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Affairs;

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of Public Works; and,

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Public Works.

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P R O C E E D I N G S

GOVERNOR O'MALLEY: Good evening. Good evening, right. We are late. We're not that late. Good morning. Welcome to the Board of Public Works. Today is July 6, 2011. We've got a number of items on the Board of Public Works Agenda. And before we jump into them I'd like to ask the Comptroller if he has any opening thoughts, words?

COMPTROLLER FRANCHOT: Thank you, Governor. I was just mentioning to you about the Fourth of July. I hope everybody had a great holiday. It happens to be one of my favorite days, and it just reminds me how great it is to be a Marylander and an American. And there are always a couple of people that had a bad day so when you're walking along in the parade it, there are a couple of shouts. But almost 100 percent of everybody I met on Monday, and there are literally thousands of people at these parades, Tacoma Park, I started out. It's my hometown. And I was lucky there because I had my wife with me and everybody likes her a lot more than they like me.

(Laughter)

COMPTROLLER FRANCHOT: And I had my yellow lab walking with us, so that was a great start. And then I went up to Arbutus, which is a terrific smaller parade but just a great group of people. And then I saw the Governor in Catonsville, which had a huge turnout. And I just hope everybody enjoyed the holiday and appreciated the fact that we were, we all come together on that day.

It's like of ironic because it's Independence Day but it reminds me how dependent we are on our military, on our communities, frankly on our government, also. And it's not completely appreciated all the time, but in that spirit I would like to thank Treasurer Kopp for her leadership and success last week in hosting the rating agencies. I thought it was a very successful visit. The Governor hosted a session at the, at his home. And I think it just reminds me that it's a pleasure to work with both the Treasurer and the Governor on this Board, making the kinds of decisions that allow our State to get a AAA bond rating. And we have been careful stewards of the taxpayer dollars. We have worked together for

fiscal stability. It's been tough economic times, it continues to be. But the fact that we are able to maintain the AAA rating just shows that priorities emerge and builds consensus. So I want to thank everyone, frankly, in the room. But particularly you, Governor, and the Treasurer for your leadership and partnership.

GOVERNOR O'MALLEY: Thank you. Madam Treasurer?

TREASURER KOPP: Well, I want to thank you, Comptroller, for participating in our two-day visit with the bond rating agencies, explaining to them where Maryland is in terms of revenue and budget, and long term obligations. We look forward to hearing from them. The ratings have to be reaffirmed every time we go to the market and we look forward to hearing next week, I think, from those agencies. They are well aware of the challenges we face but they are also well aware of Maryland's strengths.

It is a wonderful day, the Fourth of July. We always celebrate it, this might sound hokey, but by reading the Declaration of Independence. Which when

you reread it you see is just in unbelievably magnificent document. Very straightforward, very clear, understanding the importance of the rule of law, but at the end that power stems from the people and if government doesn't perform well the people have to change it in order to have a strong government. And it's really quite interesting that the Declaration of Independence, the main concerns were the King did not allow good laws to be passed and things done for the public welfare. As opposed to some folks today seem to think that anarchy is, that is no government, is the key to all that is good.

But it was also a very difficult week. We lost two strong members of our Annapolis family, and I know that Secretary McDonald is going to want to say something about Hannah White, who worked for us, for the Board, for a long time. And David Boschert, the late husband of Marion Boschert who is a strong member of the Board of Public Works team, and was a colleague of ours, Peter.

COMPTROLLER FRANCHOT: Mm-hmm, yep.

TREASURER KOPP: In the House of Delegates in the 1990's, late nineties. The first part of the 21st Century, too. A great representative of Anne Arundel County. So it was a day both of celebration and of sadness, of parting. And all I can say is I for one am very glad to be here. And I wish you good morning.

GOVERNOR O'MALLEY: Thank you, Madam Treasurer. And the O'Malley family had a great time on the Fourth of July. We did four parades. We did Dundalk, we did Towson, we did Catonsville, where we saw each other, and we ended up with Belair. Everybody was very, very nice. A good time was had by one and all. Though I am reminded of something that the late, great William Donald Schaefer once said, which is that in a crowd of a thousand people cheering you hear the single boo the loudest.

(Laughter)

TREASURER KOPP: And he did.

GOVERNOR O'MALLEY: And he did.

(Laughter)

GOVERNOR O'MALLEY: And he tracked them down, too.

(Laughter)

GOVERNOR O'MALLEY: We chose instead to come back to Annapolis and look at the fireworks.

(Laughter)

GOVERNOR O'MALLEY: The, Ms. McDonald I am ver sorry for the losses in your office. And I knew David, a very, very decent man. And do you want to share with us?

SECRETARY MCDONALD: Yeah, thank you for, if we could just take a minute I would appreciate it very much. Most of you did know of Delegate Boschert as a former Delegate, and Chairman of the County Council in Anne Arundel County. Marion Boschert, who usually sits to my right, we know him as Marion's husband. And David died June 30th, last Thursday.

David and Marion met as students at Arundel High School. Marion went to work for the Board of Public Works in 1974 at age eighteen. Her work has spanned Governors from Marvin Mandel to Martin O'Malley. David joined the United States Marines and

went off to Vietnam. When he returned to Anne Arundel County, Marion and David married and made their lifelong home in Crownsville.

Marion and David were always an inseparable pair. It was hard to tell they had been married so long. They still went to lunch together as often as possible and they shared everything. David died a young man at age 63 last week. Marion will celebrate their 40th wedding anniversary in September.

So that happened on Thursday. July 3rd was the 13th anniversary of Louis Goldstein dying, he died the day before the Fourth of July. And on the 4th of July, Hannah White from our office also died. Hannah Wills White, beloved earth mother, died July 4th at her home in Huntingtown, Calvert County. She was 78 and was diagnosed with cancer this spring. Hannah was a mother, a grandmother, a public servant, and a connoisseur of life. If you knew Hannah your life was better for it.

Hannah was born in Leonardtown, St. Mary's County as Charles County had no hospital at the time, on November 7, 1932 into a family of big sisters,

although she did eventually have a cherished baby brother. She graduated from Sacred Heart High School in La Plata. She married Ulysses White, with whom she had three children. Her older daughter, Martha "Bobbie" White, died in 1977 at age 17.

Hannah would often entertain her friends in later years with stories about serving customers in a Prince George's County tavern while she tended to her three youngsters camped out under the bar. Although the stories in retrospect were entertaining, more importantly they convey Hannah's utmost dedication to hard work, self-sufficiency, and family integrity.

Eventually Hannah went to work for Montgomery Ward at its premier distribution center in Baltimore City. Yes, that's right all you people from MDE, Hannah worked in that big white building first for years as the executive assistant to one of the top executives. Luckily for the citizens of Maryland when Hannah retired from Montgomery Ward at age 57 she decided to embark on a new career in State government. She came to work at the Board of Public Works as a temporary employee in 1989 to help with a nagging

backlog of everything. Marion Boschert remembers, "From the first day she walked into our office she pitched right in and did whatever was asked." In 1990 Hannah was made a permanent employee and it seemed as if she always had been. Her combined expertise and self-assurance which meant she would get the job done without fuss or ado. Her attention to administrative tasks was so keen and so essential that her personnel file is replete with commendations from top lawyers and administrators who took the time to recognize Hannah's drive to ensure that essential State transactions could proceed in a timely manner. The Departments of Transportation, Natural Resources, and Budget and Management, and the University System among others all expressed over the years how certain critical deals closed because Hannah cared.

