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

**November 2, 2016**  
**10:05 a.m.**

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# **PRESENT**

**HONORABLE LAWRENCE J. HOGAN, JR.,**  
Governor

**HONORABLE NANCY KOPP**  
Treasurer

**HONORABLE PETER FRANCHOT**  
Comptroller

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

**ELLINGTON CHURCHILL**  
Secretary, Department of General Services

**DAVID BRINKLEY**  
Secretary, Department of Budget and Management

**PETE RAHN**  
Secretary, Department of Transportation

**MARK BELTON**  
Secretary, Department of Natural Resources

**LUIS ESTRADA**  
Deputy Secretary, Department of Information Technology

**HERB JORDAN**  
Special Secretary, Governor's Office of Minority Affairs

**MISSY HODGES**  
Recording Secretary, Board of Public Works

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# PROCEEDINGS

GOVERNOR HOGAN: Good morning, everyone.

AUDIENCE: Good morning.

GOVERNOR HOGAN: Thank you for being here. Last week I got the chance to tour Main Street, Ellicott City and witness firsthand the tremendous progress that County Executive Kittleman and his team, together with our State agencies, the tremendous progress that they've made in cleaning up and repairing and rebuilding after the flood damage. And it was really encouraging to see so many stores and restaurants that were reopening. We had the opportunity to honor many of the heroes from the flood. Not only the, there were so many, you know, stories and acts of heroism, not only that first night but in the days that followed and citizens who worked tirelessly to help their neighbors clean up. And you know, we awarded the folks that banded together in the human chain to save the woman from the car, everybody has seen that video of course. But also those who organized and made food deliveries and volunteers who helped clean up the debris and those who donated their time and their organizational skills to plan and help fund some of the recovery. But all of them were Marylanders working together to help their neighbors and coming together in the face of tragedy to help their fellow citizens. And I just wanted to say, Ellicott City has come a very long way since that tragic situation in July. There's still a whole lot more to be done, but I'm very pleased with the progress. I have no doubt that by continuing to

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work together and everybody pitching in and helping out that Ellicott City's future will be even brighter and better than its incredibly significant and historic past. So at this point I'd like to turn the floor over to my colleagues for any opening comments. Madam Treasurer?

TREASURER KOPP: Governor, good morning. It's a pleasure to be here. I, too, without the escort happened to go to Ellicott City and was very, very impressed. And it shows what a community can do when they come together. It also points out, I believe, a serious need in planning both at the State and local level with an eye towards the impact, I see the Secretary nodding, the impact and adaptation to changes in the climate. This radical increase in what we now call nuisance floods, right? A term nobody even heard of a few years ago, which are just indicative of an infrastructure, like a sewer system or like the large expanses of impervious surface, which simply are not created to contain the waters and the forces that are coming. And I was pointing out to a class at school last week, you know, you think the waters are coming, you want to jump in because summer is over and this is a, but it's not just clean, potable water that's coming. This is a serious health hazard. And so I'm glad, and I'm looking forward to hearing from the Department of Natural Resources and the rest of the cabinet about how we're dealing with adaptation to this changing climate.

Governor, I was just going to mention there are three very significant items I believe on the Agenda today. The first one, I believe, dealing

with the State budget. We were talking to the rating agencies in New York and I think they understand that Maryland has an outstanding process for dealing with problems like the one we face now, one where the revenue estimates came in low. The Governor sent in a budget in the last session that was under spending affordability. The Legislature cut it even more, ended session with a reduced budget, a Rainy Day Fund over \$1 billion and a significant surplus. And then we started seeing the revenue estimates come in a small percentage below the anticipated. But a small percentage in a very large budget is a good amount of money. And this Governor, like his predecessors, we're now facing the need to cut and cut as early in the year as possible to spread across the pain for a whole year instead of just waiting until the 11th month and then doing what you have to do. Meanwhile, the world's economy and the nation's is in flux. We are, in case somebody has been sleeping for the past couple of months, in a time of volatility and will be a little longer. And we'll just be keeping an eye on those revenue estimates.

But I think, as I said, this, I just wanted to point out that this shows the strength of a system that is able to respond to needs and that budgets prudently. We hope we won't have to go into that \$1 billion Rainy Day Fund. We never have. But it's there and I think the folks who invest in us know that and appreciate it.

GOVERNOR HOGAN: Thank you. Mr. Comptroller?

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COMPTROLLER FRANCHOT: Thank you, Governor. And good morning, Madam Treasurer. Last week my office held a job fair in Baltimore City, which drew hundreds of job seekers from across that region. In a two-hour span over 700 Marylanders stood in the rain, 6:00 p.m. to 8:00 p.m., 700 individuals, to a person talented, energetic, many of them had been in the military, all of them needed a job.

So I was not, I could not have been more pleased to be there not just with my own agency, because we are hiring people. But the Governor allowed seven, or six, of his agencies, the Department of Budget and Management, the Department of General Services, the Department of Public Safety and Correctional Services, the Department of Juvenile Services, and the Department of Human Resources, to join with us. And Governor, thank you for that. Because trust me, it had a very, very positive response. We're going through hundreds of resumes from the, what I believe were a pool of highly qualified job seekers. And obviously the Governor's agencies will be making, looking also for their own needs.

We're going to have another job fair on November 15th at the Humanim Building in Baltimore. This, the first one was the CC Jackson Community Center in Baltimore's Park Heights. Trust me, that is an area that's economically challenged. And frankly, the rec center was too small. So the next job fair is going to be in a bigger location. And we're going to reach out, try to do



the right thing. And not only the State agencies, but the Baltimore Mayor's Office of Employment Development and also not for profits, like Maryland New Directions, were there. And they provided valuable resources and information to attendees and my staff. I want to thank my staff for organizing it. We had no idea it would have such a large turnout. And Governor, I think that's a, just a reminder to us that all of us have a lot of work to do to continue the progress towards full employment. And we're doing better and obviously we have to weather the, some of the uncertain economic times. But I think today's significant action by the Board underscores the continued challenges that the State faces with our economy and revenue outlook. And it reinforces the need for caution and fiscal prudence as we make tough decisions on how to best spend Marylanders' hard-earned tax dollars.

And if I could, just as a point of personal privilege, make a comment about the fact that the elections are going to be held next Tuesday. I want to remind our citizens that we are Americans, and we are Marylanders, way in front of being Democrats or Republicans. And I am just appalled at the toxic partisanship that each side has demonstrated. And it is obviously of great concern to me because somebody is going to have to, after next Tuesday, put our country back together again. And it's not going to be done by the professional politicians who have torn it apart. It's going to be done by people in the communities who work together, whose kids go to the same school, who live in the same

communities. It's all of us that are going to have to remind ourselves that we have a common identity. And the Governor is a Republican and I'm a Democrat, but I think, and the Treasurer is a Democrat, but I think everybody realizes that there's been a lot of damage that's been done and we're going to have a lot of hard work putting things back together. I just wanted to say that and get it off my chest, Governor.

GOVERNOR HOGAN: Do you feel better?

COMPTROLLER FRANCHOT: Yeah, I do feel better.

(Laughter.)

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: Thank you.

Well, thank you very much. Normally we start off with the Secretary's Agenda but as I think most people know we have a very important item on the Budget and Management Agenda, Item 11, which we'd like to take up first. So we're going to start with the DBM Agenda and then we'll go back to the regular Agenda order.

The Board of Public Works is vested with important budgetary authority. And today it is necessary for us to exercise that authority. Unfortunately due to unsustainable forced increases in spending, the State has simply been spending more than it takes in. So we need to take some immediate actions to be more fiscally responsible and we will be continuing to monitor

revenues and to see if we will have to take further actions again in the near future. But we've all seen the latest revenue estimates and the spending affordability report. And while our three percent revenue growth is fairly healthy, the rate of spending even under the rosiest of assumptions still outpaces what the State brings in to the tune of about \$250 million a year.

So even the Legislature's own Budget Officer Warren Deschenaux is raising serious concerns about this chronic problem in his briefings to legislative budget leaders telling them that they need to "get real" about the State's unaffordable spending problem. Our Budget Secretary strongly agrees with that assessment and so does everyone else in our administration.

Reforming Maryland's budget process in order to stop spending more than the State takes in has been a top priority of ours since day one of our administration almost 21 months ago, which is why we worked so hard to eliminated 90 percent of the \$5.1 billion structural deficit in our first budget. It's why we pushed to increase the Rainy Day Fund to over \$1 billion. It's why we proposed common sense reform to help free us from the handcuffs of having 83 cents of every single State dollar be mandated spending increases. Our administration saw the potential for this budgetary shortfall on the horizon, which is why we refused to spend the \$80 million in additional money that the Legislature had fenced off and has been trying to force us to spend. Not spending

that money was the right decision. Had we done so the shortfall would have been \$80 million worse than it is today.

Not spending that additional \$80 million was simply step one. The budget actions that we're proposing today, and which Secretary Brinkley will detail for us in just a moment, represent the second step in taking actions to put us on the right course to address the realities of this fiscal year's revenue picture. So with that, I'll turn it over to Secretary Brinkley.

TREASURER KOPP: Governor, could I just interrupt to say what I said before?

GOVERNOR HOGAN: You already have.

TREASURER KOPP: Thank you. Well, sometimes one feels one has to. Just to remind folk, and I don't believe the Secretary would disagree, that the budget that was submitted, that you submitted and that was later cut by the General Assembly, when it was enacted in fact did address the structural deficit in '16 and '17, and created not only over \$100 million in the Rainy Day Fund but a surplus. That in fact was the situation.

We are now hit by a revenue shortfall. And of course there's always ongoing policy debate about where the funds should go and what department. I recognize that. That's not my role, whether it should be in Corrections or Education and Housing, or whatever, and where it should be cut. But I wouldn't want folks to think that the budget was passed in deficit, or that the

problem we face today at the moment is due to excess spending, because there still is that surplus. But it is due to the revenue. We sit on the Revenue Board, to the revenue coming down, and we're going to have to deal with it, and you're dealing with it, and I hope this is the first bite but I have a feeling, Governor, unfortunately that it's probably not. And I hope we can all deal with it together and acknowledge the causes and not just turn this into a who struck John. The budget that the Legislature passed, the Governor's budget, the budget that everybody received, was in fact a structural balanced budget. But it depended on revenue that were too --

MR. BRINKLEY: Didn't materialize.

TREASURER KOPP: -- didn't materialize.

MR. BRINKLEY: That's the way to put it.

TREASURER KOPP: Yes. Yes.

MR. BRINKLEY: So --

GOVERNOR HOGAN: And thank you. Thank you, Madam Treasurer. The other thing I want to point out before we hear from Secretary Brinkley is that we could be in a much worse situation.

TREASURER KOPP: We could be Virginia.

GOVERNOR HOGAN: One of the things, yeah, we could be Virginia. One of the things that, you know, we've been focused on growing our economy, helping the private sector grow, helping businesses return to the State,

expand in the State, create more jobs. We went from last place in the Mid-Atlantic region in job creation to first place. We added 76,000 private sector jobs. Our State economy in 2014 was ranked 49th out of 50 states. We're now number 11. It's the biggest economic improvement of any state in the United States of America. In spite of that we have a national economy, we have, you know, headwinds that are making things difficult. And the revenues are not coming in as much as we would have expected. But if we had not taken all these other actions of improving our economy and reducing the deficit we'd be in a really terrible situation. So it's reasonable, but we're going to address it. Right, Mr. Secretary?

