California Tortilla have all closed.

We are here today, Governor O'Malley, Treasurer Kopp, and Comptroller Franchot, because you have the power to change this situation. For

the past year we have been calling on you to ensure job security for all the workers at the State owned Airport. In February I testified to the House of Delegates Committee on Economic Matters about the need for change at the Airport, but no action was taken and now I am losing my job. We cannot wait any longer. The time for action is now. We will not stop our fight until we have justice at our Airport. Thank you.

MS. GRINDEN: Hi. My name is Amber Grinden and I have worked at BWI for the past five years at Phillips Seafood. I need this job to take care of my family. My husband can't work because he is suffering from end stage liver disease. He has been too sick to work for the past year and a half. That leaves me as the only breadwinner to support him and our ten-year-old son. On top of all that, the mobile home park where I live has been sold and we have to move by Thursday. I still have not been able to find a place to live that I can afford and I know that it will be very hard to pay rent from November to February when the hours and business are slow at the Airport and it's harder to make tips. During this past winter I was cut to only three days a week also, and my hourly rate is only \$3.63, the minimum wage for tipped workers. It is very hard to make ends meet. We should expect more from a job at a State owned Airport.

Now we see our coworkers at Sam Adams losing their jobs for no fault of their own. We also know that our company's lease will expire next year. We don't know what will happen to our jobs then. I think that if you work hard at

your job and do your job right, you should know that you will have your job the next day. You should be able to depend on your job, not lose it for no reason.

Governor O'Malley, Treasurer Kopp, and Comptroller Franchot, please use your power to make this situation right. Thank you.

GOVERNOR O'MALLEY: Thank you. Is Roxie here? No?

MS. LINGO: She's not. She had another engagement and had to leave.

GOVERNOR O'MALLEY: Okay.

MS. LINGO: Do you want to do it later?

GOVERNOR O'MALLEY: No. I'm wondering what you want, what it is that you think we could have done that would have prevented Sam Adams from closing?

MS. LINGO: Well we have met with you, we have actually asked you three things, the biggest of which is to have a worker retention policy, which has been enacted at many other airports around the country. And if those worker retention policies were amended in Airmall's lease, which we believe you can ask for now, that would prevent this from happening.

GOVERNOR O'MALLEY: Okay, let's do that, Wilson.

MR. PARRAN: Yes.

GOVERNOR O'MALLEY: What else?

SECRETARY MCDONALD: Please identify yourself --

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MS. SCHULER: Thank you --

MS. LINGO: My name is Tracy Lingo with Unite Here Local 7.

SECRETARY MCDONALD: Thank you.

GOVERNOR O'MALLEY: Okay. I mean, you all come every month whenever there is an issue here, and I'm always a little bit perplexed. I mean, I know we have a contract with Airmall, I know it's up in the air. Most of us weren't here when we entered into that contract. And I don't care for Airmall, I would like Airmall to be out of there. But I also can't, what is the latest on this, Mr. Parran?

TREASURER KOPP: What is up in the air?

MR. PARRAN: In terms of, to give you an update on the Sam Adams piece?

GOVERNOR O'MALLEY: Uh-huh. Sure.

MR. PARRAN: There were 17 employees that were involved in this closing of the business. Five of those employees have been retained in other locations. There is a job fair on Friday from eight of the other operators within the Airport --

GOVERNOR O'MALLEY: Good. Are you all aware of that, the job fair on Friday?

MS. LINGO: We are aware of that. The issue is that what we're looking for is something more stronger than that which is in other airports. When

workers lose their job in a situation like this they are given, they are put on like a waiting list, right?

GOVERNOR O'MALLEY: Mm-hmm.

MS. LINGO: A lay-off list. And they are given the first opportunity to work. What Airmall has promised is good faith interviews. Unfortunately we had a very bad history with that when SSP, another company, left the Airport and how many workers? Eighty-one workers --

MS. SCHULER: Yeah, 98 workers lost their job.

GOVERNOR O'MALLEY: This same Airport?

MS. LINGO: Same Airport.

MS. SCHULER: Yes, same Airport.

GOVERNOR O'MALLEY: SSP, how many years ago was that?

MS. SCHULER: It happened back in 2004 when Airmall came in. HMS had lost its contract, SSP America came in and took over. And then in 2012, they left, sold to a new company, the new company came in and only hired eight of the 98 workers. Ninety of us, as a matter of fact half of them have left the State of Maryland because they could not find a job. There is a reason why I have been out there for 40 years. And like that's what I mean, again the stability was there. This Airmall format that has been implemented does not create job security, and that's what we're basically looking for.

GOVERNOR O'MALLEY: Yeah, I don't think you'll ever find --

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MS. SCHULER: Job security among many others.

GOVERNOR O'MALLEY: Right, I understand that. Mr. Parran, continue, would you? What else were you saying?

MR. PARRAN: Yes. On Friday there would be the job fair at the Airport, and eight of the restaurant operators will be there to do interviews and try to replace the remaining 12 people.

TREASURER KOPP: Is that assuming there are vacancies at these --

MR. PARRAN: Assuming that they need vacancies. Of the 12 there are seven full-time and five part-time employees.

GOVERNOR O'MALLEY: Mm-hmm. And when did the, the Treasurer asked when is the contract up? The managing contract with Airmall?

MR. PARRAN: The contract is up 2017.

GOVERNOR O'MALLEY: Okay. And what grounds do we have to get out of that contract sooner?

MR. PARRAN: I can investigate that.

MS. LINGO: We can certainly --

GOVERNOR O'MALLEY: Whenever we come around to this we are usually told that we can't get out of this contract until 2017, unless they are in breach. And since these things weren't included in there, this isn't a breach.

MS. LINGO: You could, but you could also ask, certainly ask them for an amendment, and we feel like as the Governor of the State Airmall would--

GOVERNOR O'MALLEY: We are glad to do that. We will ask them for the amendment. So it is written, so it shall be. We will ask them for the amendment.

MS. SCHULER: Thank you. Thank you.

GOVERNOR O'MALLEY: Sure. You all could have called me to tell me that, rather than have everybody come down. But it's good to see you again.

MS. LINGO: We tried but --

MS. SCHULER: Thank you.

GOVERNOR O'MALLEY: It's good to see you every month, we'll see you next month.

MS. LINGO: Hopefully, you know what? Hopefully not. If you can really solve this, hopefully not.

GOVERNOR O'MALLEY: Yes, I doubt it.

MS. LINGO: Or we will invite you to our next membership meeting.

GOVERNOR O'MALLEY: Oh, I think I'll see you every month.
Thanks. Okay.

TREASURER KOPP: Could I, Wilson, I, I don't quite, we changed from the old model to the present model contracting at the Airport when?