The main thing though is that Hannah was a joy. From the time you met Earth Mother upon arriving at the Board of Public Works and spying her mane of fiery red hair, you knew you were going to be okay, that someone had your back. Every telephone caller to the Board was immediately put at ease. She tastefully

replied to the most extraordinary research requests in the most ordinary fashions. She truly was Earth Mother serving as guardian to all of us lucky enough to land in her life. We at the Board of Public Works are heartened by the vision of William Donald Schaefer and Louis L. Goldstein on either side of the pearly gate welcoming in our Hannah.

Hannah is survived by her daughter, Julianne, and her son, Bebe, their spouses, five grandchildren, one great-grandson, and a host of bereft colleagues.

And then just finally, if you want to remember Hannah Wills White and David Boschert today I can tell you there would be no higher honor for either of them than if you took the time to salute the United States Flag. And I will have copies of this written for anybody who needs the addresses. They will be out front. And thank you for the time.

GOVERNOR O'MALLEY: Okay, thank you, Ms. McDonald.

TREASURER KOPP: Thank you, Sheila.

GOVERNOR O'MALLEY: Okay. Let's start then, appropriately, with the Secretary's Agenda.

SECRETARY MCDONALD: Well, good morning again, Governor. We have twenty-four items on the Secretary's Agenda. Item 24 is a handcarried item. We are withdrawing Item 15. There are two reports of emergency procurements. And we are prepared as best we can be to assist you in any questions.

TREASURER KOPP: Governor, I do have one question on Item 21, the IAC item?

SECRETARY MCDONALD: I think Dr. David Lever is here. Dr. Lever has a host of amendments to the public school construction regulations, which as you know are in the Board of Public Works Title 23.

TREASURER KOPP: Yeah. I mean, it's a lot, it's too much to digest quickly, I have to admit. Although one can try. I had one specific question about the, I can't refer to the pages because they are not all numbered consecutively. But the part about the State's cost share percentage. There are changes in how it is going to be set out, I think. For fiscal year 2010 through 2012 it actually has laid out what

the percentage is. But the amendment is to say that it shall be as determined in accordance with Section C of this regulation. But Section C isn't included, so I don't know what Section C said. And my question is will this be broken out like this before us, or will it simply be a reference? Will people be able to see what the actual breakdown is?

DR. LEVER: Good morning. The objective was to remove the chart, because that would change every three years and therefore would require an amendment every three years.

TREASURER KOPP: Yes.

DR. LEVER: And only to make permanent the process, which the factors that go into the State/local cost share are outlined in Section C --

TREASURER KOPP: So the factors are still there.

DR. LEVER: Correct.

TREASURER KOPP: They are there now, and they will be there then. But what people won't be able to see easily is what they mean in terms of the percentage relationship between the jurisdictions?

DR. LEVER: They will not see it in regulation, no.

TREASURER KOPP: And why was that decision made?

DR. LEVER: Simply because it would have, having the chart in there would require an amendment every three years. The law does require recalculation.

TREASURER KOPP: Tell me about the difficulty of an amendment every three years.

DR. LEVER: The IAC members felt that that was cumbersome to bring amendments back --

TREASURER KOPP: But actually what is involved in the amendment every three years?

DR. LEVER: It involves going through the regulatory process. Bringing an amendment to the Board of Public Works --

TREASURER KOPP: Uh-huh.

DR. LEVER: -- having it approved, then going through the regulatory review process, and having it published and then approved by the AELR, and

then returning to the Board of Public Works. The usual procedure. That is the only difficulty, really.

TREASURER KOPP: That is the only difficulty, really. Well, Governor I have to say that I think, I understand why the members of the IAC would think that that's cumbersome. I understand that all of our agencies lack resources, and it takes some resources to walk through that process, although I never found the Board of Public Works process quite as scary and difficult as some would have it be. But I think it's important for people to actually be able to see numbers. And so I have a little difficulty approving or accepting these regulations with that change. I think transparency is the call of the day, and appropriately so. And this, while the factors will still be there, it really does take out a window to how funds are really --

GOVERNOR O'MALLEY: Tell me this item again? It's item what?

SECRETARY MCDONALD: This is Item 21, and actually you can see it in the item. Okay, Item 21, the first bullet says COMAR 23.03.02, Regulation .05.

And then there is a sub-bullet under that, the second one. It is in the item, that says what it's doing. So. And actually what you are looking at is the chart with the bracket around it.

TREASURER KOPP: Yeah.

SECRETARY MCDONALD: Showing that that kind of chart will not be there next time.

TREASURER KOPP: Right. That is what I am -
- and the point is, I gather, that C does have all the factors that go into it, and tells you how to do the equations.

DR. LEVER: Yes.

TREASURER KOPP: But it doesn't have the results.

DR. LEVER: No, it doesn't have the results.
That's correct.

TREASURER KOPP: And my concern is I think it's worthwhile to have the results out there. And it's not as though it were an every year change. It's three years. So that's just my thought.

GOVERNOR O'MALLEY: I agree with Treasurer Kopp.

COMPTROLLER FRANCHOT: Well, so do I.

DR. LEVER: Then we won't change it.

SECRETARY MCDONALD: Well what, this item can be saved because I do believe that on the item there is one specific part that talks about eliminating this chart. And we could get rid of that one part, and you could go forward with the whole entire package other than that.

DR. LEVER: That's correct. Right.

GOVERNOR O'MALLEY: Tell us where that part is?

SECRETARY MCDONALD: Okay. If you are on page 21 of the items, not the backup but the item, so it's Item 21, page 29.

GOVERNOR O'MALLEY: Uh-huh.

SECRETARY MCDONALD: Okay. There's a, the first bullet says COMAR 23.03.02, Reg .05. The second sub-bullet under that, "in addition the regulatory proposal deletes the table," that's what you would say you did not want that second sub-bullet to get past. But I think everything else is separate and can stand

alone and you could, if you wanted to, you could pass the rest of the items.

GOVERNOR O'MALLEY: Okay.

TREASURER KOPP: We'll make sure that things go smoothly.

DR. LEVER: -- right --

TREASURER KOPP: To the extent that we're here three years from now, which we may --

GOVERNOR O'MALLEY: So then I'm to understand that the Treasurer moves to strike the second bullet?

SECRETARY MCDONALD: Sub-bullet, correct.

GOVERNOR O'MALLEY: On page 29 --

SECRETARY MCDONALD: Correct.

GOVERNOR O'MALLEY: -- under the paragraph marked COMAR 23.03.02, Regulation .05.

SECRETARY MCDONALD: Correct.

GOVERNOR O'MALLEY: And you, and the Treasurer is moving that we strike the words, "in addition the regulatory proposal deletes the table that shows the State cost share percentage. This action will avoid amending regulations each time the

three-year recalculations are conducted." Our
Comptroller seconds her motion. All in favor signal
by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

SECRETARY MCDONALD: Thank you.