MR. BRINKLEY: We are. We're in the midst of it. Thank you, Governor. And for the record, I'm David Brinkley, the Secretary of Budget and Management. Going off the normal script, we do have 11 items for today's Agenda. Item 6-S-OPT is being withdrawn. I'll bring to your attention Item 11, which is the supplemental and the topic of which we've been discussing. And Madam Treasurer, to some of your comments, yes, the budget that was passed was balanced. However, the Legislature also increased our obligation in out years by increasing mandates to the tune of about \$300 million over the past two years, which only contributes to the challenge that we have in front of us. And also, Madam Treasurer, as we had conversations earlier, the bond rating agencies are not so concerned with what we're doing. People in this room are concerned about

what we're doing. They are just concerned that we are taking action to ensure that, you know, we shore up our finances.

The public saw last week at the Spending Affordability Committee meeting a presentation of the short and the long term budget challenges that the State faces. The Department of Budget and Management, Governor, is recommending to this Board \$82 million in General Fund reductions, many of which are reductions to FY '17 increases or they are reductions due to declining caseloads. This is the second responsible step to timely address some of the short term budget issues we face. And as the Governor referenced the first was in not spending the \$80 million of fund balance that was fenced off by the Legislature. Again, I want to remind you that the vast majority of the reductions in front of you, to the members of the Board, are either reductions to increases or they are reductions to declining caseloads or they are using non-General Funds.

The Governor is proposing \$82 million of General Fund budget reductions across State government, including one-fourth of this amount, \$20 million, is a reduction to Medicaid funding to be offset by an equivalent amount of cigarette restitution funds. The money is allowed to be used for that purpose. We have the money. Therefore that's what we're going to do.

\$9.1 million is a reduction to the Department of Juvenile Services to reflect, again, a declining need for per diem funding for youth in residential placements.

\$4 million of the reduction is to the Sellinger Program, which still provides \$46.8 million in the program which is still a nine percent increase over what was obtained in the previous fiscal year.

\$3.7 million is reduced in the temporary cash assistance payments, again, to reduce a declining caseload.

\$3.4 million to the homeowners tax credits to reflect lower estimated usage. There is still a remaining \$60 million in that program.

A \$2 million reduction to the Cyber Maryland Investment Incentive Tax Credit Program to reflect weak demand for the funds and the use of the existing fund balance, which hasn't been used.

Other budget actions will total \$23 million. They can be implemented through the budget in January or the recognition of additional revenue, including up to \$12 million in revenue from the Volkswagen settlement that was just declared last week.

\$9.8 million in reversions in environmental PAYGO funds that can and will be replaced in the FY '18 capital budget.

We'll be recognizing another \$23 million in other balanced budgeting actions, nearly \$10 million of which will be in agency reversions.

So Governor, we have people here to address certain questions that may or may not come up and we're prepared to address any questions that you or the other members of the Board might have.



GOVERNOR HOGAN: Mr. Comptroller? Any questions?

COMPTROLLER FRANCHOT: Yes. Thank you, Governor. As Chairman of the Board of Revenue Estimates, where I serve with the Treasurer and the Budget Secretary, I am acutely aware of the context of these proposed budget reductions with respect to the fact that we wrote the revenues down. Treasurer Kopp and I sat through many meetings with the previous Governor, frankly, and in this situation we proposed or he proposed tough budget cuts in order to react to the fiscal realities of the State. I'm sure, as the Treasurer can attest, today's actions really pale in comparison to the magnitude of the cuts, slightly over \$2 billion, that's B as in boy, \$2 billion that this unique Board of Public Works made in the depths of the great recession. So I continue to believe that this Board of Public Works, which stands alone among the states with the power that's been vested in it, should make these tough but necessary fiscal decisions. And I believe it's a key reason why the financial community, as the Secretary said, continues to view Maryland favorably in terms of our ability to meet our financial obligations even when we experience fiscal challenges. And the key is that this is in real time. This happens now. Other states don't have that nimbleness, I guess.

I do have a couple of specific questions. My first question relates to the 113 positions at public higher ed institutions that appear slated to be eliminated as part of this proposal. According to our materials it appears that all

12 positions at Morgan State and 60 out of the 101 positions at the University System of Maryland are currently vacant. But it also appears that 41 of those positions, more than a third of the total, are filled with people. So we have not been provided a list of these encumbered PINs but could someone explain to us what these positions are that we're talking about? And more importantly, who the people are who will be impacted? Specifically, is this part of a voluntary retirement program like the separation programs we've done throughout State government in the past? Or are these actual layoffs? And were the individual institutions consulted as to what actions need to be taken?

MR. BRINKLEY: Thank you, Mr. Comptroller. The University is here. Bob, do you want to step up --

COMPTROLLER FRANCHOT: Great.

MR. CARET: Thank you for the opportunity to explain. When we were asked to put together our tentative proposal --

MR. BRINKLEY: Identify yourself.

SECRETARY MCDONALD: Could you please for the record, please?

MR. CARET: Oh I'm sorry. I'm Robert Caret, Chancellor of the University System of Maryland.

GOVERNOR HOGAN: Good morning, Mr. Caret.

MR. CARET: When we were asked back in September to put together a proposal on how cuts would be handled over the year, it was at a higher level than the cuts we are experiencing at the moment. It was a 2.5 percent cut of about \$25 million to \$26 million. And as we put that plan together it included eliminating vacant positions, layoffs, these were all rolled up through the campuses so the campuses were involved in those discussions, operating cost cuts, and a potential immediate tuition increase.

At the level of this cut we immediately took the stance that a tuition increase is not appropriate. It's not a cut that would warrant such a move and that people should not be eliminated at a cut of this level. So we feel given the size of the cut, and also given the timing of the cut because we didn't know if this cut would come in February, March, or April if it did come, we have time to not only eliminate obviously the vacant positions but to through a hiring freeze actually through attrition eliminate the other positions as needed. So there will be no one eliminated from their position.

COMPTROLLER FRANCHOT: Excellent.

TREASURER KOPP: And is there a more finite listing that the Comptroller asked for?

MR. CARET: In terms of the individuals involved?

TREASURER KOPP: The positions.

GOVERNOR HOGAN: There won't be any.

MR. CARET: I'm sorry?

GOVERNOR HOGAN: There won't be any individuals. It's just

--

MR. CARET: Yeah.

TREASURER KOPP: No. The positions?

MR. CARET: In terms of the positions? If we do it through attrition and through a freeze it would be whatever positions obviously are available. The freezes would be temporary but we could generate the funds that way.

GOVERNOR HOGAN: My understanding is that you lose like 40-some people a month --

MR. CARET: Yeah, that's right.

GOVERNOR HOGAN: -- through attrition.

MR. CARET: Yeah, that's correct.

GOVERNOR HOGAN: And it's 31 total positions.

MR. CARET: And we have about I think roughly 36,000 to 39,000 employees in any given moment so it's a, you know.

GOVERNOR HOGAN: Yeah.

TREASURER KOPP: But this is, just one last question based on history, this is a freeze over which you have some discretion?

MR. CARET: That's correct. Yes.

TREASURER KOPP: So that if it's a position of significance --

MR. CARET: As one of my mentors used to say, it's a hiring slush. We make the hiring much more difficult.

TREASURER KOPP: Well that is much more rational. Thank you.

GOVERNOR HOGAN: Any other questions --

COMPTROLLER FRANCHOT: No. Thank you, Mr. Chancellor.  
I do have another question on the --

TREASURER KOPP: Could I just say --

COMPTROLLER FRANCHOT: Yeah, sure.

TREASURER KOPP: -- I hope it goes on record about a quarter of the first cut is higher education. They have taken, they have dealt with, but as we go further down the road one would hope that that would be remembered and not keep going to the same well time after time. Mr. Nicole nods his head.

GOVERNOR HOGAN: Well I think the Chancellor appreciated us putting all that money in to buy down the tuition increase.

TREASURER KOPP: Oh yes.

GOVERNOR HOGAN: And we appreciate his reciprocation in helping us solve this problem.

MR. CARET: And the students were very appreciative also.  
That's right.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: Great.

TREASURER KOPP: Could I ask the Chancellor, since I've got him here, if you are contemplating a mid-year, not this year --

MR. CARET: Right.

TREASURER KOPP: -- mid-year tuition increase, would you be so good as to notify the 529 Program which pays for that so we can be prepared?

MR. CARET: We have Joe Vivona here who handles those, and we'll make sure that he does that.

TREASURER KOPP: Yes. Thank you very much.

GOVERNOR HOGAN: Thank you, Mr. Chancellor.

MR. CARET: Thank you. Thank you very much.

COMPTROLLER FRANCHOT: Thank you, Chancellor. And keep up the great leadership.

MR. CARET: Thank you.

COMPTROLLER FRANCHOT: And I just started a 529 Program for my new granddaughter.

GOVERNOR HOGAN: Great.

TREASURER KOPP: Good.

COMPTROLLER FRANCHOT: Yeah, five months old.

TREASURER KOPP: Brilliant investment.

COMPTROLLER FRANCHOT: Yes. And it's a great program.

So I have a question about the \$650,000 cut to the Children's Cabinet Interagency Fund. It appears as if this money is used by the Governor's Office for Children for training and technical assistance to the local management boards in each county across the State. These LMBs, management boards, obviously provide crucial services to children and youth who are most at risk and the most vulnerable. I guess my question is will this have any programmatic impact on actual service delivery for --

MR. BRINKLEY: No. We don't believe it will have any type of effect on -- go ahead, Marc, step up here for the details on it. But it's not going --

GOVERNOR HOGAN: Deputy Secretary Marc Nicole.

MR. BRINKLEY: -- to have any direct impact on that. We noticed that they have -- well, go ahead with the, I think there's about \$25,000 left over from before.

MR. NICOLE: Good morning, members of the Board. My name is Marc Nicole, Deputy Secretary, Department of Budget and Management. Mr. Comptroller, this reduction was for funds, as you noted, that were identified for training and technical assistance. The agency had budgeted about \$715,000, I believe, in Fiscal Year '17 for that. This reduction of \$650,000 leaves \$65,000 left, which is more than the \$22,000 they spent in the previous year for training and technical assistance.

COMPTROLLER FRANCHOT: Okay. Good. Thank you for that answer. I have two other quick questions. Apparently there are some proposed cuts to the capital appropriations within the Department of Housing and Community Development. These proposed cuts include adjustments to “existing funding commitments.” I assume we’re not planning to renege on any of those commitments. But could someone explain to me how the reductions and any anticipated impact?

MR. BRINKLEY: Secretary Ken Holt with DHCD.

MR. HOLT: Good morning. Ken Holt, Secretary of Housing.

GOVERNOR HOGAN: Good morning, Mr. Secretary.

MR. HOLT: Madam Treasurer, Governor, Mr. Comptroller. First of all, we stand firmly behind your fiduciary responsiveness to the State’s budgetary needs. And we’re going to do our share. Clearly, we have made commitments to our customers and we’re going to stand behind those commitments. We have the capability to do that because we generate cash from our financing activities. And that cash can be planned and unplanned. We are confident that we will have the ability to align our commitments with our cash flow. And we have made announcements about Community Legacy and BRNI. You are going to approve the BRNI awards today. And none of those commitments will be affected. We’re very confident about our future. We’ve grown our top line revenue significantly. There are some exciting programs next



year. So our sense is that we will have more revenue to be able to do more in the way of managing the needs of our citizens.

COMPTROLLER FRANCHOT: Thank you very much.

TREASURER KOPP: So let --

COMPTROLLER FRANCHOT: I'm sorry.

TREASURER KOPP: -- let me just follow on what the Comptroller --

MR. HOLT: Mm-hmm.

TREASURER KOPP: -- just to make sure. Because I'm sure the Comptroller and I heard from many of the same people.

COMPTROLLER FRANCHOT: Mm-hmm.

MR. HOLT: Sure.