MR. PARRAN: It was in, it was under the prior administration.

TREASURER KOPP: Yes, it was. Absolutely. When was it?

MR. PARRAN: It was, Suzette?

MS. SCHULER: 2004.

TREASURER KOPP: 2004? All right, so it's ten years ago?

MR. PARRAN: Yes.

TREASURER KOPP: And I thought at that point it was for a longer period than thirteen years--

MR. PARRAN: Suzette Moore from --

MS. SCHULER: Airmall's contract was supposed to expire in 2022, but apparently there was an implementation in there in 2017 that they can go back to the --

TREASURER KOPP: Okay.

MR. PARRAN: And Ms. Moore is with the Airport, so she can answer that question.

MS. MOORE: Good morning, Madam Treasurer, Governor, Mr. Comptroller. Suzette Moore, Chief Procurement Officer for BWI Airport. That is true. There is, the contract expires in 2017 but there is an option in it for the additional five-year --

TREASURER KOPP: Option? Okay.

MS. MOORE: Okay, for the 2022 time frame.

TREASURER KOPP: Okay, okay.

MS. MOORE: But it is in effect until 2017.

TREASURER KOPP: And can we amend it now as was suggested?

MS. MOORE: Well I can, first of all it's not my contract, it's on the commercial side of the house. But I can take that back to the administration and we can have that discussion. Obviously that would be something that Airmall would have to agree to.

TREASURER KOPP: Got it. We ought to have all the amendments we would like in line then.

GOVERNOR O'MALLEY: Yeah, if you all have any amendments you don't have to wait --

TREASURER KOPP: Before 2017 --

GOVERNOR O'MALLEY: Any other amendments, fire them in, and we'll ask them.

MR. PARRAN: We'll follow up.

GOVERNOR O'MALLEY: Thanks. Okay.

MS. SCHULER: Thank you.

GOVERNOR O'MALLEY: You're welcome, thank you. Transportation Agenda items, the Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

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

MR. COLLINS: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Al Collins, Secretary of the Department of General Services. The department has 17 items on our Agenda. We'll be glad to answer any questions.

Governor I will point out today we are presenting Item 2-C, I think the long awaited Visitor Center construction project for your consideration. That project will bring approximately 75 jobs to the area in various trades and at least four State jobs. And Governor, if you would I would like to separate Item 2-C from the remainder of my items and then present that separately to you.

GOVERNOR O'MALLEY: Okay. Anything else on the balance of the DGS items before we go to 2C? 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: And the ayes have it. Any opposed?

(No response.)

GOVERNOR O'MALLEY: None? Okay. So we move on to Item 2-C. Is there anyone here who wants to testify on 2-C? Okay. No one who wants to testify on 2-C. Any members of the panel have any questions on 2-C?

COMPTROLLER FRANCHOT: Yes, I do.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: I'm not sure who I, who do I direct them to?

MR. COLLINS: Governor, if I could just --

SECRETARY MCDONALD: -- presentation --

GOVERNOR O'MALLEY: All right.

MR. COLLINS: We have, Governor, if I might just move to --

GOVERNOR O'MALLEY: Yeah, we take, we had someone who wanted to testify but they have now withdrawn their request, Mr. Wayne Frazier. This is the project that I call the irony on top of ironies project. We managed to partner with our federal government in order to create a proper visiting center for the great American Patriot Harriet Tubman on the Eastern Shore. And this, and then Al Collins --

MR. COLLINS: Yes, sir.

GOVERNOR O'MALLEY: -- and the able people at DGS, and Ms. Hurley has put in a lot of time on this one. And as I understand it the heart of the controversy is that the winning bidder actually fulfilled their, and hit a minority business participation goal in lining up subcontractors, although that prime contractor is not African American.

MR. COLLINS: That is correct, sir.

GOVERNOR O'MALLEY: Whereas the disappointed bidder, who is African American, did not line up the amount of minority business participation so as to be qualified to compete and win this bid.

MR. COLLINS: That is correct, sir. That's correct.

GOVERNOR O'MALLEY: And there are some claims of confusion, and DBE, MBE, and all sorts of things like that.

MR. COLLINS: Yes, sir.

GOVERNOR O'MALLEY: But so that's what, that's the irony of this situation. Is that for the first time ever in the history of our State we actually hit and exceeded our MBE goal and part of the reason for that is we enforce it and we insist that every prime contractor regardless of their ethnicity has a diverse subcontractor pool that includes minority business people. The General Assembly might take a different view, I suppose, and perhaps give additional credit if the prime is African American? I don't know how all of that works.

Anyway, so why don't we go into the presentation as succinctly as you can and then we'll go right to the Comptroller's questions.

MR. COLLINS: Yes, sir. Yes, sir. Governor, I just want to point out that Secretary Joe Gill is here from DNR, who is in fact the customer, our customer on this as he is the leading agency to receive the federal money and other partnerships. And Joe wished to speak to the Board briefly, and then we will follow through with a brief presentation on the procurement process, and then answer any questions that may be appropriate.

MR. GILL: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For eight years Harriet Tubman was the conductor of the Underground Railroad, bringing slaves from Dorchester County, Maryland to freedom in New York. Back in 1896 she told a suffrage convention in New York, "I can say what most conductors can't say; I never ran my train off the track and I never lost a passenger."

For well over eight years Marylanders have strived to create a special place to honor and remember Harriet Tubman. Special credit belongs to Tubman's descendants, who have pursued this dream over decades. 2007 marked the formalization of efforts by the State, federal government, nonprofit organizations, her descendants, and others in surrounding communities like Cambridge to see this long overdue facility finally built after decades of hope. In 2007 this Board approved the acquisition of a 17-acre parcel to house the State

Park and Visitor Center. The parcel is nested in the middle of landscapes evocative of Tubman's time, agricultural fields, forested lands, and of course water, the Blackwater Wildlife Refuge. The National Park Service has declared these landscapes nationally significant.

In 2008 a federal, State, nonprofit, and citizen working group issued their final report but of course it wasn't enough to have a vision or land or a written report. It took funding and years of effort to obtain those funds.

Today we have in hand over \$21 million. We have federal and State grants and capital dollars from Housing and Urban Development, and the Land and Water Conservation Fund, Maryland Scenic Byways, and the Transportation Enhancement Program. President Obama in March, 2013 declared the mosaic of federal and State lands in Dorchester County the Harriet Tubman Underground Railroad National Monument. During the same month Maryland broke ground on the new Visitor Center. Governor O'Malley then spoke of visiting Blackwater as a boy and thinking about the courage it must have taken for Tubman to come back again and again to free the people that she loved.