GOVERNOR O'MALLEY: And now --

SECRETARY MCDONALD: You want to approve the
item separately, and then you can go --

GOVERNOR O'MALLEY: Approve the item? So we
now approve, the Comptroller moves separate approval
of Item 21 on the Secretary's Agenda, seconded by the
Treasurer. All in favor signal by saying, "Aye." All
opposed, "Nay."

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And -

-

SECRETARY MCDONALD: The balance of the
Agenda items.

GOVERNOR O'MALLEY: Now we're on the balance of the Agenda. Thanks.

TREASURER KOPP: Thank you, Dr. Lever. I would just like to mention, Sheila mentioned there was an additional item, Item 24, that relates to the bond sales three weeks from now. It lays out the timing, it's a very complex sale with five parts. So what this, and was authorized at our last meeting. What this does, essentially, is lay out the timing of each part so it will be as efficient as possible at the day of the meeting next week. It sets out presumed sizing, depending on the market which, as you know, is quite volatile at the moment.

And I would like to say that when the bond rating agencies were here last week and even before that, we have been concerned about the question of the Congress approving the federal debt limit, raising the federal debt limit. And if they postpone it too long, or if they don't do it, or if it creates serious concern in the markets, that that might impact Maryland. And everyone else who is going to the market at about that time. So just to be aware that

we are watching that. We will do what's best for the Maryland taxpayer and our bonds, and whether that impacts only the refunding bond, or the timing of the sale altogether, we are going to do what is best for our State, our citizens, and our taxpayers, and not be held hostage or unduly impacted by this congressional fiasco. I just, just to, you know, obviously everybody is going to be kept fully informed. But right now this is the plan all things being equal, and if the world is normal in three weeks.

GOVERNOR O'MALLEY: Comptroller?

COMPTROLLER FRANCHOT: Yes, I applaud the Treasurer for bringing this consolidation. It's a large amount of money. Half of it, as you mention, is for refinancing of existing debt. Is Ms. Konrad here, by any chance? Or --

TREASURER KOPP: No, unfortunately she was not able to be here because of a death of a close friend. She's at a funeral.

COMPTROLLER FRANCHOT: Is there anyone subbing for her in her stead?

TREASURER KOPP: Well, let me ask what the question is --

COMPTROLLER FRANCHOT: The question is following up on your comment about the volatility. At what point are we, do we cross the rubicon, I guess, and have to move forward? Do we, are we --

TREASURER KOPP: We actually have quite a, it's maybe Mr. Vanderbosch, our Attorney General, could answer that specifically. But we have quite a bit of time. The bond ratings themselves are good for 180 days after issuance, more or less. We do have, the Treasurer's Office Investment Division has assured that we do in fact have sufficient liquidity for the State's operations. That's not an issue at all. Well, it's basically not an issue. And in terms of the cash flow for capital we do have some leeway. We don't have to borrow right now. We don't have to do the refunding, which is about half of it, at all. Another major part is some of the school construction QSCABs, which we would like to do to take advantage of the federal interest assistance, but doesn't have to be done immediately. And I would presume that the

Congress and the President will get together and that something will be done that settles things down within a reasonable timeframe and one in which we can operate.

But basically the bond ratings last for about 180 days. That's when our ability to not do one part of the sale, or indeed all of the sale on this specific date, really goes up in smoke, just about the date.

COMPTROLLER FRANCHOT: Is that your understanding? That almost at any point we can pull back if the, for example, the savings from the refunding don't look like they are going to materialize?

TREASURER KOPP: Well, let me just say in terms of that specific question that is in fact what we have done over the past few sales, because we are concerned not only about the rate we are going to have to pay to refund the bonds but also the rate we will receive from investing those returns. So we always look at that up until two or three days before the sale.

Steve Vanderbosch is the Principal Counsel for the State Treasurer's Office, the Assistant Attorney General.

MR. VANDERBOSCH: Thank you. The Treasurer is absolutely correct. The greatest risk at this point I think would be to the refunding sale, and that would be because when we refund bonds we create an escrow account and deposit federal securities into that account. And if Congress does not raise the debt ceiling, if the U.S. Treasury securities are downgraded or put on credit watch, that could affect how we escrow funds to pay off the bonds. So that is the one that we will be looking at most closely.

All of our bonds are sold on an electronic bid platform. And the State has the ability to change the amounts and the maturities of the bonds 24 hours in advance of the sale. So if something is going south, the Treasurer would authorize an amendment to the notice of sale 24 hours in advance, and then the State still has the ability on the day of the sale to either reject bids or cancel the sale altogether. So the State does have the flexibility. And as the

Treasurer mentioned the ratings are good for a period of time. And as the markets recover, if the State could go back using the same documentation, and conduct that sale at an appropriate time.

COMPTROLLER FRANCHOT: Well, thank you for that. I, just like everyone else, I read about what's going on in Europe, and obviously Washington also is, but to the extent there's a ripple effect, and Greece, and Portugal, and other things happen, I'm glad that we have a very short leash on this. Refunding is, you're right, is one I'm particularly concerned about. So that's, thank you.

TREASURER KOPP: Well and I'm sure you, thank you very much, I'm sure you'll be very pleased to know that of course Ms. Konrad will be --

COMPTROLLER FRANCHOT: Yes.

TREASURER KOPP: -- will be there, with her hand on the tiller. But I just wanted to explain what this, this is basically a technical item. But within the context of current events. Thank you.

GOVERNOR O'MALLEY: Anything else on the Secretary's Agenda items?

COMPTROLLER FRANCHOT: Could I ask about Item 2, in the Appendix?

SECRETARY MCDONALD: Oh, in the Appendix, yes. That is the emergency for psychiatrists at the Eastern Shore Hospital Center. I think Mr. Kim is here.

MR. KIM: Good morning, Mr. Governor, Madam Treasurer, Mr. Comptroller. Thomas Kim, I'll be happy to answer your questions.

COMPTROLLER FRANCHOT: Thank you. I don't have a particular question about the contract, but the issue of care for mental health problems on that Eastern Shore, I continue to be concerned about. And I hear stories that we are now using taxpayers' dollars in Maryland to send people to Delaware for treatment. And other anecdotes over there about difficulty of care for mental health. And I'm just wondering whether there's any validity to those anecdotes that are related to me.

MR. KIM: Well, Mr. Comptroller, we had this issue about comprehensive care on the Eastern Shore for this population was discussed a few weeks ago, for

which we had provided a memo directly from the Secretary outlining the diversified approach that we are now undertaking on the Eastern Shore. And Dr. Hepburn and Dr. Sharfstein would be happy to engage in a more comprehensive discussion about the issue, if that's what's called for.

COMPTROLLER FRANCHOT: But this is an emergency contract for \$740,000. I take it those are some of the people that were taken care of at the facility that was closed in Chestertown?

MR. KIM: Well, this particular procurement item had to do with the fact that three psychiatrists had recently retired and moved on, and obviously psychiatrists are an incredibly important component of care. And the contracted services provide for those immediate needs at a rate that is commensurate to the same contract that is currently underway at the Finan Center and Springfield Hospital Center, which were competitively bid. And so we felt like in the meantime there is an aggressive recruitment process that is happening to restore those services on a full-time basis.

COMPTROLLER FRANCHOT: Well, I will look forward to reading the memo. But I take it this, is the State now sending people from the Shore to Delaware for treatment as part of the comprehensive treatment plan?