TREASURER KOPP: You're saying we can say to all of these people that, like Annapolis, like Community Legacy, I mean, just the whole list of them, that they are not going to be adversely impacted?

MR. HOLT: Correct.

GOVERNOR HOGAN: That's correct.

TREASURER KOPP: Because of your -- okay. So do you have a, do you have a form letter that you're sending out to them that you can share with us?

MR. HOLT: We certainly have the right response for them, and that is basically all of the awards that we have made, and all of the awards that we are currently --

TREASURER KOPP: That are in the pipeline?

MR. HOLT: -- evaluating will be honored.

TREASURER KOPP: Okay. And --

MR. HOLT: No doubt.

TREASURER KOPP: I believe you.

MR. HOLT: Okay.

TREASURER KOPP: And I will tell them that you said that. You say in the explanation, I assume you write the explanation, Ken?

MR. HOLT: Yes, I did.

TREASURER KOPP: The program will be recalibrated or restructured, the program will be. Does this imply, I inferred from this that there actually was going to be a restructuring of like the Rental Housing Program itself --

MR. HOLT: We --

TREASURER KOPP: -- or Home, But is that what this means?  
Or do you just --

MR. HOLT: We're recalibrating the funding of the programs, not the programs.

TREASURER KOPP: So you anticipate, I'm just trying to understand what, because this sounds like a policy as opposed to the things that are based on excess capacity or whatever. Is this a changing of any of the housing programs?

MR. HOLT: I think it's essentially a redeployment of our cash flow to meet --

TREASURER KOPP: Well yeah.

MR. HOLT: -- our obligations. And we have the flexibility to do that. We finance over half a billion dollars of lending projects on an annual basis. That gives us income and revenue and there's fungibility to that revenue.

TREASURER KOPP: Yeah.

MR. HOLT: And through our contract admin and other sources we just have enough in reserve to be able to meet these obligations.

TREASURER KOPP: And does this include the energy program, which looks like it's cut in half? But you can still do it?

MR. HOLT: Yeah. The Net Zero Program, something that Senator Ron Young was quite interested in, had a million and a half and it's been reduced. We will be able to meet the obligations to construct net zero housing to that extent, to the \$1.5 million extent.

TREASURER KOPP: And then after that I assume it's a question of going into the Governor and going into the Legislature and it would be actually

a restructuring, the way I read, restructuring the programs. That would be through law for the future?

MR. HOLT: Again, we're talking about restructuring the funding mechanisms for the programs.

TREASURER KOPP: For this year.

MR. HOLT: Not refunding, not restructuring the programs themselves.

TREASURER KOPP: Okay. Including the energy?

MR. HOLT: Including the energy. All of the programs that were listed, Community Legacy, Rental Housing Works, Home Ownership, Partnership Rental Housing, Energy Efficiency, and Special Loans.

TREASURER KOPP: Good.

MR. HOLT: Good work.

GOVERNOR HOGAN: Yeah, but I would take that and sit down if I were you.

TREASURER KOPP: Yes.

(Laughter.)

GOVERNOR HOGAN: Thank you, Mr. Secretary. Good work.

COMPTROLLER FRANCHOT: Yeah.

GOVERNOR HOGAN: Nice job.

COMPTROLLER FRANCHOT: Governor I have one last question, if I could? DoIT, the Department of Information Technology, apparently is getting a reduction of \$803,000 for oversight of IT projects. Could someone just briefly explain what oversight is going to be scaled back as a result of this? I admit, I'm a bit paranoid because I lie awake at night, with all the hacking of government agencies, all of the threats associated with cyberattacks. But if you could assure me and others that we're not somehow exposing the taxpayers to any increased vulnerability from cyber threats, please?

MR. ESTRADA: Sure. Luis Estrada, Deputy Secretary of the Department of IT. The major IT development project oversight dollars are not used for our cybersecurity mission. We would never make any cuts or make any changes to our programs to put the State in a more vulnerable position, or systems and data that we're entrusted with.

COMPTROLLER FRANCHOT: Excellent.

GOVERNOR HOGAN: Any further questions, Mr. Comptroller or Madam Treasurer?

COMPTROLLER FRANCHOT: You know I'm trying my best to get along with all sides here. But I will just comment for the record that what we have in this State, and I served for 20 years on the Appropriations Committee, and we, you know, legislators are wonderful people. I was part of that budget process. We always defined our success, generally, not always, generally defined our

success by how much money we were spending compared to the previous year on education or healthcare or transportation. That was often the measurement. And to the extent now it's changing perhaps, I'm fine with that. But what we need to focus on is how we do better with less, more with less. And to the extent we can do that using technology and using our innovation and our smartness and not knee jerk attack any possible adjustment in spending in a program that has a good name attached to it. But rather look at are the results better, perhaps, using less money? So that's my slant on things and I'm not quite sure where that fits into the political context. But I'm very confident that that's what the public expects from us. Thank you.

GOVERNOR HOGAN: Thank you, Mr. Comptroller.

TREASURER KOPP: I actually think --

GOVERNOR HOGAN: Any questions or comments?

TREASURER KOPP: -- yeah, I think the concept of doing all you can with the resources available and doing it efficiently is something everyone would subscribe to and does.

GOVERNOR HOGAN: Great. Yeah. Our whole focus is on, has been on how can we run the government more efficiently and more cost effectively and spend the taxpayers wisely. And that's, we've got great leaders in our agencies. We heard from several of them here today. And all of them are watching every penny of the taxpayers' money everyday.

I'd like to just close on this one point and that is in his admonishment to the Legislature to get real, the Legislature's Budget Chief used the Groundhog Day analogy, and that we keep reliving the same day over and over again every year. And in order to get out of our fiscal predicament we need to change our ways. It's our sincere desire to have the Legislature on both sides of the aisle work with us in a bipartisan way to adopt a common sense budgeting process here in Maryland where spending does not automatically increase at a rate that continually outpaces revenue, one where we exercise real fiscal discipline and where taxpayer dollars are wisely spent, protected, and respected. And that's my final comment.

I guess is there a motion on this one particular item, or should we do it all together? Can we make a motion on -- are there any other questions on any other parts of the DBM Agenda?

TREASURER KOPP: I did have one question, Governor.

GOVERNOR HOGAN: Okay.

TREASURER KOPP: On Item 3.

MR. BRINKLEY: Item what?

TREASURER KOPP: Item 3. It's just a confusion on my part, quite candidly. It's the Department of Health.

MR. BRINKLEY: Athos Alexandrou is the Director of the Medicaid Pharmacy Program.

TREASURER KOPP: So it -- good morning.

MR. ALEXANDROU: Good morning. Athos Alexandrou,  
Director of the Medicaid Pharmacy Program.

TREASURER KOPP: Yes.

GOVERNOR HOGAN: Good morning.

TREASURER KOPP: I'm looking at what is page 39 on what we have of your remarks, and it notes that the department is responsible for complying with the guidelines from the national application of the AAC based pharmacy reimbursement which was championed by the National Association of State Medicaid Directors. Among the recommendations was establishment of a single national price benchmark for pharmacy reimbursement based on average cost of drug acquisition. Such benchmark provides the agencies with more accurate responsive pricing methodology. Okay. I see your procurement -- the question is, with this system, which I think but I'm not 100 percent sure I understand, how do we know that we're getting the best price and couldn't get it cheaper just because we're comparing the average?

MR. ALEXANDROU: So great question, Madam Treasurer. Let me just give you a one-minute background information if you will.

TREASURER KOPP: Because it is several million.

MR. ALEXANDROU: Sure. Currently the way Medicaid pharmacy works, we reimburse pharmacies for the drugs that Medicaid patients



do get under the Medicaid pharmacy program and we are currently estimating the pharmacy's acquisition costs. And in fact the Centers for Medicare and Medicaid Services issued a ruling earlier this year where they require all 50 states to stop using estimating acquisition costs and actually start using what is known as the actual acquisition costs and CMMS has been publishing the actual acquisition costs. So that what we are changing is not the way we purchase drugs, it's the way we will be reimbursing pharmacies.

MR. DEMBROW: And that reimbursement mechanism, Dana Dembrow, Director of Procurement with the Department of Health and Mental Hygiene, excuse me for approaching late, that mechanism is going to be based on actual drug acquisition costs instead of estimated drug acquisition costs. I also want to point out that the recommended awardee is the national leader in this area. They are the ones who do the average acquisition cost study for the Centers of Medicare and Medicaid that has been done before this actual acquisition cost was placed into effect required as of April 1st of the coming year. They've been doing this for 39 years in 20 different states. This is the major innovator in hopefully reducing costs.

TREASURER KOPP: But they actually were the second in terms of --

MR. DEMBROW: They were the, the recommended awardee is far and away above rated technically higher --

TREASURER KOPP: Right.

MR. DEMBROW: -- in every element of the evaluation.

TREASURER KOPP: Okay.

MR. DEMBROW: The financial was slightly higher than the competitor --

TREASURER KOPP: Right. Yes.

MR. DEMBROW: -- namely \$77,000 over a seven-year period, including the option year which is \$11,000 a year. The justification of the higher prices is easy to make.

TREASURER KOPP: Okay. So you're saying this use of this new benchmark system will allow us to gauge not only that we are reimbursing at the average but that we're getting the best deal we can?

MR. DEMBROW: That's correct. And it is required by Medicaid in order to accomplish that goal.

TREASURER KOPP: Okay. Thank you.

MR. DEMBROW: Thank you.

COMPTROLLER FRANCHOT: I just want to thank Delegate Dembrow, because there's somebody who is very, very smart and gives a lot of good oversight. So --

MR. DEMBROW: Thank you very much. We are pinching pennies and we will continue to do so. Thank you, Mr. Comptroller, Governor.

TREASURER KOPP: Not only that, but I really like your remark about --

GOVERNOR HOGAN: We're happy to have you as part of the administration.

MR. DEMBROW: Thank you.

TREASURER KOPP: -- approaching the plate --

GOVERNOR HOGAN: Stepping up.

TREASURER KOPP: -- stepping up to the plate.

GOVERNOR HOGAN: Yeah.

MR. DEMBROW: I'm sorry I was a little late. I saw a high school friend who arrived and I was filling him in on the admirable discussion and correct decision that was just made with respect to the \$82 million required budget cuts. So he is up to date in future articles. Thank you.

GOVERNOR HOGAN: Well thank you. Any other questions on the DBM Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Motion? Is there a second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing on DBM. And I guess now we'll move on to the Secretary's Agenda. Secretary McDonald?

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have 12 items on the Secretary's Agenda. We have four reports of emergency procurements.

TREASURER KOPP: We could wait for people to leave.

SECRETARY MCDONALD: We're ready for any of your questions on any of the items. And we do have requests to speak on one of our items.

GOVERNOR HOGAN: Yeah, it looks like we have people signed up to speak on Item 10.

SECRETARY MCDONALD: All right. So Ms. Lynn Buhl, did you want to take that item first?

GOVERNOR HOGAN: Before we get to them --

SECRETARY MCDONALD: Okay.

GOVERNOR HOGAN: -- let's hear from the representative from the Maryland Department of the Environment about this project.

SECRETARY MCDONALD: No, Ms. Lynn Buhl is here from the Department of the Environment, Assistant Secretary.

GOVERNOR HOGAN: I don't have her listed.

SECRETARY MCDONALD: And she's going to stand up and explain the project in Item 10.

MS. BUHL: Good morning. I'm Lynn Buhl, Director of the Water Management Administration at the Maryland Department of the Environment.

GOVERNOR HOGAN: Good morning.

MS. BUHL : Thank you for the opportunity to speak on behalf of this project. There are a number of representatives from Queen Anne's County who are also here who are certainly able to provide a lot of the detail on all of the local initiative that was involved in putting this project together.