Let's take a moment and walk through a few of the slides. And I see the views, so the views here from arrival and then the courtyard, what you will see there is that the design is meant to disappear into the landscape, as Harriet Tubman once disappeared into the woods heading north. The buildings provide a portal to enter the landscape to learn about the history of the region. There is a

walking trail to Blackwater, a water trail, and of course a driving trail. And much of the surrounding land is protected from development.

Let's go back to the site plan. Blackwater, if you look at this plan here, the entry road on the right, Blackwater is to the right and to the south. You enter the site from the south and you walk north into the building and through the exhibits. You walk north in the same direction as Harriet Tubman did. You walk north and you end up in the lighted area there facing an open field, looking across this field into the forest. A forest heading north to freedom. Thank you.

GOVERNOR O'MALLEY: Thank you.

COMPTROLLER FRANCHOT: Can I ask a question, since you are up there, Mr. Secretary?

MR. GILL: Certainly.

COMPTROLLER FRANCHOT: And thank you for your statement. This item previously appeared on both the December 18th and January 8th Board of Public Works Agendas but was withdrawn on both occasions. I am referring back to a letter, Mr. Secretary, that you sent us on January 6th where you said, "there are many risks if this award is delayed including the potential loss of federal transportation enhancement dollars and other federal grants." You then in the same letter went on to say, "if we do not award this contract expeditiously we run the very real risk of losing \$8.5 million in federal funding and being precluded from applying to that transportation funding source in the future."

Given that this contract award was in fact delayed already by nearly four months and now it's another four months, I would like to confirm that the federal dollars that are needed to support this project are still at our disposal and that these potentially dire consequences never came to fruition?

MR. GILL: Well the federal dollars are available. The requirements of the \$8.5 million grant were that we were to bid the project prior to the end of June of 2013, which in fact we did. So those dollars are available to us. The point of the letter was that if the bids are thrown out and that if we have to start all over again, we will not have met, we will not meet the June, 2013 date. And the point of the comment about the risk was we don't know. I mean, you can't actually the federal government won't commit one way or the other in terms of saying what will happen to these funds. But when we receive, normally when we receive grants that have requirements and then we try to comply with those requirements lest the failure to comply means that we lose the money. So that is the risk that we are talking about.

COMPTROLLER FRANCHOT: Okay. If I could ask some questions, I guess, of the Secretary?

MR. COLLINS: Yes, sir.

MR. GILL: Thank you.

MR. COLLINS: Governor, if I might now turn to the procurement section?

GOVERNOR O'MALLEY: Sure.

MR. COLLINS: Governor, let me bring up Bart Thomas, my Deputy and the lead here on this particular project. Joining him is Turhan Robinson, my principal counsel, and they will answer any of the procurement questions. In fact we have a presentation that we can present to the Board, Governor, pending your preference. Because we are prepared to dispute all of the issues that the unsuccessful bidder had put forward based upon the appeals and the rumors and all that we have heard. But you may not want us to walk through that. But --

GOVERNOR O'MALLEY: No, I'm sure that the, but just go through as quickly as you can.

MR. COLLINS: Yes, sir.

GOVERNOR O'MALLEY: And then the Comptroller will zero in on his concerns.

MR. COLLINS: Yes, sir. Let me just, let me also assure the Board that I as the Secretary --

COMPTROLLER FRANCHOT: Could I just interrupt? Are the opponents of this, or the Gilford people here?

MR. COLLINS: Governor, may I just take a second? This is a very important project to the nation, to the State, to the region, and certainly to all that we do here. And I want to assure the Board members that I as Secretary of

DGS take very seriously this project, take very seriously the issues and concerns that I hear about, take very seriously the issues that came out during the appeal process to the Board of Contract Appeals in which the State prevailed. Took very --

TREASURER KOPP: The State prevailed basically on standing issues, though.

MR. COLLINS: That's correct. Yes.

TREASURER KOPP: Not on substance.

MR. COLLINS: Right. But the issues of accusation that came up, I personally went back to make sure that we had reviewed each one of those. And the issues relative to the DBE, the federal piece which they will cover, I also walked through very closely. In fact that picture, I was there Monday with this print. I mean, I was there personally saying we've got to make sure we do this right and do it correct. And that's why I have absolutely no doubt that what we're presenting to you is the right way to go. I just need to just put that as a matter of record.

MR. THOMAS: Good morning. Bart Thomas, Deputy Secretary for the Department of General Services. I have a timeline on the screen that will be coming up. This timeline goes through the past ten months of the procedures that we have followed to do our due diligence in doing our great service to make sure that every contractor, as we have talked about, is treated fairly and equitably

on all procurements. As you are aware, DGS does thousands and thousands of procurements and we are fair and equitable on all of them.

On the timeline here, I'll try to go through it quickly, I'm not very quick on most things but I will try this one quickly. The solicitation was published on June 19th. This solicitation was approved by the State Highway Administration, part of our joint funding, and the Federal Highway Administration, who also approved it for their funding. The bid due date was July 23rd. It was moved to August 23rd. This was due to addendas and changes. And on August 13th we have the low bidder's name in here, Gilford, had asked a question of the Board, of the, I'm sorry, of the Procurement Officer, if his MBE status counted towards the DBE, which is disadvantaged business enterprise goals, which was a federal requirement on this project. And was answered negatively.

On August 23rd the technical and financial bids were accepted.

TREASURER KOPP: Could you just explain --

MR. THOMAS: Yes?

TREASURER KOPP: -- explain that? The DBE and the MBE?

MR. THOMAS: Okay. In the State of Maryland as you are aware we use all of our notices minority business enterprise programs. Under the federal government they used the disadvantaged business enterprise program.

TREASURER KOPP: Okay.

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MR. THOMAS: A large majority of both firms are on there. It just so happens, just to let you know, that Gilford, the low bidder, was not, and Maryland disadvantaged --

TREASURER KOPP: Is there a substantive difference between the two?

MR. THOMAS: I would ask GOMA to answer that if she would, please? The GOMA Secretary?

MS. WICKHAM-HURLEY: Yes, no problem. Madam Treasurer, yes, the biggest difference between the MBE and DBE programs are the size standards associated with each. The federal program --

TREASURER KOPP: What standards?

MS. WICKHAM-HURLEY: The size standards.

TREASURER KOPP: Size.

MS. WICKHAM-HURLEY: Both the business size standard as well as the personal net worth cap. The federal program is more restrictive, has smaller size standards and personal net worth caps than Maryland's program and that is how a firm can qualify for the State's program but not the federal program if they exceed the federal size standard but not the State size standard. So there is this gap in between the two standards that a few firms fall into, and that is typically what is the cause for a firm to be MBE only certified rather than both MBE and DBE certified.

TREASURER KOPP: And is that in fact the case here?