MR. KIM: The extent to which if that is happening we can certainly follow up on specifically.

COMPTROLLER FRANCHOT: Okay. Thank you.

TREASURER KOPP: I have a related question, about this one and about the contract that's out for Cumberland and Sykesville. And that is have we gone to the point where we really cannot attract and retain these highly qualified professionals on staff at all of our centers? Or some of our centers, depending on location? Or what, I mean, are we looking forward to essentially contracting out these intensive professional services because of the State salary structure and State personnel system?

MR. KIM: I don't, I can't speak to the extent of that issue across the board. I know that psychiatrist services itself has been an extremely tough area. And as far as the salaries that we pay,

you know, it does merit some further study as it relates to that. But, you know, there may be other positions of special, especially when it comes to specialized care, that we, would behoove us to look at the salary structure vis a vis what the market bears currently. And so we would be happy to, you know, share with you what those other positions might be.

TREASURER KOPP: I would be interested in that.

MR. KIM: Sure.

TREASURER KOPP: There are several aspects. One is the question of whether the State really has come to the point where because of the State budget, because of our limited resources, because of the system, we simply cannot retain on staff the level of seasoned professionals that we would like. The other aspect is whether by outsourcing, essentially, we gain a potential depth of capacity, bench strength, through going to some sort of service, that we would not have. I mean, there are always, I assume, pluses and minuses. And the third is whether we are looking at all within your Department, or Madam Secretary

statewide, whether we are looking prospectively and, forgive me, proactively at this whole question of how we are going to staff government with the retirement of a generation of these folks, with the competitive nature of the market.

I have always been opposed to an ideological move towards outsourcing everything, towards privatizing government. But if we look at it, obviously the ability to deliver services and programs is the primary issue. And I would hope we would have in place some sort of game plan with alternatives of how we react in different markets and with different levels of resource. And it seems to me this is one area that is small enough so that you could try it out here. Does that make sense? We've got to be proactive.

GOVERNOR O'MALLEY: So where does that leave us here?

TREASURER KOPP: I have no problem with this particular item.

GOVERNOR O'MALLEY: Okay. Any other questions on any other Agenda items on the Secretary's

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And we move on now to?

SECRETARY MCDONALD: Budget.

GOVERNOR O'MALLEY: Department of Budget and Management. Thank you, Don Hutchinson. Good to see you, sir.

MS. FOSTER: Governor, Madam Treasurer, Mr. Comptroller, good morning. There are ten items on the Department of Budget and Management's Agenda for today. I'd be happy to answer any questions. I would like to point out to the members of the Board that Dr. Bernard Sadusky is in the audience. He's here for one of the items on my Agenda. And of course, he is the new interim State Superintendent of Education.

GOVERNOR O'MALLEY: Come on down. Do you want to say hi?

DR. SADUSKY: Good morning, Governor. It's nice to see you again.

GOVERNOR O'MALLEY: It's good to see you. How's it going?

DR. SADUSKY: We're busy. Yeah. Learning curve, but we're busy. And it's interesting. And I'm glad to be in front of you this morning.

GOVERNOR O'MALLEY: Any questions? Do you have any thoughts?

DR. SADUSKY: I just look forward to having a very positive relationship with your office.

GOVERNOR O'MALLEY: Well, great. Well look, thank you. And thank you for keeping a hand on the rudder and keeping the Department moving forward.

DR. SADUSKY: You're welcome.

COMPTROLLER FRANCHOT: If I could ask you while you're here? Because, you know, I have a big priority in financial literacy. And you with the Board have looked at that. And I hope you continue to take a look at that. I think it's an important area of interest.

DR. SADUSKY: I think it's a concern for all of our school districts and they have examined it. I'm working very closely with the superintendents to understand the immediacy of the problem. And we are going to be about resolving that issue for our students, absolutely.

COMPTROLLER FRANCHOT: And if you could include my office in your, some of those discussions I would be appreciative.

DR. SADUSKY: I would be happy to.

COMPTROLLER FRANCHOT: Thank you.

DR. SADUSKY: Okay.

GOVERNOR O'MALLEY: Thank you. Anything else on Department of Budget and Management? Mr. Comptroller?

COMPTROLLER FRANCHOT: Item 7?

GOVERNOR O'MALLEY: Item 7?

COMPTROLLER FRANCHOT: Is Mr. Martino here?

MS. FOSTER: Yes. Item 7, Mr. Martino is here, exercises the two-year renewal option contained in the Lottery's original contract for advertising, research, and public relations services.

COMPTROLLER FRANCHOT: Thank you very much.

We all love the Lottery and thank you for your leadership, but it seems like it's a lot of money. I take it if this were not spent on advertising, all of it, what isn't spent goes into the General Fund?

MR. MARTINO: Governor, Madam Treasurer, Mr. Comptroller, Stephen Martino from the Lottery. The, you are talking about the advertising budget?

COMPTROLLER FRANCHOT: Yes, the \$35,855,000 two-year extension request.

MR. MARTINO: The, we receive an appropriation each year for our advertising budget. For the fiscal year that we just began, fiscal year 2012, our appropriation is \$12.4 million to put towards advertising and marketing efforts of the Lottery and its products. So to get to your question, that would be up to the discretion of the Governor and the General Assembly as to what to do with that money if it wasn't designated for advertising. However, I would put my pitch in here that I think that obviously the purpose for that money is extremely important. Although we have not publicly released our end of the

year numbers I can say that for the fourteenth consecutive year the Maryland Lottery has set another sales record. We have over \$1.7 billion in sales of Lottery products. We're going to send more than, probably when it gets, the final auditing is done, probably \$7 million or \$8 million more in revenue to the State. It's going to be \$517 million, \$518 million to the State Treasury for uses the General Assembly and the Governor see fit for the good causes of the State.

COMPTROLLER FRANCHOT: So you did that on \$12.5 million advertising budget, this year?

MR. MARTINO: Fiscal year 2011, the budget was \$12 million. We received a \$400,000 increase for 2012.

COMPTROLLER FRANCHOT: So I have no problems with your advertising. I understand the need for that. But my question is why are we approving then \$17 million, \$17.5 million for a year with this extension? Why don't we just approve \$12 million?

MR. MARTINO: Well, the renewal, it's a two-year renewal option. It's a two-year renewal option

based on, and this is an important distinction and I'm pleased that you brought it up and I'm happy to make it. Is that the contract was originally negotiated in 2007. In fiscal years 2010 and 2011 the Lottery has taken a significant decrease in its advertising budget. In fiscal year 2007 I think our advertising budget was near \$19 million. Now we are down to \$12 million. This is a unilateral option on the part of the law exercising unilateral options under these contracts. To go down and modify that would require a contract modification, which we do not believe is in the best interest of the Lottery or the State because the fees under which we have these current, these advertising firms operating under are extremely favorable to the State and there is no guarantee, in fact I think that there is every guarantee that if we went back and tried to modify the contract we would not receive rates and fees that are nearly so favorable to the State.

COMPTROLLER FRANCHOT: But I assume even if we approve this \$35.8 million contract, and you've done very well with the \$12 million advertising

budget, that's likely what it's going to be, I take it, or somewhere in that range. I don't really see why we don't drop it down to \$25 million, or as far as a, as far as an amount. Because you're doing fine with the lower amounts. What you're saying is that you couldn't go back and renegotiate the extension for that amount that they're getting paid now?