We're here to request your approval of the phase one of their Southern Kent Island Sanitary Project, which will connect properties currently served by septic systems on Southern Kent Island to the Kent Island Wastewater Treatment Plant which has been upgraded to enhance nitrogen removal, so state of the art.

I do want to emphasize that the decision to do this, to put this project together, was initiated at the local level. We are here to recommend that the Board approve the funding that MDE is able to supply to these types of projects.

I think from a technical standpoint the areas to be served are characterized by high water tables, soils with poor permeability, and small lot sizes. And those three features combined are not optimal for septic system usage. Currently 80 percent of the septic systems in the areas to be served are

discharging wastewater containing pathogens and nutrients directly to groundwater, which can seep up to the surface. There are plenty of photographs of individual residential lawns where there is sort of a sheen. They leach into drinking water wells and/or migrate into the Bay. So we see this as a project that addresses both public health concerns and nutrient loading into the Chesapeake Bay.

The project will connect 1,518 existing homes and eight commercial properties located in the Southern part of Kent Island. Phase one, which is the only part we're asking you to approve today, will serve 784 properties. This first phase also will cover the construction of the main, the transmission main from that part of the island up to the plant. And then of course there are three additional phases over the next ten years.

There's been a lot of question about whether this might foster unwanted development in that part of the State. The county has thoroughly examined this. There are a number of vacant lots that will be part of the area to be served. The county and with our help have worked to really limit what type of infill development might be feasible and not have this cause some type of runaway un-thought through, unplanned development. The county estimates that actual infill development will be about 560 properties as opposed to 1,600 potential. I think they may be in a better position to explain exactly how they looked at that and what they have put into place to limit that. And any new lot

development will be subject to an economic benefit premium fee paid to the county so that they, because since they will benefit, some of those lots can't be built on now due to the septic challenges, that it is not an unjust enrichment.

I think I might stop there, if I may. I'm happy to try and answer some questions although I think if the county would like to have an opportunity to present all that went into this. This discussion with them has gone on for, oh boy, I would say at least five years and perhaps longer. And so they are to be commended for their continuing effort to try and work through a very feasible and thoughtful solution.

GOVERNOR HOGAN: Thank you, Madam Director. I would say just hang out and --

MS. BUHL : Happy to.

GOVERNOR HOGAN: -- we may have questions. But let's let the other speakers --

MS. BUHL : Sure.

GOVERNOR HOGAN: -- go.

TREASURER KOPP: Can I --

COMPTROLLER FRANCHOT: I --

GOVERNOR HOGAN: Okay.

TREASURER KOPP: Can I ask the Secretary just one question?

MS. BUHL : Yes.

TREASURER KOPP: One of the provisions, as I recall, was that Queen Anne's County was to do an assessment of climate change impact and what that means in terms of the rising water and enhancing the resilience and stuff, and to be doing it with the Department of Natural Resources. Do you know --

MS. BUHL : I'm not certain if the Department of Natural Resources -- yes, you're right. I think the Smart Growth Subcabinet requested that study be done and I don't know exactly who performed it. I do know that of course they took a look at it --

TREASURER KOPP: Right.

MS. BUHL : -- in terms of impact of climate on the flood plain, where you draw the lines. I think from our end the conclusion they drew is this new, obviously that renders septic systems even more unsuitable. And so that what they've designed here, and believe me I'm not an engineer, so is a sealed pressure system, though, that would be, I mean, the best technique to use to withstand what might be additional pressures from --

TREASURER KOPP: Well I would be interested. I don't know who is to address this. But at some point, whether it's the department or the county or whatever, what you all have done.

MS. BUHL : Okay.

TREASURER KOPP: Thank you.

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MS. BUHL : Yes. Certainly.

GOVERNOR HOGAN: Yes --

COMPTROLLER FRANCHOT: I actually --

MS. BUHL : Oh, sure.

COMPTROLLER FRANCHOT: -- yeah, no, because most of my questions are to do with what the State is involved in here.

MS. BUHL : Okay.

COMPTROLLER FRANCHOT: So I understand there are \$33 million in loans primarily, but also some grants. How does that break down?

MS. BUHL : If I may, I'd like to invite Jag Khuman, who is our Water Quality Finance --

COMPTROLLER FRANCHOT: Good.

MS. BUHL : -- Administration Manager to go through some of the details of the financing.

COMPTROLLER FRANCHOT: Sure. But stick around.

MR. KHUMAN: Good morning. My name is Jag Khuman, also with the Department of the Environment. Mr. Comptroller, essentially this phase one is \$33 million in low interest rate loans. However, the Bay Restoration Fund will also be providing grants to the counties annually from which the county will actually benefit about \$15 million in grants over the next 30 to 40 years.

COMPTROLLER FRANCHOT: Okay. And what is the interest rate on the loans?

MR. KHUMAN: The interest rate changes monthly. At this point it is 0.6 percent.

COMPTROLLER FRANCHOT: I'm sorry, that was what?

MR. KHUMAN: 0.6 percent.

COMPTROLLER FRANCHOT: So less than one percent?

MR. KHUMAN: It is less than one percent.

COMPTROLLER FRANCHOT: Okay. So I obviously have no problem, Madam is it Secretary? Or --

MS. BUHL : Oh no. No no.

GOVERNOR HOGAN: Director.

COMPTROLLER FRANCHOT: Director.

MS. BUHL : Director.

COMPTROLLER FRANCHOT: Okay, great. I have no problem with MDE advocating that we update septic systems and even replace them with obviously sewer lines, etcetera, around the State where it's appropriate. I do have some problems with this proposal. First of all I guess because we're financing it, the taxpayers are, at a very lucrative rate, .6, that was below market, I think.

MR. KHUMAN: Yes.

COMPTROLLER FRANCHOT: Here's the problem that I have. I have no problem with the sewer line, necessarily. It's the opening up of hundreds and hundreds of vacant lots. And my concern that you're, despite the best intentions and promises of the local authorities, how are they going to withstand legal challenges to instead of hundreds have thousands of lots opened up to what anybody would describe as, I don't want to stigmatize it by saying it's sprawl development, but it is development in an area where the land is sinking and the Bay is rising. So it's kind of questionable as to whether through our well intentioned funding of this we end up opening an area up to not just hundreds but more than hundreds, I guess over a thousand.

Okay. So I have been concerned about this for many years. I love Queen Anne's County, but I have a particular concern about the adverse effects of this kind of development in an area that strikes me as inappropriate because of the flooding. But so is there someone here that could talk about the total environmental impacts, not just of the sewer line but of the development of these new properties? Apparently that you quoted there were 618, or something?

MR. KHUMAN: 632.

COMPTROLLER FRANCHOT: 632?

MR. KHUMAN: Is the maximum permitted under the Smart Growth Coordinating Committee's exception that was approved for the priority funding area.

COMPTROLLER FRANCHOT: Okay. So what prevents that from being expanded to the full 1,600?

MR. KHUMAN: The agreement with the county is for 50 years. If that, if they violate that agreement they have to pay us back the \$15 million of grants that the project will be providing.

COMPTROLLER FRANCHOT: Okay. How about the road infrastructure? Have we looked at that as far as the hundreds of new lots, even with the cap? And the thousands of cars? How would that impact traffic on Kent Island?

GOVERNOR HOGAN: That's not a question for him to answer.

MR. KHUMAN: We did not look into the details of the roads, sir.

COMPTROLLER FRANCHOT: Okay. That's okay. And I take it the public school system, they have indicated the impact or not indicated the impact? I guess that's not your --

GOVERNOR HOGAN: These are not really environment questions.

COMPTROLLER FRANCHOT: Okay.

GOVERNOR HOGAN: So --

COMPTROLLER FRANCHOT: Okay. I'll --

MR. KHUMAN: The county is here to address those.

GOVERNOR HOGAN: If you want to have the opponents speak, then we want to have the county speak, and then you can ask --

COMPTROLLER FRANCHOT: Okay. We'll get to that. I do have one question while you're here, though.

MS. BUHL : Okay.

COMPTROLLER FRANCHOT: Since you did mention this, this is the Maryland Department of the Environment. Apparently this project was listed as 101st out of a total of 110 projects on a priority list last June, less than five months ago? So how did it get moved up the priority list so quickly, where 100 projects were listed ahead of this one?

MR. KHUMAN: Mr. Comptroller, I think the opponents who said that did not have all the facts. The project, actually the county has been applying for these three phases, first phase which has three contracts, they have been applying every year. So the project was on our funding list for the past two years. They recently applied again for the third contract. We have consolidated all of those projects into one big loan. Now with the revolving loan fund even though you may be on not a very high priority ranking on our priority list, the fund has plenty of revolving loan funds to address any ready to proceed project that is environmentally viable. And therefore we have not denied anybody revolving loan funding as long as it's a ready to proceed project and we believe it will do environmental good.

COMPTROLLER FRANCHOT: Okay. And just finally for the Department of the Environment, in approving this and recommending that we approve it, you don't see us as creating a bigger problem for the environment down the road? Is that --

MR. KHUMAN: I would say no. Because we are really removing lots of pounds of nutrients and protecting public health. So I would say net it will be a benefit.

COMPTROLLER FRANCHOT: Okay. Sorry, Governor.

GOVERNOR HOGAN: No problem.

COMPTROLLER FRANCHOT: I didn't mean to, but I took advantage of them being here.

GOVERNOR HOGAN: That's okay. They are going to stick around just in case we have more questions for them after all the rest. But let's move on to some of the speakers here. First on the list we have Jay Falstad from the Queen Anne's Conservation Association, Executive Director. Good morning.

MR. FALSTAD: I'll just get my papers in order. One second. Governor, Madam Treasurer, Mr. Comptroller, thank you very much for the privilege to speak before you today. I'm the Executive Director of Queen Anne's Conservation, celebrating our 46th year as the Eastern Shore's oldest land use conservation and environmental organization.

I'd like to start off by recognizing that we do believe that there are failing septic tanks on Southern Kent Island. I don't think that that can be disputed. There are neighborhoods, particularly in Romancoke and Kent Island Estates, where they have an obvious problem. And I've been down there. I've smelled the smells. And I acknowledge that there is a problem. But it is nowhere near the level that justifies the expense of \$33 million of taxpayer money.

QACA, Queen Anne's Conservation Association, has concerns with not only the financing of this project but also its ecological impact. The proposed development areas of vacant lots include ecologically sensitive areas, woodlands, wetlands, all containing wildlife. And we believe that the county is attempting to fix one problem but creating a much greater one, certainly to the environment and probably to the taxpayer. We believe that the sewer line as it's proposed right now will open up a Pandora's Box and create a money pit that will require the county to come before this Board at future dates requesting funds for flooding controls, school expansions, roadway improvements, etcetera.

Really the heart of the matter is in our view that the State should not be encouraging residential and commercial development on a vulnerable island that's prone to flooding and storm surge. Over the years we have met with officials at MDE under the prior administration. We have filed multiple Public Information Act requests aimed at trying to understand this very complicated problem. We have retained wastewater engineers from the onsite Wastewater

Recycling Association and the American Society of Sanitary Engineers. And based on all of that, here is what we found.

While there are certainly problems in some of the neighborhoods on Southern Kent Island, the septic failures that we have found are sporadic and the failures do not affect every single home in every neighborhood, and certainly nowhere near the 1,700 homes that would be in the proposed service area. The county is attempting to run a costly sewer line when it may not need it. While there are reports of foul waters during certain times of the year, particularly during flooding times, and it's not a widespread problem but it is isolated. Based on our Public Information Act request there are no documented cases of public health that can be attributed to the gray water from failing septic. And even the Midshore Riverkeeper Conservancy, an organization that has testified in favor of sewer lines, on its report card shows that the area of Eastern Bay off Southern Kent Island receives some of its highest water quality marks.