MS. WICKHAM-HURLEY: Yes.

GOVERNOR O'MALLEY: What is the fact? So who is --

TREASURER KOPP: Gilford is --

MS. WICKHAM-HURLEY: Gilford is MBE only certified.

GOVERNOR O'MALLEY: Because they are too big to be DBE certified?

MS. WICKHAM-HURLEY: At the time they applied for certified, yes, they did not meet the federal.

GOVERNOR O'MALLEY: And I suppose the policy rationale for that is to include more up and coming?

MS. WICKHAM-HURLEY: We are a more, like I said the federal program is a little more restrictive. We follow the U.S. Small Business Administration size standards. The federal government has said notwithstanding those size standards, we are going to set a more restrictive cap on gross receipts. So of about \$24 million, we think that is small enough for the DBE program. So it's just a policy determination on how big you will let your firms be to participate in the program.

GOVERNOR O'MALLEY: And there is always that policy debate raging that we always want firms to grow and become more successful,

and where do you draw the line especially as, you know, the price of everything and inflation goes up? Everything except middle class wages, that is.

MR. THOMAS: Okay.

GOVERNOR O'MALLEY: Keep going.

MR. THOMAS: On August 23rd the technical and the financial bids were received. All three firms submitted packages, there were three firms. All three firms passed the technical evaluation and the financial bids were opened on September 5th. With the financial bids comes the DBE package.

TREASURER KOPP: Well what is the deal about them being told on September 4th not to show up?

MR. THOMAS: The, when we were reviewing the technical specifications the firm of Gilford had what was called a teaming agreement with the firm called Manhattan. We have never used in the State of Maryland teaming agreements. We always use joint venture agreements. So our technical committee that reviewed this had determined that they did not meet the Maryland specs. That was at the end of that day to prepare to open their bids. That evening our attorney had reviewed it and determined that under federal guidelines, of which the DBE portion of this was under, a teaming agreement was acceptable. So that's why the next morning --

TREASURER KOPP: So first you told them not to come and then you said, oh, whoops, we made a mistake, you can come?

MR. THOMAS: Whoops, yes. Yes. Because in Maryland we use all joint ventures and it was a new type of agreement.

So when the financial bids were opened, which is when they submit their DBE information, Gilford had submitted a note in there that they were requesting a waiver to the DBE goal. Once we reviewed the documents the Procurement Officer sent a notice to Gilford asking for them to submit their waiver request information within ten days of being notified that they are apparent low bidder. That was on September 9th.

On September 20th, Gilford requested the waiver of 30 percent through a letter to us with their documents submitted under their good faith efforts. DGS in reviewing that documentation issued a waiver denial letter to Gilford saying they did not perform the good faith efforts as we required to meet the waiver requirement.

On October 10th under the federal requirements you are allowed to have a reconsideration hearing if you met the, to determine if you have met the good faith efforts and it has to be done by an independent party outside of the people that made the decision. DGS requested SHA, who does federal projects and who has done reconsideration hearings, to hold the reconsideration hearing for Gilford. The reconsideration hearing was held on October 23rd at State Highway Administration and State Highway sent a letter on October 25th denying Gilford's waiver request for good faith efforts. Gilford filed --

TREASURER KOPP: Could I ask there were allegations that there were meetings between Gilford and your MBE officer, I guess that was, that were cancelled?

MR. THOMAS: I don't have any, I saw that notice. But I don't have anything on my record showing that a meeting was to be held. We are always available to meet with them but I don't have anything in my documentation requesting a meeting.

Gilford on November 6th made an appeal to the Board of Contract Appeals. And on November 25th Gilford filed a protest with the Board of Public Works, of which the BPW staff forwarded to DGS where it should be.

On December 9th DGS sent a written request to the bidders to extend their bid prices while we were going through this appeal process. And on December 9th Schlosser extended their bid, which was the second low bidder. And on December 11th, Gilford requested until December 18th to respond to the bid extension. On December 12th we denied their protest, which had been submitted to the Board and back which was from November 25th.

On December 18th Gilford notified us that they could not extend their bid beyond the expiration date due to the volatility of the construction industry. And on December 23rd Gilford appealed the denial of the protest to the Board of Contract Appeals.

MR. ROBINSON: Excuse me, but also they identified in the letter of December 18th that price would increase after the first of the year. That was another reason why they would not extend their bid extension request. Which means the price would go up after the 1st of January, 2014.

MR. THOMAS: So on January 3rd, Gilford's price bid expired, which took them out of being an interested party in this project. On January 7th the Office of the Attorney General filed our report to the Board of Contract Appeals. On January 17th, Gilford comments to the Attorney General's Office, they submitted their report.

On January 22nd the Office of the Attorney General rebutted Gilford's comments to the Board of Contract appeals.

On February 24th the Board of Contract Appeals had the hearing, and on March 5th the Board of Contract Appeals ruled their decision denying, or dismissing the request.

On March 6th we requested an additional bid extension from W.M. Schlosser, the second low bidder. And on March 7th they submitted their bid.

It is to be noted, I don't have it on this list, that on April 2nd the Gilford low bidder filed an appeal of our Board of Contract Appeals decision to the Circuit Court for Baltimore City.

So we have been through ten months, through the process, through the appeals, and we are looking here today to award this contract to the second low bidder who has met all of the requirements. Thank you. Yes, sir?

COMPTROLLER FRANCHOT: I have a couple of questions.

GOVERNOR O'MALLEY: Sure. Mr. Comptroller?

COMPTROLLER FRANCHOT: Okay. First of all, I think the project is terrific obviously. I think it's going to be a substantial boost to the economy of Dorchester County. It properly memorializes the journey of an extraordinary woman in American history.

So I do have a couple of questions but I want you to know that it's in, I'm excited about the project and appreciate all of the work that you all have done.

But if you could just help me understand a little bit about the situation with Gilford Corporation of Beltsville, apparently I'm told that they, and I think you implied it today, they were the low bidder on this contract?

MR. THOMAS: Yes, sir.

COMPTROLLER FRANCHOT: How low a bid, what was their bid?

MR. THOMAS: Their bid was I believe \$1.2 million below the next lowest bidder, \$12,700,000.

COMPTROLLER FRANCHOT: Okay. So that's pretty significant. They were the low bidder by \$1.2 million?

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MR. THOMAS: Yes.

COMPTROLLER FRANCHOT: But the bid I believe you testified was disqualified because Gilford requested a waiver of the 30 percent DBE goal and that waiver request was rejected by DGS?

MR. THOMAS: By DGS, and then again in the reconsideration hearing of their good faith efforts by the SHA independent review.