MR. MARTINO: I do not believe that we could do so for a rate on their fee that would be as favorable to the State as this is. I should also point out, though, that the original base contract amount that was negotiated in 2007, four years, was for \$71 million. However, we actually spent \$55 million because of the reduction in our advertising budget and the contract itself contains provisions that allow us to reduce down commensurately the amount of fees that we pay to our advertising agencies to reflect the actual value of our advertising budget. So it's that advertising budget has come down as the appropriation has been reduced, so has our fee. If we were to go back and try to renegotiate a modification which would, you know, require a meeting of the minds

of both parties, I have no assurances that we would get terms for the services that are actually being provided by our creative services firm and for our media buying firm that are as favorable as the Lottery receives today.

COMPTROLLER FRANCHOT: I'm not suggesting you renegotiate anything. I'm just suggesting that we reduce the amount from \$35 million to \$25 million and then you can essentially continue business as usual with the excellent figures that you've cited.

TREASURER KOPP: Could I --

COMPTROLLER FRANCHOT: I guess I don't understand the difficulty you would have, if our action would be no different than the legislative action.

MR. MARTINO: See, I think I would probably want to, you know, talk to our attorneys to find out if that is something that, you know, we could do. I think the, we believe that we are meeting the needs of the State and this contract contains every provision necessary to protect the State and maximize the value to the State and to the Lottery. I think we have very

favorable terms that were negotiated in 2007. We are trying to recapture those for the next two years. And if the advertising budget is decreased further then we have the protections under the terms of this extension of the contract.

COMPTROLLER FRANCHOT: Maybe my colleagues understood that. I didn't --

TREASURER KOPP: Let me ask, because I've been trying to understand.

COMPTROLLER FRANCHOT: Yes --

TREASURER KOPP: Honestly, and I think part of it is perhaps because the Comptroller and I both come from the Appropriations Committee and we think with two different hats. What you're asking us to do here is simply extend a contract that allows up to a certain amount.

MR. MARTINO: That's correct.

TREASURER KOPP: What the Legislature has done is actually reduced the amount that can be spent within this contract? Or the Governor, whoever, I mean --

GOVERNOR O'MALLEY: I did.

TREASURER KOPP: The Governor did?

GOVERNOR O'MALLEY: And they approved.

TREASURER KOPP: Reduced the amount that could be spent within the contract.

MR. MARTINO: Correct.

TREASURER KOPP: And you're saying that you anticipate probably until the end of this contract it will be a reduced amount. It will not be \$17 million, it will be \$12 million probably that is spent per year. But that to actually change it within the contract, which is what is before us, would require renegotiating of the contract. The contract itself allows for not fulfilling 100 percent of the potential contracted amount?

MR. MARTINO: You clearly said it much better than I did, but yes, that's exactly right.

TREASURER KOPP: Is that what you are saying?

MR. MARTINO: Yes.

TREASURER KOPP: So there are two things. There's the contract, and then there's actual line item expenditure, what we would call a line item --

MR. MARTINO: Our fees, our fees that we pay are proportional to the size of our advertising budget. As that budget --

TREASURER KOPP: Right. And the budget itself is the line item which the Governor cut, or somebody cut?

MR. MARTINO: That's correct.

MS. FOSTER: And I think the key is that the amount that's there is a not to exceed amount. So you would be approving --

TREASURER KOPP: So, yeah, and all you're saying is extend what we have for another two years?

MR. MARTINO: If we, that's correct --

TREASURER KOPP: Don't make any other changes in this contract.

MR. MARTINO: That is correct. And that would be the position of the Lottery, because we believe that the fees that we are paying to the two agencies are extremely favorable to the Lottery.

TREASURER KOPP: I understand. You want to keep this contract the way it is.

MR. MARTINO: Correct.

TREASURER KOPP: But the Governor, recognizing the State's limited resources, reduced the amount that's actually spent within the contract.

MR. MARTINO: Yes.

TREASURER KOPP: As the Comptroller suggested, but you are saying this isn't the place to do it, the budget is the place to do it.

MR. MARTINO: I think that's correct, yes.

TREASURER KOPP: It is interesting, this two-track thing. Thank you.

GOVERNOR O'MALLEY: Okay. Anything else on these matters?

MR. MARTINO: Thank you.

GOVERNOR O'MALLEY: Anything else on any of the other Board of Public Works matters? Do you want to do this one separately?

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

GOVERNOR O'MALLEY: Okay. This is Item 7. We're going to do it separately so we can properly record differences of opinion. The Treasurer moves approval, seconded by Yours Truly. All in favor signal by saying, "Aye." All opposed?

COMPTROLLER FRANCHOT: Is this Item 7?

GOVERNOR O'MALLEY: Item 7.

COMPTROLLER FRANCHOT: I'm going to vote no.

GOVERNOR O'MALLEY: The Comptroller votes no. The ayes have it. The motion carries. Now the balance of the Department of Budget and Management. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

COMPTROLLER FRANCHOT: Could I just --

GOVERNOR O'MALLEY: Oh, excuse me.

COMPTROLLER FRANCHOT: Thank you. Madam Secretary, Item 10?

GOVERNOR O'MALLEY: Item 10?

MS. FOSTER: Yes. Item 10, actually Mike Halpin is here who is the Executive Director of the Supplemental Loan Authority. What this contract does is it extends the investment managing services for the stable value fund by nine months, and basically to allow the completion of a new procurement for this item.

COMPTROLLER FRANCHOT: And help me understand what the difficulties are that you ran into, that result in this request for the extension?

MR. HALPIN: Just for the record, my name is Michael Halpin, Executive Director of Supplemental Retirement. During the course of this procurement the markets have been very much in flux. There have been very great changes in the stable value marketplace over the past three years. Many would say historical changes. As we led the bid and developed those proposals the proposals came in with a great range of different ideas, different fees. The procurement committee, working for the Board, attempted to clarify that and make a recommendation. The Board themselves had severe concerns about some of the proposals, whether they had been vetted with sufficient expertise. And felt that there would be a need for significant amendments to the RFP as such that rewriting the RFP and redoing the procurement was the most efficient way to go. I also with some expertise assured the Board, and the Board agreed, that the

extension, the cost of the extension is really, had no negative impact on the participants.

COMPTROLLER FRANCHOT: But this is a contract that is a five-year contract?

MR. HALPIN: Yes, it was, which expires at the end of this month, near the end of this month.

COMPTROLLER FRANCHOT: Correct. And you are indicating to me that the lessons learned, I guess, from this is that you should put the RFP out further in advance? Or is this just an aberration?

MR. HALPIN: No, we're going to add, we're going to add some additional requirements, some additional information. We're going to add some more expertise to the procurement panel. And we're going to allow for some additional interviews, let's say, with the proposers.

COMPTROLLER FRANCHOT: So those are the lessons learned?

MR. HALPIN: Yes, sir.

COMPTROLLER FRANCHOT: Thank you. I'd like to move approval.

GOVERNOR O'MALLEY: Okay. The Comptroller moves approval of this item and the balance of the Agenda items for Budget and Management, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And we move on now to the University System of Maryland.

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

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

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

MR. STIRLING: Thank you.