Treasurer Kopp you raised something in the very beginning of your statement that I just want to touch upon. Kent Island, like other areas in the tidewater region of the Bay, is beginning to see impacts of sea level rise. Just recently the county did a sea level rise and coastal vulnerability assessment. And it very clearly in this document shows that the island is subject to flooding and it is a problem. During Hurricane Isabel a few years ago Southern Kent Island was divided into three smaller islands, with one roadway where people couldn't get



through for two days. Since the time of John Smith a number of islands have gone under the waves and Kent Island is not a geographical oddity that's going to somehow beat that.

So as the Comptroller noted, this project is ranked pretty low on the list. But in evaluating it one of the things that I was troubled by is on this list the closest comparables that I could find were number 21, number 46, and 109. And they each of those have an average cost of \$37.6 million. But what's interesting to note is on the far left hand column it will show what the benefitting population is for that expense. The average benefitting population on all of those is 359,000 people, or I guess that's what it is. On this one, the Kent Island Sewer Line shows a benefitting population of 500. So we have some real concerns about why there's such an imbalance on the amount of money that is being spent on this.

Lastly the loan terms on this, as you mentioned, Mr. Comptroller, are .6 percent. And I've talked to MDE about the criteria used for such a rate. I think I understand why it's being applied here. I'm not sure I agree with the numbers. But regardless, when you look at a bunch of waterfront homes on Southern Kent Island, there's some 200 right now that are for sale on all of Kent Island. The average home price is \$350,000. The highest priced home that I could find is \$2.9 million. It is really difficult with a straight face to say that somehow Kent Island should be receiving the disadvantaged community rate.

So if you were to approve the financing of this project today, are you tacitly committing to the financing of the remaining three phases, which are not part of today's discussion? Has the Board of Public Works reviewed the cash flow projections of phase one, and have you asked the questions on if you're satisfied if the phase one debt can be serviced if the additional financing required to build the remaining phases is not approved?

So in closing with all of the other engineers that we talked with, we do believe that there are alternative solutions that are less costly that should be explored. We're happy to work with MDE and share some of the things that we found. We do not believe that the State should be encouraging commercial and residential development on Southern Kent Island. And we simply ask that the Maryland Department of the Environment reevaluate the cost of this project relative to other projects around the State. We just want to make sure that taxpayers are getting the most for their money. These documents raise some questions. And with that, thank you for the opportunity. I'll be happy to answer any questions if you have any. Otherwise, I'll sit down and wait. Thank you.

GOVERNOR HOGAN: Thank you, Jay. Any questions?

COMPTROLLER FRANCHOT: No. Very good presentation.

Thank you.

MR. FALSTAD: Thank you very much.

GOVERNOR HOGAN: We appreciate you being here this morning.

MR. FALSTAD: Thank you.

GOVERNOR HOGAN: Next we have the Kent Island Defense Fund, Barbara Obert.

MS. OBERT: Thank you for the opportunity to speak today.

GOVERNOR HOGAN: Good morning.

MS. OBERT: I served on the Queen Anne's County Public Works Advisory Board, which studied this project intensively. Culminating years of work the Public Works Advisory Board actually voted to recommend a public sewerage plan of lower cost pocket plants targeted directly in the areas intended to be removed from septic systems. In a matter of days and weeks after that recommendation the county took action to pressure the vote by the Public Works Advisory Board to be voided and replaced with the recommendation for full sewer large capacity pipe, funding source unknown. And it promptly disbanded the Public Works Advisory Board.

In the five years since that time as complex sewer plans developed I have consistently pressed for fiscal governance and answers to some of the remaining financial questions that need to be answered for tens of millions of dollars in State funding to be directed for such a large infrastructure project in a flood prone, non-PFA area at the risk of sea level rise.

Governor, I thank you for pointing out the heroics that occurred in Ellicott City. It's a reminder of the perils and costs which will occur in this area that according to the State report will be subjected to issues related to sea level rise. I'd like to highlight three quick issues with the financing plan.

First of all, there is not a viable financial plan to pay back the State debt and investment. I personally filed MPIA requests asking about a cash flow, the cash flow for the existing sanitary district after former commissioners expressed concerns that the existing debt couldn't be paid off and the maintenance fund for an aging plant wasn't maintained. There was no response. But during that time the county hired a well known, well connected lobbyist to secure agreement for more State money to forgive that old debt while creating new debt. Additionally, the revenue estimates on this require us to develop new lots, putting an increasing number of residences, people, and infrastructure in harm's way where we are regularly cut off by flooding during major storms. And by the way, that debt will not be paid off before a significant portion of the existing homes and newly developed properties that are currently considered to be wetlands are covered in the sea level rise as indicated in the State mandated study. The revenue estimates also require citizens to sign away rights of way to their private property that currently don't exist.

There are no defined penalties on circumventing restrictions. For example, there is an exemption for the commercial properties that you mentioned.

So with a suburban commercial, Kent Island suburban commercial designated, designation which allows commercial and residential combined development, ostensibly the 632 individual family residences ostensibly could be replicated by 600 more multifamily apartments, condos or other dwellings. There's no knowing how much of that will be developed out. And the county does have a history of breaking denied access.

Finally, there are significant unknown costs for this added infrastructure in terms of additional schools, roads, and in this flood prone area the repairs to that infrastructure, and those are not included even in the \$33 million today. So I respectfully request that you postpone approval of the \$33 million until 75 percent of those right of way easements that I mentioned are obtained for the full trunk line and the neighborhood hookups to promise the guaranteed revenue to pay back the State debts and your grant investment, that you postpone it for an independent third party audit of the cash flow, because there's no proof or even an indicator that even with all the easements signed that the county can build and maintain this line, especially given that we've had to get more State money for old debt in order to move forward with new debt. And finally, please postpone until there are defined legally enforceable penalties in place for those other properties that can circumvent the smart growth requirement limits. Thank you.

GOVERNOR HOGAN: Thank you. Next we have James Brown, who is a resident of Kent Island Estates. Is Mr. Brown not here? Well then we'll move on to, we have, maybe all three of these want to come up together or separately. But we have Queen Anne's County Commissioner Jim Moran, Queen Anne's County Administrator Gregg Todd, and Queen Anne's County Public Works Director Todd Mohn.

MR. MORAN: Good morning.

GOVERNOR HOGAN: Good morning.

MR. MORAN: Thank you for the opportunity to be here. My name is Jim Moran. I'm the Queen Anne's County Commissioner at large. With me is County Administrator Gregg Todd --

MR. TODD: Good morning.

MR. MORAN: -- Department of Public Works Director Todd Mohn. And I don't know if you want us to start or if you want to just start asking us questions?

GOVERNOR HOGAN: I think you ought to go ahead and kind of give us your presentation of why --

MR. MORAN: Yeah, okay.

GOVERNOR HOGAN: -- the county feels we need to move forward with the sewer.

MR. TODD: Okay. Thank you. Good morning, Governor Hogan, Treasurer Kopp, and Comptroller Franchot. As Jim said, I'm County Administrator Gregg Todd and I want to thank you guys for taking the opportunity to hear our testimony. It is important to us. And as you've heard the opposition, that it costs too much money, which the argument is that it's taxpayer dollars. Well it's also taxpayers that are paying it back. It's the homeowners that are paying it back. There is no documented health problem, we've heard that, and that it's a developer friendly project, it's sprawl, it's all these lots are going to be developed, there's no block to it.

So I want to go through kind of how we got here, if you don't mind?

GOVERNOR HOGAN: Sure.

MR. TODD: If I can just take a minute or two, and give you a little background. We started to look into this in earnest about 2012, 2013. And there were three major hurdles that we had to overcome before we could really move forward. The first was, as you've heard, the 1,600 vacant lots. And no one wanted to develop 1,600 vacant lots. And Todd, I don't know if you had a plan? But we could see the plan. There was no documented, or excuse me, the communities were outside the priority funding area and therefore unable to access Bay Restoration funds or the State revolving loan grant for the public sewer. And the cost of the traditional vacuum sewer project was just too expensive. And as

you know, Kent Island, it's flat. It's as flat as this board. And with sewer, you either need to pull it or you need to push it on Kent Island, because there's no gravity. It doesn't go anywhere. So those were what we faced.

And we also had, you know, in 2007 we got the State Revolving Loan Fund to upgrade our plant to ENR and to upgrade the capacity of it to another million gallons. And that was an \$18 million loan, which I want to comment that we're paid up on. We're not delinquent on any of those payments.

So we started looking at this with MDE. And the first thing that I want to address was the 1,600 vacant lots. And we used two mechanisms to get this down. The first one was the 2005 Maryland Attorney General's opinion regarding sewer systems and the necessity to serve. And I just want to read a quote out of his opinion, was that the county is not necessarily obligated to provide service to a street of vacant lots. If there is no current need for a sewer line along a street and it would be feasible to design the system without laying the line along the street, the street could be excluded from the defined service area. So that was tool number one. We used that to knock off, in Southern Kent Island there's nine communities, 1,600 vacant lots, a lot of them were in big chunks. Big chunks with paper roads that were never going to get developed if we didn't have to. So we were able to eliminate quite a few of them with that.

And the next step we used was a grandfather merger ordinance, County Ordinance 1324, that requires adjacent parcels under the same ownership



to merge to fit the underlying zoning. So as an example, as you'll see a lot of these lots down on Kent Island, this is Kent Island Estates, by the way, are very small. There are houses set on 5,000 square foot lots. Well if the underlying zoning is 15,000 square feet, and if you own three lots, we're making you combine them so you've got, so to match that underlying zoning. So even though your house might be on one and you've got two next to it, that gets combined. So automatically those go away.

Now the other question was how do we, you know, we've heard that the county goes back on their promises and how do we guarantee this. Well this merger ordinance has already been taken to court. And it ended up in the Fourth U.S. District Court and it was thrown out. It was thrown out because it didn't, the process we went through, you know, it's not a takings because there's still value left in your lot. It's not, you know, there was a due process but it didn't live up to that standard. So we feel very confident that we've addressed all these issues. Plus the plant is only three million gallons. With this 500,000 gallons that are reserved for the 1,500 homes and the 600 vacant lots, and other projects on Kent Island, we're at capacity. We would have to come back to MDE to upgrade the plant to do more development. So there's no way the county ourselves could ever do it.

I want to talk about the priority funding --

TREASURER KOPP: Could I just stop for a second on that?

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MR. TODD: Absolutely.

TREASURER KOPP: Because that's one of the things that did concern me, that the county government decides one thing. There's an election, they decide another thing. But you're saying that the physical capacity of this plant wouldn't allow it to go beyond what is now --

MR. TODD: Yeah we, with the projects we have on the books, Four Seasons being one of them, which I know you guys are familiar with, and some of the others in the Kent Island area, we've got 60,000 or 70,000 gallons of capacity left once everything is built out. So we don't have the capacity to ever expand. We would have to come back to the State. We could get an upgrade on the plant but that requires MDE approval. So it would be a State decision at the end of the day whether we ever expand or not. So that's really, I mean, that's, for the fail safes to prevent that, between the ordinance, you know, and the capacity, we're really, we are really restricted.

MR. MORAN: And we'd have to pay back the \$15 million in Bay Restoration dollars.

MR. TODD: Right.

TREASURER KOPP: Yeah, I get that. But that's a political decision. That's not hardware stopping you.