COMPTROLLER FRANCHOT: Okay. So --

MR. COLLINS: Comptroller, may I add that --

COMPTROLLER FRANCHOT: Yes, please.

MR. COLLINS: -- we said Gilford was the lowest bidder in terms of money. But when we factor in the factors that determine the actual cost, DBE and the other considerations, their bid was not a responsible bid. So we have to look at the responsible bid, meaning the person who obeys all the rules and follows all the policies. Then we determine exactly who the low bidder is and who are the responsible parties. In this case they submitted a lower dollar amount. But when we looked at all the factors around the dollar amount, that dollar amount from our perspective is questionable because it didn't have all the factors around it.

COMPTROLLER FRANCHOT: Okay.

MR. ROBINSON: And one of the key factors was in fact -- I'm sorry.

COMPTROLLER FRANCHOT: Yes, I mean that's an interesting comment by the Secretary --

MR. COLLINS: Let me add further, Mr. Comptroller. Because I have looked, if you asked me what Gilford's final bid is I can't tell you, I really can't, I don't. And that's one of the prevailing issues for me is that when I look at what they submitted and what the factors are and all of the appeals, I really can't determine whether their final bid is \$12 million, \$14 billion, or what. Because all of the factors are not there.

COMPTROLLER FRANCHOT: Well I find that, obviously I have a lot of respect for you, Mr. Secretary. But I find that somewhat surprising. Because Gilford is a long time fixture of the State's business community. They are State and federally certified MBE vendor I would contend, but you all may have a different view on that. But it has also got an incredibly impressive body of work. You know, and the highlight for me, given the contract before us today and the subject matter, frankly I think they worked on the Martin Luther King, Jr. Memorial. And they have completed projects either as lead contractor, subcontractor, or joint venture partner at federal facilities such as the Pentagon, the Washington Navy Yard, NIH, the National Institute for Standards and Technology, Andrews Air Force Base, and the Interstate Commerce Commission, not to mention the Gaylord National Resort and Conference Center, BWI Airport, and other such big ticket projects throughout our State. And my point, Mr.

Secretary, is that I find it somewhat surprising that they would not have adequately communicated a bid and also that they are disqualified on a, what I think is a debatable technicality. But I take it there is no reason to doubt their ability to do the job and do it exceptionally well?

MR. ROBINSON: Mr. Comptroller, one of the things we would look at is part of the bid requirement and solicitation is that the vendor either identify, one, they were going to meet the DBE goal by the Code of Federal Regulations requirements for disadvantaged business enterprises; and if they are not then they have to identify they want a waiver, and how much that waiver is. And they also have to identify any vendors in fact they made contact with within ten days before submitting their bid, who in fact those vendors are, and the percentage of in fact work those vendors would provide. In Gilford's bid they checked off the box that said that they needed a waiver. They did not identify in their bid the names of the vendors that would in fact be providing work on this project. And if you take a look on their website, yes they do have a whole list of vendors and work that in fact they say they have done. And if you have that much work that you had performed on the federal side, knowing you have got federal requirements for a disadvantaged business enterprises, it makes no sense that in fact they would not provide the information required by the federal government. And that is surprising. The federal government requires in fact you check off the box, and also you provide within ten days before you submit your bid the names,

and made contact with the names and vendors that in fact you will have perform the work. And surprisingly, they did not do that.

COMPTROLLER FRANCHOT: Well I guess the Governor was referring to the irony of ironies in this, that this is a highly respected minority owned company and obviously your argument is they did not comport with the letter of the regulations and the law. But I'm sure Harriet Tubman is, if she is looking down on us, is probably arching an eyebrow at the fact that the spirit of the minority business enterprise experience represented by the Gilford Corporation, that they of all companies should not have lost the chance to compete for a multimillion dollar contract because it doesn't comply with some technical issues. But --

MR. COLLINS: Mr. Comptroller, they are more than technical issues. Those issues are hard, fast rules. We didn't create them. They are federal requirements. And that is what we must follow in this case. It was not a subjective call that I as Secretary of the department or DNR could make. We must follow those rules in line with federal policy.

COMPTROLLER FRANCHOT: Well they are not here today. So I don't know where they are, or what their level of concern is. So I'm going to reluctantly vote for this contract because I have a lot of confidence in the people that are here today. But I am pretty skeptical about the whole teaming versus joint venture --

MR. THOMAS: Well that was overcome.

COMPTROLLER FRANCHOT: -- not meeting this, that, and the other thing.

MR. THOMAS: Well the MBE, as you understand, we talked about it earlier, in Maryland we have a very fair and equitable arrangement in our regulation at this time that all vendors, whether they be MBE generals, non-MBE general contractors, must attain or must attempt to attain their MBE goal. And this firm did neither. It did not attain it, and it did not provide the documentation that they made an attempt to get their MBE -- I'm sorry, I keep saying MBE, DBE participation.

COMPTROLLER FRANCHOT: Yes, but isn't that why we have a waiver process?

MR. THOMAS: Yes, we do. But they did not provide the documentation to request a waiver. They are required to go out and solicit DBEs and get feedback from each one of them on why they will do the job, won't do the job. They gave us eight pieces of paper with no signatures on it and lists of vendors that they got from the contractors list out there. They did not do any direct solicitation.

COMPTROLLER FRANCHOT: Does it strike you as ironic?
This is the Harriet Tubman Memorial --

MR. THOMAS: I, sir --

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COMPTROLLER FRANCHOT: -- and --

MR. THOMAS: -- I've been here for 45 years and I feel the same way. But it is not the law. The law or the regulation requires us to follow the procedures. It would be great if everything fell in line. But it did not. It's the regulation. Like the Secretary said, we have no choice. We must follow what is out there and what is what we did on this project.

MR. ROBINSON: And also, Mr. Comptroller, one of the things that is very important is that we comply with the purposes and policies of Maryland procurement law. Which require being evenhanded, requires in fact equitable and fairness for all vendors, and it requires in fact that we have competition, a free enterprise system. And if you take a look at everything that was done by DGS, DGS did all acts in accordance with establishing and maintaining and enforcing those policies and standards set forth in Maryland State procurement law. We complied with that. And if you take a look at everything we did, the whole body of work done by procurement, including giving the vendor the opportunity to extend its bid which they elected not to do, we complied with every opportunity to give that vendor the chance to in fact bid on this solicitation in accordance with all law and requirements. We did that. You know? We did that.

GOVERNOR O'MALLEY: Mm-hmm. Okay. Any other questions?

TREASURER KOPP: Yes, I still am a little confused about the DBE and the waiver request. And I look at your forms. And I understand Gilford said and later did come up with some names that they did not seek a total waiver. But there is no place on your form that says total or partial. It's a check off, we request a waiver. And then ten days after you are notified, at least that is the way I read it, I'm no attorney, ten days after you are notified that you are the apparent winner you submit a list of DBEs, of subcontractors. Is that --

MR. THOMAS: No, let me clarify that, ma'am.