GOVERNOR O'MALLEY: We move on now to the Department of Information Technology.

TREASURER KOPP: Jim?

GOVERNOR O'MALLEY: I'm sorry?

TREASURER KOPP: No, but could somebody send me an updated, relative to Item 5, just an updated chart of where we are in terms of construction of the new physical sciences building?

MR. STIRLING: We'll have that sent. We'll take care of that. Thank you.

MR. SCHLANGER: Good morning, Governor --

GOVERNOR O'MALLEY: Good morning.

MR. SCHLANGER: -- Madam Treasurer, and Mr. Comptroller.

GOVERNOR O'MALLEY: Mr. Secretary.

MR. SCHLANGER: Elliot Schlander, Department of Information Technology. This morning we have only two items on the Agenda, and I'd be happy to answer any questions at this time.

GOVERNOR O'MALLEY: Any questions, Department of Information Technology?

COMPTROLLER FRANCHOT: I move approval.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: And the ayes have it.

MR. SCHLANGER: Thank you.

GOVERNOR O'MALLEY: We move on now to the Department of Transportation.

MS. SWAIM-STALEY: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Beverley Swaim-Staley representing MDOT. We have twenty-two items today, as Items 10 and 23 have been withdrawn. For the record, Items 14, 15, 17, and 22 have been revised. And we're happy to answer your questions.

GOVERNOR O'MALLEY: Any questions, Department of Transportation? Mr. Comptroller?

COMPTROLLER FRANCHOT: Item 16, please?

GOVERNOR O'MALLEY: Item 16?

COMPTROLLER FRANCHOT: I guess my question, if Ms. Broadwater or somebody wants to help me understand. Obviously we've seen a lot of energy performance contracts before the Board. I'm not disputing your figures about the savings from a lot of the facilities. But I am concerned that the, part of this is to switch from steam energy, I guess, for the World Trade Center that's provided by the incineration of garbage, I take it, in Baltimore. We're going to substitute a, for that "renewable" fuel, a fossil fuel, natural gas, at a relatively small savings over thirteen years of \$400,000 to \$800,000 in savings. Why would we do that?

MS. BROADWATER: We --

MS. SWAIM-STALEY: Kathy, introduce, I'll introduce, this is Kathy Broadwater.

MS. BROADWATER: I'm sorry.

MS. SWAIM-STALEY: She's the Deputy Administrator for the Maryland Port Administration.

MS. BROADWATER: I'm sorry.

COMPTROLLER FRANCHOT: Right, and I saw your memo on the different cost savings. I'm just

wondering why we would stop a long term contract with a Baltimore-based company that's producing steam from garbage, which is a good thing, and why would they be lumped into this otherwise, you know, probably desirable contract? Why wouldn't they be allowed to continue that environmentally preferable way of providing energy?

MS. BROADWATER: Yes, sir. I understand what you are saying. We, with Pepco as our contractor, we put together an energy performance contract with a myriad of components, a myriad of energy conservation measures. And some of the measures are more cost effective than others. In order to make the entire program work one of the components was that we would install a hot water boiler system in the World Trade Center that would substitute for the steam that Veolia Energy has traditionally provided. And in fact we had discussions with Veolia and they have been our provider for quite some time. And in all honesty the issue of them providing some percentage of their steam by renewable energy did not factor into our decision.

COMPTROLLER FRANCHOT: Well in my, this is my personal opinion, I think it should have. And I would, is there any way to separate out that component from the contract? Or is it an up or down vote here?

MS. BROADWATER: We honestly have not done the complete financial analysis to determine if the program is still feasible if that component of it was pulled out. But I will say that the program as a whole, as I said, has some measures which are more cost effective than others. And the success of the whole program, the financial viability of the whole program, if I may, depends on having all of the components. Because some kind of subsidize others.

TREASURER KOPP: This is one of the ones that subsidizes others?

MS. BROADWATER: Yes, ma'am.

COMPTROLLER FRANCHOT: Exactly how is that, I mean, the subsidy you in your own memo talk about is, just pick a figure, is half a million dollars over thirteen years. That's not much of a subsidy.

MS. BROADWATER: That provides sufficient financial cash flow that other measures, which do not

provide the same amount of return, or cash flow if you will, can be undertaken. This contract involves energy conservation measures not only at World Trade Center, but also at our Dundalk Marine Terminal, also at our cruise terminal, also at one of our cargo sheds on South Locust Point, and also at one of our dredge placement sites, Cox Creek.

COMPTROLLER FRANCHOT: No, I understand that. And there's approximately \$27 million in energy savings at those other facilities. But approximately a half a million is coming from the World Trade Center and you are switching from a renewable fuel to a fossil fuel. And it strikes me that that is particularly based on your long relationship with the Baltimore-based company, seems abrupt and unwise. I'm happy to support everything except that component of it.

MS. BROADWATER: If that component --

COMPTROLLER FRANCHOT: It certainly seems like it could be pulled out, but --

MS. BROADWATER: If that component of the project is removed then we would need to go back and

restructure the whole program and to have new financial results and to have new financial parameters.

COMPTROLLER FRANCHOT: Good. Well that's, maybe you could get a better deal.

MS. BROADWATER: I will say, you know, we started formulating the energy program with Pepco. And we honestly put together a program which we felt made the most sense for the organization and which we thought financially could sustain itself. And when the issue of Veolia providing lower rates came forward we thought in fact that that was not consistent with all of the goals of the energy performance contract. Because as we were trying to achieve, we were trying to achieve not only cost savings but also energy efficiency and components that would provide energy efficiency at our various facilities.

COMPTROLLER FRANCHOT: Right. Well I don't want to, and they were here last session, Governor, when Governor Brown was here. And they made their own pitch, the Baltimore Company, that they had not been properly alerted. And I don't want to get involved in

that. But I think that because recently we elevated refuse or garbage, however you want to describe it, to a tier one energy source I think it's odd that we are making this decision. And I would urge the Department to withdraw this and go back and see whether they can excise the World Trade Center part of it, particularly because it seems to be a relatively small part of the savings. And you know, if they cannot do it, they cannot do it. You can come back and tell us what your, what the consequences are. But I just don't think it, based on the testimony, I don't know where these groups are now. But based on what was said last time, and all of the confusion, and I understand they are not the person you would be contracting with because they are a steam generating company. But this is, you know, an important company up there and I think the fact that they have a renewable source of energy is something that ought to be considered.

TREASURER KOPP: You mentioned, somebody mentioned last time a question of a federal, a deadline for receiving federal funds but you don't

mention that. So do I assume that that is not an issue any longer?

MS. BROADWATER: Well, the federal funds are somewhat of an issue. We are receiving some federal funds through the Maryland Energy Administration, and Dennis Hartline is here who can speak about this more authoritatively than I can. But we are getting really two chunks of money through the Maryland Energy Administration. One is a grant for some solar that we hope to install in the cruise terminal, and another is the soft financing that goes into all of this. And that's about \$1.5 million. As I understand it the Maryland Energy Administration's deadline for using that money is April 30, 2012. And they have requested that the Maryland Port Administration have our construction projects related to that substantially constructed by December 30 of this year in order that they have time to process the paperwork and meet their federal deadline.

TREASURER KOPP: And in order to do that what has to happen?