MR. TODD: So --

TREASURER KOPP: You're saying that the hard, that --

MR. TODD: The hard one is the capacity, absolutely. So then we looked at the, going back the other issue was priority funding area. These subdivisions were outside of the priority funding area, outside of the growth area. So how did we access the Bay Restoration Funds, which was, as Jag says, a big part of this. Well we went to the Legislature in 2014 and got House Bill 11 passed. Which House Bill 11 authorized the use of Bay Restoration funds for public sewer to relieve failing septic systems outside of the priority funding area based on four considerations. A public health risk, which was confirmed in 1995 through a sanitary survey that confirmed 80 of the SKI septic systems discharged directly into groundwater, and the 2007 Queen Anne's County Health Officer report that concluded there was clear evidence of continuing septic system failures. Potential infill development was the other thing that we had to address, which we just talked about how we got to that. Growth impact mitigation measures, so when we look at it and we think, well, there's 1,600 vacant lots that could be built. That's going to be a huge impact on all of our infrastructure right off the bat. Well if they all built within two or three years, yes. But you have to understand that if you look at these maps, these vacant lots are all interspersed amongst all these other homes. And of the 632 vacant lots we have I think 80 percent of them are owned by single family, by single owners. So there's not like a big developer down there looking to build. And talking, and in looking at our market, our residential market and talking to realtors, the saturation rate is low.

It's ten or 15 homes a year on Kent Island. So it would be very difficult to build all those at once. We've got Cloverfields and Bay City are two other sewer projects we did on Kent Island. It's taken 20 years to build out the vacant lots in there because it's just, there's just, it's a land issue. Excuse me. And then the last one, the last issue that House Bill 11 has, okay, was nitrogen reduction. I think Jag touched on it. There will be 17,300 pounds of annual reduction in nitrogen just by hooking up these failing septic tanks and also even with the new growth added in. So it's a net, it's a huge net reduction. It meets our county WIP goal, 33 percent of our county WIP goal, excuse me. And if we didn't do this, it would take, we would, the county would have to have best available technology on 90 percent of our septic tanks in the county to ever meet our WIP goal.

So all of these considerations we had to look at. We got, we went to the Smart Growth Coordinating Committee that was mentioned earlier, and they put more restrictions on us. And we were all a little scared going to the Smart Growth Coordinating Committee. But they actually applauded this project at the end, I mean, they clapped, it was such a good project for them.

So we got through all those hurdles and that left us with the cost. And sorry, my mouth is getting dry. I realize that cost is a big issue. But as we talked about, it's paid for by the users. So the taxpayers at the end of the day aren't being impacted from it. So we feel, all things considered, it's a good project. We would like your support to move forward. And it's not a big

developer brouhaha. It's going to be built out slowly over a number of years and it's going to help the 1,518 homeowners down there that are really struggling. So I thank you for your time. I'll take any questions.

GOVERNOR HOGAN: Did anybody else want to speak before we --

MR. MORAN: Yes. I would just like to say from the standpoint of who this really impacts are the homeowners on Southern Kent Island. This has been a problem for 30 or 40 years in Queen Anne's County and it has finally come to light over the last five years with what the County Administrator just said with these different hurdles we had to jump.

I will say that, you know, again, the tax money being spent on this all gets paid back. You know, this project is, for Maryland Department of the Environment, I think it is a model program. I sat on the Healthy Waters Round Table for Maryland's Eastern Shore. And everybody there, all the counties came up and said, how are you doing this? How are you taking care of your failing septic systems with dedicated lines? And you know, I want to commend MDE and everybody involved on this. Because this is a project that will help. I heard statements about schools. Our school populations are down for the last three years. The 1,518 homes in Southern Kent Island, property values are depressed almost 30 percent. So I mean, you know, there's homeowners down there that are going to have to go on holding tanks. There's homeowners down there that can't

afford the pump outs that they are having to do monthly. This is a, the best that we can possibly offer them, \$100 a month to pay this project off. It's less than your phone bill. I mean, it's never going to get any better than what it is now. And I agree with the County Administrator, the build out is going to be a slow process over 20 years. I mean, it's going to take us seven years just to complete the project. And, you know, I heard discussion about the roads. These are already roads in existing communities. So there's no, we don't have to build roads. A lot of this is directional bore and it is a sealed system so that, you know, if there is flooding it doesn't get infiltrated into this sealed system.

TREASURER KOPP: Explain what that means. That was mentioned in terms of --

MR. MORAN: Sealed system?

TREASURER KOPP: Yeah, in the context of rising waters --

MR. MORAN: Yes, ma'am.

TREASURER KOPP: -- or cracking --

MR. MORAN: So what a sealed system is, right now in Queen Anne's County because it's so flat we have a vacuum system so that we're actually pulling the waste towards the wastewater treatment plant, which has open valves. Meaning that if water rises and it gets in an open valve we're actually pulling rainwater to our sewage treatment plant. So with a closed system we're actually pumping it. Each individual step system has a high head pump inside of

it that will take, the solids will stay there, we'll collect the solids, just the effluent gets pumped all the way up to our treatment plant. So it's all sealed and there's nowhere for air or fluids to get into the system except coming through your home.

TREASURER KOPP: Did you look at other, I mean, so the idea was --

MR. MORAN: Absolutely. Absolutely. We've looked at everything. And if we had alternates they'd be in right now and we would have even more infill lots. And that's, you know, one thing those people don't say is there's other solutions. Well, if there's other solutions they would have been available to those vacant lot owners a long time ago and there just is not. I mean, this is, you know, we've discussed this. We've gone over every possible avenue that we could. And we've gotten the blessing from many, many organizations.

TREASURER KOPP: This question was raised of an audit of the cash flow to make sure. I assume your office did projections.

MR. MORAN: Absolutely.

TREASURER KOPP: But how do you go through assuring yourselves that those projections are valid?

MR. MORAN: Well we went through them two or three times and then we handed them over to Jag, and Jag went through them, and he said that they were. So, I mean, you know, I don't know who else we could possibly go to. I mean, and you know, Director Mohn has been with Public Works for 30 years

and this is what they do. They built the sewage collection for the northern part of the county. So it's, you know, I think that they have the experience to speak to that. And Jag, you looked at the numbers and --

MR. KHUMAN: Madam Treasurer, if you look at the debt service on this loan, the first phase --

TREASURER KOPP: Right.

MR. KHUMAN: -- it's about \$1.3 million a year on a level debt service. The homeowners, the first group, which is about 750 homes, are going to be providing about \$1,000 a year towards the debt service annually. So that covers about half or \$750,000 of the debt service. The Bay Restoration Fund, which is putting in \$15 million over the time, can cover a small portion of the remaining debt. Plus the new development, the 600 homes, each one has a benefit surcharge and that collectively is about \$25,000 a home, and collectively will bring in another \$15 million worth of revenue.

TREASURER KOPP: So is this dependent on the new 650 --

MR. KHUMAN: No, most of our debt can be covered with the existing user charges. But yes, the cost of the project benefits from the additional new development benefit assessment. Because those monies help offset the capital costs.

MR. MORAN: Absolutely. Yes.



TREASURER KOPP: And those monies are dedicated to this?

They can't --

MR. MORAN: Absolutely. Yes. Yes, ma'am.

TREASURER KOPP: -- just go into a general fund for the county?

MR. MORAN: Mm-hmm.

GOVERNOR HOGAN: So we heard from each of the opponents earlier that were, each one of them I think talked about rising tides and flooding and global warming. And it seems to me that you said 80 percent of the 1,500 homes are pouring --

MR. MORAN: Going right into the Bay.

GOVERNOR HOGAN: -- you know, sewage into the Bay.

MR. MORAN: Their effluent water is hitting lateral, hitting clay.

GOVERNOR HOGAN: It seems like the flooding is an argument why you need to put in the sewer --

MR. MORAN: Well and again, the last time those roads --

GOVERNOR HOGAN: -- road situation is horrible.

MR. MORAN: Yes, sir. And the last time those roads were impassable was Isabel. So, you know, again, and I think we've had roads here. I mean I know that Downtown Annapolis, you get a high tide with a full moon and the wind blowing the right direction, will flood. So I mean, you know, we are

concerned about that. But that's no reason to turn our backs on the 1,518 homes down there that are polluting on a daily basis and the cost of this --

GOVERNOR HOGAN: A new sewer system is better than failing septics --

MR. MORAN: Absolutely.

GOVERNOR HOGAN: -- if you have rising water.

MR. MORAN: Yes, sir.

TREASURER KOPP: I happen to have walked, this is not a new idea, the forgive my mentioning, O'Malley Department of Natural Resources had us walking around --

GOVERNOR HOGAN: I like to say the previous Governor.

(Laughter.)

TREASURER KOPP: The previous Governor, sorry. In a time past, walked around there. I walked around there. Some of you were with me maybe. And it was quite clear that there were odiferous --

MR. MORAN: Oh yeah.

TREASURER KOPP: -- really gross problems that had to have a significant health impact, even then. And as I say, I mean, things I think are just getting worse. We're going to have to face this. This is one example. We don't have the authority to go in and tell people they have to leave their homes and tear them down. We don't have that yet anyhow.

(Laughter.)

TREASURER KOPP: Or to tell the people in Ellicott City they can't rebuild unless they, you know, completely redo their infrastructure, or we have to stop putting sands on the beaches of Ocean City. I think these questions are coming. Not in my time, thank heavens, on this Board. But until then it does seem to me from my experience walking it, seeing it, looking at these numbers, and hearing now from two State administrations and the county, and I am not for more growth any more than anyone else is, I think it makes sense.

MR. MORAN: Believe me, if we didn't have to do the infill, if the Attorney General didn't tell us to, and we didn't need that to fund this to help the existing homeowners --

TREASURER KOPP: Yeah.

MR. MORAN: -- we wouldn't do it. But we just don't have a choice with this to make this work for all parties concerned. And I will say that, you know, over the five years, in the beginning there was great opposition, there was great concern from misinformation. And we've done a very good job of informing the public over the last five years, and I've been with this, you know, for three years, of every step of the process. And we have 85 percent of the public down there that has allowed us to come onto their property to do the engineering. So you know when we voted on this in August, August 25th, three people in the audience against it. So I mean this is --

TREASURER KOPP: Yeah, I don't know if you know that --

GOVERNOR HOGAN: But we heard from citizens down there that complained to us about, I'm going to put this --

TREASURER KOPP: Right.

GOVERNOR HOGAN: -- more nicely than they put it to us, but there's like rivers of feces flowing through their front yards --

MR. MORAN: Correct. Right.

GOVERNOR HOGAN: -- into the Bay, and contaminating the groundwater.

MR. MORAN: Mm-hmm.

TREASURER KOPP: That was --

GOVERNOR HOGAN: It doesn't sound like the current status quo is really a good way to go.

MR. MORAN: Thank you.

TREASURER KOPP: I was going to say we did hear from the middle, Midshore Riverkeepers --

MR. MORAN: Mm-hmm.

TREASURER KOPP: -- some time ago --

GOVERNOR HOGAN: The Riverkeepers finally support this.

MR. MORAN: Absolutely. Yes.

TREASURER KOPP: It's a pretty disgusting situation.

MR. MORAN: Yes, sir?

COMPTROLLER FRANCHOT: Yeah, thank you very much for your testimony. Tonight I'm going to be watching the seventh game of the World Series. There's nothing better in life than that.

MR. MORAN: Absolutely. Absolutely.

COMPTROLLER FRANCHOT: It is, thank God, no MSNBC. I'm going to watch the World Series.

GOVERNOR HOGAN: If the Orioles --

COMPTROLLER FRANCHOT: Yeah, it would be better if it were the Nats versus the Orioles, that's for sure.

TREASURER KOPP: And you're not even from Chicago.

GOVERNOR HOGAN: Yeah.

COMPTROLLER FRANCHOT: But here's the deal, there's a little bit of rain predicted perhaps.

MR. MORAN: Mm-hmm.