TREASURER KOPP: What is wrong with that, then?

MR. THOMAS: No, here is the requirement. When you submit your documentation with your financial package on the DBE form you check the box that says I am going to obtain the percentage, or you check the box that says I am requesting a waiver. And if you check the box that says you are requesting a waiver --

TREASURER KOPP: Yes.

MR. THOMAS: -- this is the document --

TREASURER KOPP: Okay, I see. Whole or in part, and that was what was checked.

MR. THOMAS: Okay. And it says, "I conclude that unable to achieve the DBE participation goal, I hereby request a waiver in whole or in part of the goal."

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TREASURER KOPP: Okay, right.

MR. THOMAS: So then within ten business days of receiving the notice that our firm is the apparent awardee or as requested by the procurement officer I will submit a written waiver request and all required documentation in accordance with --

TREASURER KOPP: Right. Because I just heard you say, I thought I heard you say that there was nothing submitted with this.

MR. THOMAS: There was no --

TREASURER KOPP: And this doesn't call for anything to be submitted, right?

MR. THOMAS: Yes. If you go in on here, and it says, "For a partial waiver I agree that the certified DBE firms that will be used to accomplish the percentages of the total dollar amount of the contract as set forth in DBE participation schedule part two of the MBE/DBE Form B," which is in the back of this package, okay?

TREASURER KOPP: Right.

MR. THOMAS: And that part B in this package, Form B, that they filled out showed no participation at all.

TREASURER KOPP: Because back here it says, what you read to me said submit it ten days --

MR. THOMAS: No, no, no. They will submit their documentation of their good faith efforts for the waiver in the ten days, if they read through the complete package.

TREASURER KOPP: I will submit a written waiver request and all required documentation. For a partial one...

MR. THOMAS: And then if you were to read 21.11.03.01, it tells them they have to submit their documentation --

TREASURER KOPP: Well this is, I must say, as I said I'm not an attorney --

MR. THOMAS: I understand.

TREASURER KOPP: -- I'm happy not to be an attorney. The other two people here are attorneys, they can look at this. But to me this doesn't, this is at the very least extraordinarily confusing and confused in that regard of, its simply when you are supposed to submit the list when you are requesting a partial waiver.

MR. THOMAS: Okay. I understand that you are confused. And this is out there, has been used everywhere, it has been used by the federal government, State Highway, and --

TREASURER KOPP: That doesn't change anything, sir.

MR. THOMAS: -- I would think they should be well aware of it because they do this constantly with the federal projects. But this is very cleanly written in the specifications that they had, the documentation --

TREASURER KOPP: No, no, no, it's not very cleanly written. It's not very cleanly, it may be correct.

MS. WICKHAM-HURLEY: If I could say a few words? Because I think it's important for everyone to know that we did do an independent review of the facts and we acknowledge that this case is unfortunate. I mean, everyone knows that the MBE and DBE programs are put in place to ensure minority business inclusion, and so I agree with everyone who has already stated that the fact that we have had to reject a minority bidder for not complying with the program that was put in place to help them succeed in State contracting is the worst kind of irony. And so I agree that that is where we start.

But the facts of the programs are very clear. When bidding on a contract with an MBE or a DBE goal, a bidder, including a minority bidder, has to show that they either met the goal or made a good faith effort to meet the goal. And as DGS correctly noted, our State laws require that bidders identify as a matter of responsiveness any MBEs or DBEs that are going to be used to meet that contract goal at the time of bid submission.

Now this is a very important MBE policy that goes back to 2004 to address widespread MBE subcontractor abuse that is known as contractor amnesia

or bid shopping. And that is when a prime contractor uses an MBE's quote as part of its bid package but once they are awarded the State contract they replace that MBE or they ask that MBE to do the work for a reduced fee. And so this is really an important policy that we have in place that protects MBE subcontractors on State projects from fraud and abuse.

But as we say when we train MBEs, what is the right of an MBE subcontractor on one hand is the responsibility of an MBE prime contractor on the other hand. And the documentation that we reviewed that DGS has discussed does demonstrate that Gilford did not submit the names of any certified DBEs with its bid, nor did Gilford submit the names of any certified DBEs or even seek to count their own self-performance ten days later when they submitted their waiver documentation. And so it was only after the full waiver request was denied that Gilford submitted the list of MBEs and DBEs for the project and articulated that it was seeking a partial waiver of the 30 percent goal. And ultimately that amended participation schedule, if you look at it closely and review it closely, it shows a commitment of just 12 percent to certified DBEs.

But whether we evaluate Gilford's good faith efforts under the full waiver request or the partial waiver request, the document they submitted only shows a pro forma effort to solicit certified DBEs. And so it fails under either scenario.

TREASURER KOPP: It's pro forma because they didn't request enough, they didn't solicit enough?

MS. WICKHAM-HURLEY: Exactly. They did the mass email, and then the follow up was very minimal. They said they sent it to maybe 1,100 MBEs or DBEs. They got 150 responses. They can document follow up calls with eight firms in only two of the 12 categories that the State identified as potentially subcontractable. That is pro forma. They didn't look at all the categories. They only talked to a handful of the hundreds of certified firms that were available. And then they were even, when given the opportunity to submit an amended participation schedule still were seeking 18, you know, they would have been evaluated for an 18 percent waiver of a 30 percent goal with that documentation.

TREASURER KOPP: I noticed that in another contract we have Schlosser qualified with 30 percent but is seeking now after the fact a waiver of how much? Their performance is at eight. Is this typical? Do we look at that?

MS. WICKHAM-HURLEY: This is, I believe you are referring to an MTA contract --

TREASURER KOPP: Yes.

MS. WICKHAM-HURLEY: -- that is up for modification. We were very concerned about that. That is not the only contract they are listed on, I think a group of 13 contracts --

TREASURER KOPP: No, no, no. And I understand that.

MS. WICKHAM-HURLEY: -- with varying levels of compliance.

TREASURER KOPP: But do we look at that sort of history when we --

MS. WICKHAM-HURLEY: We do. We strongly recommend to agencies when they are evaluating whether a bidder is responsible that they look at their past history of compliance. Of course Gilford never made it past the responsive hurdle to even get to that evaluation of whether they were. But I guess with regard to Schlosser, certainly I would hope that the agency had looked closely at their participation. I know that when I saw that MTA contract, for example, I was concerned. I reached out to the agency. They shared with me that that was not up to date compliance. And at the time that they did the most recent compliance back in July, Schlosser was compliant with the goal. And so we have asked the agency to update that compliance.