MS. BROADWATER: In order to have our construction substantially completed by the end of December of this year we need to start the process pretty quickly on those components, at least on the solar energy panels.

TREASURER KOPP: And --

MS. BROADWATER: Is that correct?

TREASURER KOPP: And what the Comptroller was asking was he had no problem with the solar energy, I think, solar energy panels. It was this other aspect of it and whether it could be carved out.

MS. BROADWATER: And I'm hesitant to say that the rest of the contract standing alone without the boiler system as a component of it, and the associated savings, can stand alone. Because we don't know that at this point in time.

TREASURER KOPP: And does the, does the contract, what is the impact of the contract, well one of the concerns about going away from the renewable source is the impact on the environment, obviously. I mean, I think that's it. The net impact of the total

project is positive, negative, or neutral in terms of impact?

MS. BROADWATER: Impact on the environment?

Is that the, I'm not --

TREASURER KOPP: Yeah.

MS. BROADWATER: Well, the program that we have put together does include energy saving measures. So to the degree that you are using less energy that is a positive impact on the environment.

TREASURER KOPP: Including using the energy to produce the energy?

MS. BROADWATER: Yes, that's correct.

TREASURER KOPP: So it's a positive, the total is a positive even though this particular aspect may not be? Is that what you're saying? Are you saying this aspect is also, I mean, going away from the renewables to your boiler is in fact positive?

MS. BROADWATER: I'm not going to say that it's positive on the environment because I do not know that as a fact. It is positive financially. We have not gone through every source of energy used, because

there's a number of sources. Electricity, gas, etcetera, etcetera.

TREASURER KOPP: Right.

MS. BROADWATER: We have not gone through, to my knowledge, every possible source of energy to determine if this is, and versus the renewable aspect.

TREASURER KOPP: Okay. You just looked at this proposal, and costed it out, and it was beneficial?

MS. BROADWATER: Yes. And it includes energy savings.

TREASURER KOPP: And it includes energy savings.

MS. BROADWATER: Okay. Doug Matzke, he is our Director of Engineering, he just handed to me, on the Agenda item, which I believe that you have in front of you, on page two, I believe? It says annual emission reduction equivalent, CO2, greenhouse gases, 9 million pounds; CO, carbon monoxide, 689 pounds; NOX, nitrogen oxide, is 24,398 pounds annually.

TREASURER KOPP: Where is this?

MS. BROADWATER: I believe it's on --

SECRETARY MCDONALD: Page three of our --

MS. BROADWATER: Oh, I apologize. It's on page three of your Agenda item. It's at the top, you see these little table looking kinds of things?

TREASURER KOPP: Okay. All right, got it. Got it.

MS. BROADWATER: So this is a quantification of our estimate of the energy reduction that will be achieved through this contract and the emission reductions that will be achieved.

TREASURER KOPP: But not comparing it to alternative --

MS. BROADWATER: Well, it's compared to our current use.

TREASURER KOPP: Right.

MS. BROADWATER: It's compared to our current use, yes. Now we did not factor into the steam, in fact, I don't think we actually really knew until recently when this disagreement has arisen, we did not factor into the steam calculation the part, the fact that part of it comes from a renewable source.

TREASURER KOPP: Got it.

COMPTROLLER FRANCHOT: Anyway, I think it's a good point. I'd love to have the support of my colleagues and at least before we move forward have the chance to explore whether this particular segment, because all of what you say is commendable. It's just this piece of it where you're replacing a renewable source of energy with a fossil fuel, however preferable it is in the other sites. And so I would hope that we could send this back for more consideration, I guess.

SECRETARY MCDONALD: Veolia Energy Systems did request to speak to the Board, but if you're getting ready to move this way they may not have to. But they are here.

GOVERNOR O'MALLEY: Is there a way to approve this on condition that that part be struck?

SECRETARY MCDONALD: Well, I would suggest that the Office of the Attorney General respond to that question at this point --

TREASURER KOPP: Well, somebody back there keeps getting very exercised. But we, I mean, unless one of the --

GOVERNOR O'MALLEY: Does the exercised person want to come forward?

(Laughter)

GOVERNOR O'MALLEY: Hatim.

SECRETARY MCDONALD: Hatim can help us.

MR. JABAJI: Good morning, Governor, Comptroller, Madam Treasurer. The, by removing that part the project will not work.

MR. COLLINS: Identify yourself.

MR. JABAJI: Yes, my name is Hatim Jabaji, I'm with Department of General Services. By removing that part the project as a whole will not work. The savings, the half a million dollar savings is, and I know it says only thirteen years. Based on this project we would provide boilers and these boilers would continue to run even after paying for the project itself. These have 25 to 30 years. There is a lot more savings that we did not mention here.

The other piece of renewable, part of the heating and cooling, there will be a part that uses the Harbor in cooling the system. So that is another renewable energy source in with this project.

You saw the numbers of the reduction in CO2 and CO and NOX. This is an energy efficiency project and I believe it is a good project, and it has to be as a whole to work.

GOVERNOR O'MALLEY: So Hatim, you want us to approve this as it is?

MR. JABAJI: Yes, sir.

TREASURER KOPP: With the savings of 9 million pounds of CO2?

MR. JABAJI: Exactly.

TREASURER KOPP: 24,000 --

COMPTROLLER FRANCHOT: Governor, I certainly don't dispute the overall benefit of the contract. I just think that based on the testimony we received last time about this company that it had provided good service, and was given no notice, and was told when they found out about it from the maintenance people to call Pepco and Pepco never called them back, I don't,

you know, particularly appreciate that as far as, you know, the interaction with a Maryland-based company. Obviously Pepco is a Maryland company, also.

But that caught my eye. And then looking at the fact that recently we elevated garbage to a tier one status, it just strikes me as contradictory to drop that source of energy and replace it with, what are the boilers fueled by?

MR. JABAJI: Natural gas.

COMPTROLLER FRANCHOT: Natural gas. You know, fossil fuel. Let's go green. And you say that, you know, there are more savings. Well, that's fine. But that's not before us and you've got to admit that a half a million dollars over thirteen years is not very compelling as being a keystone to the whole \$30 million deal. It doesn't make sense to me.

MR. JABAJI: The only point I would like to add is that the boiler's life is 25 to 30 years and after paying for it through this energy performance contract we will still have the boilers and it will save us a whole lot more than continuing with the steam as it is, as its current trade is.

COMPTROLLER FRANCHOT: I bet if you went back to Pepco and said, "Instead of \$27.5 million we're going to pay you \$27 million," or get twenty, whatever it is, however the contract is written, I can't imagine that they would object to it.

MR. JABAJI: Thank you.

COMPTROLLER FRANCHOT: And you would get the continued services of a company that is, you know, not a competitor with Pepco for this, because that's not their business, but they have certainly provided a good service, I take it, to the World Trade Center. Does anybody dispute that?

GOVERNOR O'MALLEY: Who wants to be heard from Veolia?

SECRETARY MCDONALD: It's Veolia Industries, would you introduce yourself for the record, please?

MR. MCGEE: Good morning, Governor, Comptroller Franchot, and Treasurer Kopp. My name is James McGee. I am an attorney with the law firm of Alexander and Cleaver representing Veolia Energy Baltimore Corporation. As the Comptroller and others have spoken about the benefits of continuing to use a

tier one renewable I'll bypass my comments on that and just focus right on the savings, and really from our standpoint the alleged savings.