COMPTROLLER FRANCHOT: If it rains in Cleveland, what are they going to do? They are going to go and pull a tarp over the infield and wait a little bit, rain stops, then they're going to go on with the game.

MR. MORAN: Mm-hmm.

COMPTROLLER FRANCHOT: They've not going to build a dome over the stadium --

MR. MORAN: Mm-hmm.

COMPTROLLER FRANCHOT: -- because there might be a rainfall.

MR. MORAN: Mm-hmm.

COMPTROLLER FRANCHOT: This is a very expensive project.

MR. MORAN: Yes, sir.

COMPTROLLER FRANCHOT: And you just testified that 80 percent of the homes down there are pumping sewage directly into the Bay or onto the land. That, do you have any report or study that documents that? That there are, I mean, I don't blame the Governor for repeating what someone said but the idea that there --

GOVERNOR HOGAN: I think it was the Department of the Environment that said that.

COMPTROLLER FRANCHOT: Then the Department of the Environment, if they could come up and please explain to me if there are rivers of feces going directly into the Bay and onto the surface of, not the groundwater but the surface water, what kind of documentation do you have of that as far as health effects? Because obviously there are people that are going to be ill from that, there are going to be protections taken by DNR about fishing and recreation and swimming if there are, Madam Lynn, Mrs. Buhl, I guess you are the MDE, if in fact we have rivers of feces going directly from the homes, 80 percent of the

homes, how do we permit swimming? How do we permit walking? How do we permit crabbing? How do we permit oyster harvesting in rivers of feces? Please?

MR. MORAN: Well to be fair, that wasn't something that came from any of us, rivers of feces. That was an email that the Governor received --

GOVERNOR HOGAN: These are citizens talking about in their front yard.

MR. MORAN: Correct. Right. Right.

COMPTROLLER FRANCHOT: Yeah. Well I'm interested in that because my point here is that I think the tarp analogy is accurate. There may be 40 homes that have a problem with their septic systems. And I believe we could not cover that up but we could put a, we could bring the tarp on and fix those 40 or 50 homes for a lot less money than we're spending right now on this sewer system and we would not have this problem of sprawl development. Because that obviously looms in the background. I can't imagine the developers not being interested in taking advantage of this new sewer system to build more lots. But the question is, if you have documentation of sewage being in the surface water, not the groundwater, the surface water, and/or going directly into the Bay, why can't we just fix those homes that have that?

GOVERNOR HOGAN: I think the issue is that you're, I don't know where you pulled the 40 or 50, but their report says 80 percent of the 1,500.

That means 1,200. I didn't do the report but it seems like a big difference between 40 or 50 or 1,200.

COMPTROLLER FRANCHOT: Which is it then?

GOVERNOR HOGAN: It's 1,200.

COMPTROLLER FRANCHOT: Excuse me?

MR. TODD: Well I think --

COMPTROLLER FRANCHOT: No, tell me because --

MR. TODD: I think there's a difference between a failing septic system and rivers of feces running over a yard.

GOVERNOR HOGAN: Some are worse than others.

MR. TODD: A failing septic system means that the effluent is not getting treated. It's going straight from the laterals into the groundwater. And that's the problem we have down there. Now I do have pictures of backyards full of waste, wastewater (indiscernible).

So when we hear talk about alternative systems and there's got to be a way to fix it, I think you heard earlier about the three problems. Lot sizes are too small, the ground is not pervious enough, and the groundwater is too high. So when you've got a lot, say this is your lot, okay? And as just as an example, the bottom of this is your septic field and your groundwater is up here, there's no place for that flow to go except for into the groundwater. And that's what we're running into.



COMPTROLLER FRANCHOT: Yeah, but what we're talking about is surface water, not groundwater.

GOVERNOR HOGAN: Well both.

MR. TODD: No.

GOVERNOR HOGAN: Eighty percent is contaminating the groundwater.

MR. TODD: I'm talking about the groundwater.

COMPTROLLER FRANCHOT: Yeah. But that's, okay, well that's exactly the point if the, perhaps the Secretary representative could comment on that. The issue of public health as far as groundwater is completely different from surface water, number one. Number two, the drinking water I take it is still all going to be taken from wells, so there's no contamination of wells.

MR. TODD: No, the wells are deep enough. It's a different aquifer.

COMPTROLLER FRANCHOT: Uh-huh.

MR. TODD: But when your groundwater is three inches, which we have tested, it's three inches from the top of the ground, it's going to be in those ditches. And that's what we're running into. It seeps over into the ditches. So the ditches have effluent in them. You can smell it down there. It's not --

COMPTROLLER FRANCHOT: I'm not denying you can't, it's not odiferous, as the Treasurer said. I'm sure it is. My only problem is

misinformation about how serious the problem is and to the extent you are saying 80 percent have failing systems because some of the groundwater is having some exposure, that's completely different from what the citizens are talking about with these pictures. This is surface water. And to confuse the two and imply that 80 percent are failing because they don't have the three feet of sand between the leaching field and the surface, or the top of the groundwater, I think is a very, you know, you end up instead of taking the tarp out and covering it and doing it in a relatively inexpensive way, you end up putting something in which is unnecessary for most of the 1,500 septic systems down there. Most of them operate just fine. They don't have that problem.

MR. TODD: Just so you know, the tarp is a holding tank. Okay? And a holding tank during the high ground water level they are pumping out once or twice a week for \$600 a pump out. That's your tarp. Your tarp is incredibly expensive to the homeowners. Because all that water -- we've seen it. We have seen them open up a tank and pump it out and never stop pumping, because that groundwater is being pulled back through the laterals. And when that groundwater is a couple inches from the surface, it is surface water in some areas. Okay? Because --

COMPTROLLER FRANCHOT: Yeah, but you're confusing the Board here with your statement that 80 percent of the systems are failing. You have a small number of systems that are failing and causing the kind of uproar

that I would like to correct also. But in correcting that small number you're misinforming us about the fact that there are 80 percent of these are failing and secondarily that we need to spend \$33 million helping you build a sewage system that will open it up to just, well, how can you call it anything other than sprawl development?

MR. MORAN: Well --

GOVERNOR HOGAN: Let me just jump in here for a second. I mean, how would you say that they are misrepresenting? Eighty percent of the septic systems are failing, and that's what all the tests have shown. That's what the Department of the Environment says --

MS. BUHL : They are discharging into the groundwater --

GOVERNOR HOGAN: -- how could you say they're not?

COMPTROLLER FRANCHOT: Yeah. They're not because --

GOVERNOR HOGAN: I mean, maybe 40 or 50 have rivers of feces --

MR. MORAN: Yes.

GOVERNOR HOGAN: -- but 80 percent of them are leaching into the groundwater.

MR. MORAN: The definition for the septic system that are on those existing homes, under their definition 80 percent of them are failing. That is correct.

COMPTROLLER FRANCHOT: Okay. Do you have that study, or are you, is that your study? Whose study is it?

MR. MORAN: The Health Department.

COMPTROLLER FRANCHOT: Who? The Health Department? Where are they? What's that, the county?

MS. BUHL : The county.

COMPTROLLER FRANCHOT: Where are they?

GOVERNOR HOGAN: The Health Department is the State.

COMPTROLLER FRANCHOT: Are they here?

MR. MORAN: They are not here with us today, no.

COMPTROLLER FRANCHOT: Where's the study? Because it doesn't exist.

MR. TODD: That is not true.

MR. MORAN: Well, I disagree with that. Yes, sir.

MR. TODD: We will get you that study.

COMPTROLLER FRANCHOT: But 80 percent --

MR. TODD: Absolutely.

COMPTROLLER FRANCHOT: -- of those systems --

MR. TODD: Are failing.

MS. BUHL: -- are discharging --

COMPTROLLER FRANCHOT: -- yeah, but it's a definitional issue, right? In other words, what they are saying is that there is not, not two inches, there's not three feet of sand between the leach field and the surface water. And --

MR. TODD: They are saying that the effluent is draining directly into the groundwater. That's the definition of failing.

COMPTROLLER FRANCHOT: Okay. If you find me a study that says 80 percent of the failing septic systems are putting water in, putting bacteria into the surface water and directly into the Bay --

MS. BUHL : Into the groundwater.

COMPTROLLER FRANCHOT: -- I'll go back and change my vote. But if you're, what you're talking about is groundwater, which is a very technical definition and does not, for example, if we had all of this, are there any documented cases of a single health issue over the last ten years?

MR. MORAN: We prefer to be proactive versus reactive.

COMPTROLLER FRANCHOT: Really?

MR. MORAN: Yes, sir.

COMPTROLLER FRANCHOT: So with all of this feces all over the place, in the groundwater and in the surface water, not a single case --

MR. MORAN: Reported.

COMPTROLLER FRANCHOT: -- of illness?

MR. MORAN: Reported, correct.

COMPTROLLER FRANCHOT: Any instance of anybody saying they shouldn't swim or fish or crab in the waters? Any one single instance? So --

GOVERNOR HOGAN: Any other questions?

COMPTROLLER FRANCHOT: --unfortunately we are being misinformed here. And I appreciate all of your testimony. But I really resent the tens of millions of dollars that we're spending unnecessarily to take care of this issue.

MR. MORAN: I appreciate your comments, Comptroller.

GOVERNOR HOGAN: Any other questions or comments from either you or from the Treasurer?

TREASURER KOPP: No, except I disagree with the implication.

GOVERNOR HOGAN: Well so you know 80 percent of the existing septic systems on South Kent Island are failing. It is an environmental problem that is threatening the health of the Chesapeake Bay and the health of our citizens. It is a problem that has been plaguing this area for far too long and the status quo is polluting the Chesapeake Bay and allowing wastewater to leach into the groundwater, which poses a serious public health concern according to the Health Department for the residents there. The residents are contacting us complaining about the smells, about the problems in the water, the issues they have to deal with with the pump outs and all the, you know, Band-Aid

approaches. Addressing these problems by extending the sewer service represents in my opinion the best solution for reducing nitrogen pollution in the Bay and for alleviating the public health risk to the community of having sewage floating around in their groundwater or laying in the yard.

I understand that there are people here that feel very strongly and they are very passionate. They fear the prospect of additional development. You've stated very clearly that you've committed that the system can't handle more than those 600 potential lots which you're saying, you know, won't even be a real factor on the 600, and that you'd have to pay all the money back, you would be penalized. So I don't know where all the concern comes from. I'm concerned about the 1,500 people that live there now living in these conditions. So I think that, you know, the facts that, Queen Anne's County provided some facts. The Maryland Department of the Environment did studies that clearly show that connecting the sewer service will enhance the nutrient removal process and will result in a 75 percent decrease in nitrogen discharge into the Bay rather than installing the best available technology septic systems. And even if there were to be some additional development, MDE decided that connecting South Kent Island to the existing wastewater treatment plant would still result in a significant net positive benefit in water quality for the Bay, something that the Midshore Riverkeepers acknowledged in their letter strongly supporting this project.

So it sounds like there is somewhat of a disagreement on the Board on this one particular issue. So I think we'll separate out a vote on Item 10. I'd like to make a motion to approve Item 10. Is there a second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: I assume the Comptroller is going to be a no?

COMPTROLLER FRANCHOT: Yes.

GOVERNOR HOGAN: We'll vote two to nothing. The motion passes.

SECRETARY MCDONALD: Two to one. Two to one.

COMPTROLLER FRANCHOT: Two to one.

TREASURER KOPP: Could I just add --

GOVERNOR HOGAN: I'm sorry.

COMPTROLLER FRANCHOT: Yeah, two to one.

(Laughter.)

TREASURER KOPP: He didn't mean --

GOVERNOR HOGAN: I didn't mean to forget you. The bromance is not over.