TREASURER KOPP: But you do look at that?

MS. WICKHAM-HURLEY: We do look at that. And we, well, you know, we don't often participate in the review but we certainly recommend that agencies look at that.

TREASURER KOPP: I mean, we, you, the State looks at that?

MS. WICKHAM-HURLEY: Yes. And so just a few more comments because I think it's important that I, you know, put my thoughts on the record in this case.

As GOMA's Special Secretary and the person that is charged with ensuring minority inclusion on State contracts, it really does give me no pleasure to recommend that this Board approve the rejection of an African American bidder to build the Harriet Tubman Memorial. I mean, she is the iconic symbol of the African American struggle for equality. And I think as a result of the discomfort of this scenario I, my staff, my peers, spent numerous hours reviewing the facts and the laws associated with this case. And I believe it was at least five agencies, more than a dozen people who were involved in reviewing this case in whole or in part. And we all came to the same, even if you believe it's an unfortunate, conclusion.

And yes, it's true that DGS made some mistakes. I think it's important to acknowledge this was not a perfect procurement. We noted there was a premature rejection of Gilford prior to public bid opening. We know there was some confusion with the references to MBE and DBE in the solicitation documents. However, DGS did take corrective action to correct those errors. And I think more importantly those errors did not cause, nor do they outweigh, Gilford's own failure to comply and meet its own requirements as a bidder to comply with the DBE program requirements.

And so when I think about this case, as I have for many, many months now, and particularly in the last couple of weeks, it really does come down to an issue of fairness. And that in the State of Maryland we require both our minority bidders and our non-minority bidders to make a good faith effort to meet MBE/DBE goals on State contracts, is really one of the ways that we ensure that these programs are fair to all of the participants. And Maryland, you know, it's not enough to just be the lowest bidder in Maryland. We are so committed to ensuring that all minority and women owned firms have a fair and equal opportunity to participate at the subcontracting level that we are willing to go pay for the higher bid or accept the higher bid in those cases where the contractor can prove that it was inclusive in its outreach efforts. And so I understand that it may make us uncomfortable when a bidder is deemed nonresponsive for failing to comply with MBE when it is itself an MBE. But under our current laws and policies that really is in my determination the only fair and legal decision. And that is why I am supporting this item today.

GOVERNOR O'MALLEY: Yes, Mr. Comptroller?

COMPTROLLER FRANCHOT: We'd better get to the vote because I'm starting to lose my support a little bit here. Are you, is it your testimony that Schlosser or whatever, or that company that I guess is the winning bidder, they can put down 30 percent MBE, win the contract, and then come back to you and get that reduced?

MS. WICKHAM-HURLEY: No, I'm not sure what I said to make you think that.

TREASURER KOPP: I raised that issue. And apparently --

MS. WICKHAM-HURLEY: No.

TREASURER KOPP: -- we looked at a performance report on an MTE contract and it indicated that the MBE goal was not being met.

MS. WICKHAM-HURLEY: Right.

TREASURER KOPP: But then what we hear is subsequent to that in fact it was corrected and it was met.

MS. WICKHAM-HURLEY: Right. The law does not allow an MBE contract goal once it is approved and incorporated into a contract to be reduced ever.

COMPTROLLER FRANCHOT: And so just to clarify, who exactly makes the decision on this as to whether it's go, no go for Gilford? Is it GOMA? SHA? DNR?

MR. THOMAS: No, it's the procurement officer along with the Business Enterprise Officer at the Department of General Services.

COMPTROLLER FRANCHOT: And who is that? Is that you, or --

MR. THOMAS: No, no. The procurement officer is in our Procurement Office. The Business Enterprise Office is our compliance officer.

MR. COLLINS: Ultimately, it's me, Mr. Comptroller.

COMPTROLLER FRANCHOT: Mm-hmm.

MR. COLLINS: I have to review it all and approve it all. Otherwise, it doesn't go. And I spent, as the Special Secretary, I also spent a number of hours on this reviewing it and re-reviewing the determination.

COMPTROLLER FRANCHOT: Mm-hmm. Okay. Well I'm not going to stick my neck out for Gilford here. Because I'm kind of amazed that they are not here after sending legislators and all sorts of people over to meet with me and complain about this. But it is what it is. I said I was going to vote for it because I support that part of the State greatly and understand some of the complexities here. But I mean, I'm a lawyer, but I don't follow some of this analysis. And so very reluctantly I would move favorable, Governor. But not very happy, as I take it a lot of you are. Or uncomfortable, I guess is the word.

GOVERNOR O'MALLEY: I'm going to second this motion. And I think the greatest tribute, I mean, that -- let me say it a different way. I'm going to second this motion. This is irony piled on top of irony. But the worse irony at all would be the undercut the integrity of our MBE program which is the most successful in the country and it is successful because we enforce the same rules for everyone where minority contractors are concerned.

If someone wants to make a policy argument to the General Assembly that additional points or some other sort of scoring should attend to

procurements and can be done constitutionally and legally, they should do that. But until such time as the law is changed, we enforce the MBE rules. And as a result we have had the highest level of women and minority business participation in our State's history by enforcing them fairly across the board. And that is what we are doing in this case. And I think it's going to be a very good project. So I'll second it. All in favor signal by saying, "Aye."

COMPTROLLER FRANCHOT: Aye.

GOVERNOR O'MALLEY: Aye. All opposed?

TREASURER KOPP: No. No, not opposed.

GOVERNOR O'MALLEY: Okay. Okay.

(Laughter.)

GOVERNOR O'MALLEY: All right. So --

TREASURER KOPP: But I would say just, and I understand the people who respond to these bids have lawyers and all that. I will reiterate what I said. Looking at all these forms and everything, it was very unclear to me. And I also do think that we need a much better understanding of the substantive differences in rules of MBE, DBE, CBE, whatever they all are, for those of us who are only citizens and not lawyers.

MR. THOMAS: Thank you.

GOVERNOR O'MALLEY: We've got one more item, very, very quickly. Item 3, where is our ranger? Come on down, 1814?

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MR. COLLINS: Ah, yes, sir. Absolutely, Governor.

GOVERNOR O'MALLEY: Just give us a short version and then I will give you a tour of the Governor's Office.

MR. COLLINS: And I knew you would, Governor, I knew you would --

GOVERNOR O'MALLEY: I should have done this first. We're itching to get out of here. My colleagues have to go. I should have called this earlier. This was a simple one. Tell us about it. What's your name?