(Laughter.)

(Applause.)



GOVERNOR HOGAN: Look, I don't even agree with my wife 100 percent of the time.

(Laughter.)

TREASURER KOPP: Rest assured this is a temporary situation. But could I just add on top of what the Governor says, this is a discussion that's been going on since the 1990s and the problem has gotten worse and worse over the time. And will get worse as the sea level rises and the ground level subsides and gets sodden. Now I don't know how long, but you're in this for 50 years now, what it's going to be like in 50 years. We know, I suppose, that between now and 50 years from now it will be better because of this correction. But I --

COMPTROLLER FRANCHOT: Well Madam Treasurer, I'm sure their able counsel Mr. Bereano will figure that out 50 years from now. But it is a valid issue.

TREASURER KOPP: Oh, Mr. Bereano, how are you this morning?

GOVERNOR HOGAN: Actually, I hope he's not around in 50 years.

(Laughter.)

TREASURER KOPP: No, I just, I just think there's no really happy choice but this is a healthier choice.

MR. MORAN: Thank you. Thank you very much.

GOVERNOR HOGAN: Thank you very much. So the motion on that one, that carries, Item 10 carries two to one. Are there any other questions on the balance of the Secretary's Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing on the balance.

SECRETARY MCDONALD: Thank you.

GOVERNOR HOGAN: Now we're going to move on to the DNR Real Property Agenda.

MR. BELTON: Good morning, Governor. Good morning, Comptroller, Madam Treasurer. For the record, I'm Mark Belton, Secretary of the Maryland Department of Natural Resources. We have eight items on our Real Property Agenda for your approval this morning.

GOVERNOR HOGAN: Thank you, Secretary Belton. Any questions on DNR? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Second? Three-nothing. Now move on to the University System Agenda.

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

GOVERNOR HOGAN: Good morning, Joe. Any questions on University of Maryland?

TREASURER KOPP: Governor, not a question but an opportunity. I want to thank the Lieutenant Governor. You were taken away unexpectedly to a funeral and the Lieutenant Governor stepped in for a wonderful groundbreaking at the University of Shady Grove.

GOVERNOR HOGAN: Very exciting.

TREASURER KOPP: And it just, I hope you were there, Joe. If you haven't, go visit it. It is just a really very exciting --

GOVERNOR HOGAN: Thank you for pointing it out. We're really proud. Everybody worked together on it. It's a great, I really hated missing that. That was an important funeral. But we're very excited to see that open. Thank you. Motion on the University System?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second. Three-nothing.

MR. EVANS: Thank you.

GOVERNOR HOGAN: And we'll move on to Information Technology. We're just blowing through them now.

MR. ESTRADA: Good morning. Good morning, Governor, Mr. Comptroller, and Madam Treasurer. For the record, I'm Luis Estrada, Deputy Secretary of the Department of Information Technology. Today we have two

items on the Agenda but are withdrawing Item 2-IT. And we have representatives to answer questions on the remaining item.

GOVERNOR HOGAN: I've got some concern about Item 1. Do we have a representative from Baltimore City Community College?

MR. ESTRADA: Dan Coleman, Procurement Director.

GOVERNOR HOGAN: Good morning.

MR. COLEMAN: Good morning. Good morning, Governor. Good morning, Madam Treasurer.

TREASURER KOPP: Good morning, Mr. Coleman.

MR. COLEMAN: Good morning, Mr. Comptroller. My name is Daniel Coleman. I'm the Director of Procurement at Baltimore City Community College, here to answer your questions.

GOVERNOR HOGAN: Well good morning. Thank you for being here.

MR. COLEMAN: You're welcome.

GOVERNOR HOGAN: This item that you bring before us today is a request to approve something that we really hate to see here for two reasons. One, it's retroactive. And two, it's a sole source contract for software services --

MR. COLEMAN: Yes.

GOVERNOR HOGAN: -- for the library catalog system.

MR. COLEMAN: Yes.

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GOVERNOR HOGAN: Right? And it seems that the last four contracts that you brought to the Board of Public Works dating back to 2014 were all sole source contracts, and two of those were retroactive. So it's a thing that we talk about here almost every week.

MR. COLEMAN: Yes.

GOVERNOR HOGAN: One time is sort of an oops, and you know, we usually let it slide. But the second, third, fourth, and now fifth time starts to seem like a pattern and a, you know, somewhat disturbing pattern to us.

The material that you provided us here states that the staff turnover was the cause of this most recent retroactive sole source contract. But to me it actually looks like the old staff may have actually been the problem, because it kept happening over and over again. And I know that you've taken some remedial actions to fix this problem.

MR. COLEMAN: That's correct.

GOVERNOR HOGAN: But we've been told that no payments have been made to the vendor for over two years, and I don't understand that. I mean, it just seems, it seems completely unacceptable. And companies that are doing business with the State, who perform, you know, agreed upon contracted duties need to be paid according to the contract. And it seems to me that I know we probably have to take this action today to approve this item so the contractor can get paid. But, you know, the next time you come up here with an item we

really would like to see if there isn't a way for us to get more than one bidder, number one, and we can have some actually competitively bid contracts. And we don't want to see another one that's retroactive after the fact. We like to approve things in advance. And so we want, the next time you come before us, I think we're going to have to move on this one for you, we don't want to do it again.

MR. COLEMAN: Yes, sir.

GOVERNOR HOGAN: And so fifth time, sixth time is the charm. And but, we don't, we want to see the next contract not retroactive, pays the vendor on time, and it's in accordance with the contract. Does that sound good?

MR. COLEMAN: Yes.

GOVERNOR HOGAN: Thank you. Any other questions?

COMPTROLLER FRANCHOT: No. I totally agree with you.

TREASURER KOPP: Yeah, Governor, you mentioned going back to 2014. This goes back before 2014. You and I spoke five years ago, five and a half years ago. It was just about exactly the same situation, only it was \$50,000, now it's \$27,000, that we have stiffed someone for. That was the term that was used five years ago. Mr. Coleman, I don't understand. I know Baltimore City Community College is going under a lot of change. There are a lot of issues, bigger issues than this even. But I have a list here going back to 2008 of these retroactive contracts for which it was either said, oh, there's a problem in the process, or we've had turnover and it's a problem. And last time the process was,

I quote, “a disconnect between the Contract Administration and actual processing of the bill.” Meaning, we used the contract, they did the work, we didn’t pay them. And now it’s happened again. I don’t understand it. Because I know you don’t think this is the way things should be done. I have great respect for your intentions, no question about it. But we are, as I said before, stiffing the people who do work for us. How does this stop?

MR. COLEMAN: Well what we have done, as you correctly remembered, yes, we did come to the meeting five years, five and a half years ago. I also presented confidential information on the staff turnover that created the voids in our procedures. Since then we have also had the same situation occur except for the fact that our corrective action now is rather than having the centralized licensing, where departments had those licenses, and our response was for putting them into the procurement system, we now have them all centralized in our IT system as part of our inventory of software and software licensing. We’re thinking that this will make it more effective.

The issue with the sole source to the library, I’m sure you understand the proprietary relationship with the software and always the evaluation as to if I change what will that cost benefit be? However, to satisfy the needs of the Board and the procurement compliance we wish to issue a solicitation to have competitive bids that will be in accord with the new advisory

on one bid coming before the Board. So we have done those things internally in a hope to avoid this embarrassment to the college in the future.

GOVERNOR HOGAN: Do you think that the fact that nobody ever gets paid on time is discouraging bidders?

MR. COLEMAN: Yes --

GOVERNOR HOGAN: I mean, we might end up with a no bid contract instead of a sole source contract. These guys might get tired of not getting paid and they're not going to bid.

MR. COLEMAN: I totally agree with you, Governor Hogan. And to that fact I've also gone to the Special Secretary for the Minority Business Governor's Office and presented the proposal to them to help expedite the payment using the blanket PO and the payment off of the credit cards so therefore vendors would get paid in three days. However, as you know, well at the college our practice is that the invoices come into accounts payable. Yes, it's just inconceivable that a vendor would go along two years without submitting an invoice. I received a call from your office on yesterday, and just to verify I went back five years in our FMIS system and yes, there were POs cut but they were closed out. I also looked at direct vouchers for the last five years. And over the period of the last five years there were just two payments to this vendor and that was in 2013. So how that this has gone under the radar with a vendor who can,



it's inconceivable from a vendor standpoint. And it's, we can't get away from our responsibility to pay for the services.

GOVERNOR HOGAN: So you forgot to pay and they forgot to bug you about getting paid.

MR. COLEMAN: Well, something broke down there.

TREASURER KOPP: Is there a penalty? Does the State agency incur a penalty?

MR. COLEMAN: No.

TREASURER KOPP: Would that help?

MR. COLEMAN: Well that would go, my understanding that would go against COMAR so far as the payment of late --

SECRETARY MCDONALD: -- does have a pay late --

MR. COLEMAN: Yeah.

SECRETARY MCDONALD: It does.

TREASURER KOPP: I thought the State used to pay late fees but apparently the agency, it doesn't come out of the agency's, this agency's budget.

GOVERNOR HOGAN: It should. They're the ones that are late.

TREASURER KOPP: Would that attract your --

GOVERNOR HOGAN: That would make people pay more attention.

MR. COLEMAN: Yes. I'm sure.

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TREASURER KOPP: All right.

GOVERNOR HOGAN: All right. Well thank you very much.

TREASURER KOPP: Thank you.

GOVERNOR HOGAN: We appreciate you coming and answering our questions.

MR. COLEMAN: Thank you.

GOVERNOR HOGAN: I don't have any other questions. Anybody else? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. Last but not least --

MR. COLEMAN: Thank you.

GOVERNOR HOGAN: -- no we have, no we have a couple more. We've got Transportation. Mr. Secretary?

MR. RAHN: Good afternoon, members of the Board. For the record, I'm Pete Rahn, Secretary of the Maryland Department of Transportation. The department is presenting 11 items today and I would just like to say to the Governor thank you very much for your expression of condolences yesterday to the people involved in that horrendous crash. Thank you for doing that.

GOVERNOR HOGAN: It's very sad. And our hearts go out to all the people that lost their lives, all the people that were injured and their families

and loved ones. We, I think we've lost two State employees, not only one from your department but another long time employee from I think the Department of DHR, I mean, DHMH, a 27-year State employee. And I understand that the female driver of the MTA bus, her husband was also a driver driving another bus at the same time.

MR. RAHN: Yes. Yes.

GOVERNOR HOGAN: It's just tragic. And please, extend my personal condolences to those folks.

MR. RAHN: I will. Thank you.

GOVERNOR HOGAN: Thank you very much. So a motion on Transportation?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing. Last we've got DGS.  
Mr. Secretary, good morning.

MR. CHURCHILL: Good morning, Governor, Madam Treasurer,  
Mr. Comptroller.

GOVERNOR HOGAN: I want to just interrupt for one second and say I went with the Secretary of DGS and his wife, who is our press secretary, to Disney on Ice over the weekend with their four-year-old daughter Isabella and my

three-year-old granddaughter and we had an awesome time. We met Mickey and Minnie.

MR. CHURCHILL: My daughter loves Uncle Governor.

(Laughter.)

GOVERNOR HOGAN: Uncle Governor. I like that.

MR. CHURCHILL: For the record, I'm Ellington Churchill, the Secretary of General Services. The department has six items on today's Agenda and we'll be glad to answer questions at this time.

GOVERNOR HOGAN: I have no questions. Any questions?

COMPTROLLER FRANCHOT: No.

GOVERNOR HOGAN: Motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. Thank you everyone for being here. This session of the Board of Public Works is now adjourned.

(Whereupon, at 12:00 p.m., the meeting was concluded.)