MR. BAILEY: My name is Robert Bailey and I'm a park ranger with Maryland State Parks, currently actually acting manager at Elk Neck State Park. But I previously worked at Gunpowder Falls North Point. And this is a proposal to establish and develop the North Point State Battlefield, which is a plot of land that has miraculously survived considering the development surrounding it in the eastern portion of Dundalk. And you can see here this is a mockup of what the Battlefield will hopefully look like come September. It is going to include parking for public access. The property presently lacks any public access, and it's going to provide interpretive signage to describe the Battle of North Point which is associated with the larger Battle of Baltimore, as I'm sure you well know.

GOVERNOR O'MALLEY: Right. This is when General Stricker was ordered uncharacteristically for that War to actually ride out and to attack the British rather than just hunkering down and waiting for them to attack us. The

British have chosen to remember that Battle as a draw. In that Battle, two marksmen, young marksmen, Wells and McComas, took out the opposing General in the opening of the Battle. His family has a different view of that being a draw.

MR. BAILEY: I imagine so. I imagine so.

COMPTROLLER FRANCHOT: Is that in the Battlefield, where he met his demise? General Ross?

MR. BAILEY: Unfortunately not. He was wounded about a mile or so east of the Battlefield site. General Ross was fairly confident that there weren't any Americans in the area when he came ashore on the night of September 12th, early in the morning. The British actually started coming ashore at North Point approximately 3:00 in the morning. And they finally got moving at about 7:00. But they were still very slowly moving. And they weren't really expecting any Americans in the area, particularly a large force. And so when he heard a skirmish not too far from his location near the Gorsuch House he rode out to see what was going on. And it was at that point he was shot, mortally wounded, which took a lot of wind out of the British sails, proverbial sails, to continue the campaign.

The Battle itself was, is a complicated in the sense that the British did hold the field when the Battle was over but the Americans were not trying to chase off the British in this Battle. This Battle was designed to show that this

would not be a repeat of what happened at Bladensburg. This was going to be a Battle where the American militia were going to stand their ground, demonstrate that they were going to put up a much more substantial fight and that if the British were going to continue their efforts to attack and sack Baltimore the cost was going to be much higher. And so from that standpoint the Battle was very much an American victory in the sense that it delayed the British advance to, because they had planned, General Ross, Major General Ross had planned to be in the outskirts of Baltimore by that evening and instead they decided to camp out at the Methodist Meeting House.

GOVERNOR O'MALLEY: Because there were demoralized with the loss of their General.

MR. BAILEY: Yes --

GOVERNOR O'MALLEY: In fact Ross had said after burning Washington that he was going to march on Baltimore and dine there.

MR. BAILEY: Exactly.

GOVERNOR O'MALLEY: Because even then we had great restaurants in Baltimore.

(Laughter.)

MR. BAILEY: Absolutely. Absolutely. So --

GOVERNOR O'MALLEY: And then he was going to burn Baltimore to the ground. They got only as far as kind of current day Orangeville -

-

MR. BAILEY: Yes.

GOVERNOR O'MALLEY: -- to the west of Johns Hopkins Bayview, on another sort of bluff there. And when they looked down they saw that the American's force that was long Patterson Park on Hampstead Hill, and also in trenchworks that ring the whole northern and northeastern side of the City, black and white people had dug together and were in those trenches together. And they saw a force of some, what, 15,000 that were there.

MR. BAILEY: Absolutely.

GOVERNOR O'MALLEY: They were attacked by, what, about a force of 3,000 at North Point?

MR. BAILEY: What, the American position? The American strength at North Point was about 3,000.

GOVERNOR O'MALLEY: Yes. And so once they --

MR. BAILEY: Yes.

GOVERNOR O'MALLEY: -- when they got there and they saw that the Army there was not the 3,000 guys that they had fought with but were dug in, they needed to bring the ships up past the Fort which is why the Fort became so important, because without the ships raining down their artillery on

those very high positions -- I'm not sure the ships could have even gotten up to that high position from down there. But when they wouldn't go the British, demoralized by the loss of their General and seeing that the Navy couldn't get past the Fort, they said we're out of here.

MR. BAILEY: Yes.

GOVERNOR O'MALLEY: So where is this in proximity, this stretch of land in proximity to where the Battle actually happened?

MR. BAILEY: This is actually where the Battle occurred.

GOVERNOR O'MALLEY: No, really?

MR. BAILEY: Yes.

GOVERNOR O'MALLEY: I thought it was all houses.

MR. BAILEY: I'm sorry?

GOVERNOR O'MALLEY: I thought it was all houses now, and highway.

MR. BAILEY: Well it is, there is some conjecture as to where exactly the American line was. It is, there is some argument that it was perhaps set up on the east end of the property. However, it depends on who you read, the circumstances, you know, the evidence is somewhat --

GOVERNOR O'MALLEY: Have you looked at the Battle map on the Star-Spangled Banner 200 website?

MR. BAILEY: I believe, I may have to look at it again --

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(Laughter.)

GOVERNOR O'MALLEY: Yes. Tell us whether, tell us whether that is accurate. Because we have very cool, for those of you listening at home, all three of you, Star-Spangled Banner 200 website has a cool interactive map that shows you with a modern overlay, it shows you the troop movements on the current day map.

MR. BAILEY: Yes.

GOVERNOR O'MALLEY: So but you believe that this is part of where the Battle was, because it was fought kind of in two phases, too, right?

MR. BAILEY: Yes. Well it is very likely that at the very least the American position was on this property.

GOVERNOR O'MALLEY: Mm-hmm. That's great.

MR. BAILEY: The debate at this point is whether or not, when the property was first acquired several years ago the consensus at the time was that we had actually struck gold, you know, and that the American position was pretty much where it is indicated on that mock up. However, as time has gone on and as more research and more people have looked at this, it is possible that the American line was actually set up on the far eastern edge of the property. The rationale behind that being that the Americans are set up behind a snake fence, a snake rail fence, and that they tended to build those at the edge of properties, at the edge of fields. And it is very likely that the property line in 1814 was

probably the same as it is today. So, but again that is conjecture. And so we have decided, the Department of Natural Resources has decided to put a representative battle line in the middle of the property to use that as an opportunity to interpret the Battle and try as best you can within what is otherwise a very developed area to give you a sense of how the Battlefield would have looked in September of 1814.

GOVERNOR O'MALLEY: Okay. All right. So this was cool. So we just approved this, huh?

MR. BAILEY: I hope so.

GOVERNOR O'MALLEY: And when will this be up and going and ready?

MR. BAILEY: I believe the plan is to have it ready by September.

GOVERNOR O'MALLEY: Good. Okay. Well this concludes our meeting and I thank you very, very much for staying. Let me show you a picture, a portrait of General Stricker in my office after. This concludes our meeting.

MR. BAILEY: Thank you, sir.

(Whereupon, at 12:39 p.m., the meeting was concluded.)