We were given a study yesterday that talked about that nearly half a million dollars of savings over a thirteen-year period. And there are several components in there that we didn't give our side of the story about. We are very, very happy that a third party independent consultant was given the opportunity to compare the continued use of steam versus the replacement of the natural gas boilers. But we didn't get a chance to interact with that consultant to give our numbers. So very briefly and quickly I want to point out several significant items that we think are flawed in the analysis.

The first part, the fuel component for the steam service is assumed to be rising three percent each year. And just looking at the past five years, from 2006 to 2011, from those two points in time it actually decreased 30 percent, so not increased three percent each year as forecasted.

The second is the non-fuel cost of steam. And that in the study is assumed to be 1.5 percent increase each year. Since 2002 the World Trade Center has not received an increase in non-fuel costs from Veolia Energy. So it's been flat, never increased for the past nine years. So we would take issue with the assumption it would increase another 1.5 percent each year.

Third, the steam consumption used in the study dramatically has decreased from the historical steam consumption use. And I think that's because of the other aspects of the contract that would save energy over the life. But if the steam is reduced that much the fixed cost from Veolia to the World Trade Center would be reduced as well. Veolia has based that fixed cost on using about 38,000 units. And if the reduction in steam is down to 20,000 that's a substantial decrease. The fixed cost would be substantially decreased as well and could very well switch the tide of which is more cost effective. Just in that component alone we think overall Veolia will be more cost effective. It will not be a savings in

the switch of their thermal energy from the steam to the gas. But these are just components that we think are flawed in the quick analysis that we did over the past 24 hours.

And a fourth one I want to point out is, in that chart is the annual electric energy savings, that's a credit given to the Pepco side of it of about \$10,000, \$9,200. Over the thirteen years that's about \$120,000 in savings. That credit should be applied to Veolia as well. They could do the same variable frequency drivers, or VFWs, on the heat pumps that Pepco is getting credit for. So that's another \$120,000 that should be taken off the alleged savings.

So in sum I think the three of you understand the important renewable aspect of this and that the Department didn't, or the administration didn't really consider that. But from a cost standpoint we think it is cost neutral at the worst, and could be a cost benefit for the State if Veolia is maintained on a long term basis. Thank you.

TREASURER KOPP: And just so I understand what, I guess Hatim is DGS, what DGS is saying? Is

that Veolia says it may be a wash, but it's environmentally preferable because it's renewable energy. And you're saying it's not a wash because beyond the payout period we will own the boilers and continue to generate our own power rather than purchasing it from a second party? I mean, that's what this all boils down to?

(Laughter)

MR. COLLINS: That's correct.

TREASURER KOPP: And we don't know what the technology is going to be in thirteen years. We hope it's better than it is now, actually. And that's another aspect, not simply throwing money into something.

MR. COLLINS: That's correct, Madam Treasurer. We pay for these items, as you well know, over the thirteen year repayment period. But the technology is in place long after that, so the savings will continue to accrue.

TREASURER KOPP: But we didn't hear the answer to the Comptroller's question of whether it was possible to carve this out? I mean what, I had been

led to believe you couldn't carve it out and do it,
and I --

GOVERNOR O'MALLEY: Hatim, do you want to
come up and answer that?

MR. COLLINS: That's correct.

MS. SWAIM-STALEY: I think that's what he
just said.

MR. COLLINS: Yes.

MR. JABAJI: Correct. We, if this piece was
carved out the project would not work. We would have
to go and redesign the whole thing, figure out what
other things would work.

TREASURER KOPP: And that is only because of
the cost saving aspect? Or is there some
technological reason?

MR. JABAJI: Everything else. Because we're
doing other efficiencies based on that. We're doing a
harbor cooling with the World Trade Center as part of
it, and part of a whole. Carving this out would not
make this project work. We would have to go back and
redesign the whole thing.

TREASURER KOPP: Just so I understand, it's for technological reasons, because you are using your boilers for another purpose?

MR. JABAJI: Both. Exactly. Both for technical and financial.

TREASURER KOPP: Okay.

MR. COLLINS: Explain the technical reasons. We're using the harbor --

MR. JABAJI: The harbor cooling system, the efficiency measures that are in the building and other buildings that benefits from that. The whole calculation, the whole energy reduction and cost would differ by taking that out.

GOVERNOR O'MALLEY: You're using harbor water?

MR. JABAJI: For cooling, yes, sir.

GOVERNOR O'MALLEY: For cooling.

TREASURER KOPP: And you couldn't do that --

MR. JABAJI: We would not be able to do that if we kept the steam, correct.

TREASURER KOPP: Not just because of the cost but technologically you would not be able to do that?

MR. JABAJI: My understanding is that.

TREASURER KOPP: Okay, well that --

MR. JABAJI: Gentlemen from Pepco?

GOVERNOR O'MALLEY: Sure.

MR. SWEENEY: Good morning --

TREASURER KOPP: Pepco, by the way my power was out again this morning.

(Laughter)

MR. SWEENEY: We are owned by the same company but we are a separate group of them, sorry.

TREASURER KOPP: It went back on after an hour.

MR. SWEENEY: All right, thank you. Patrick Sweeney from Pepco Energy Services. It seems like the big question at hand is how do we get to the savings so that we can fund the necessary assets that we would like to improve the World Trade Center and associated facilities with. Right now the debate seems to be about the fuel and the fuel source, but really it's

about the amount of savings, the steam savings, and how we pay for the new infrastructure. The new piping and risers and delivery mechanism for the heating and the cooling system that we want to install, which involves the harbor heat sink. And we did analyze all the environmental impacts and we looked at, you know, what would be the best in terms of reducing the carbon footprint for the project. And this is what went out.

Now recently we were asked to go back and look at the economic data to see does it change if the offer were to change, if the pricing were to change, if the fuel costs were to change, and the answer remains the same. So while I understand you are looking at the half a million dollars of overall savings of the project the real key is the savings that produce the, fund the infrastructure. It's not just what's left over but it's also the ability to finance and pay for that additional infrastructure that we're putting in. So.

COMPTROLLER FRANCHOT: I guess I just am a little slow today.

MR. SWEENEY: Okay --

COMPTROLLER FRANCHOT: I don't, I just don't understand that. You have a \$27.5 million contract --

MR. SWEENEY: Mm-hmm.

COMPTROLLER FRANCHOT: -- a half a million of which is I take it contained in the World Trade Center.

MR. SWEENEY: Right.

COMPTROLLER FRANCHOT: And --

MR. SWEENEY: Well that's the --

COMPTROLLER FRANCHOT: -- to me that's a relatively small amount of the dollars and so I just, I guess I just don't follow the logic that that's the pivotal part of the whole thing.

MR. SWEENEY: The point is that's the excess savings that are used to fund other things. There's also what goes into and pays for that infrastructure itself. So those are the extra savings that are used to fund elsewhere in the project. And that's why it's important that we have those so that we can afford to put in the solar. We can afford to put in the harbor cooling. We can afford to put in all the other measures that are necessary for the project. Without

this, those savings the project reduces significantly. And we run into the schedule impacts of losing our solar grants and other things so that we can finish construction on time.

COMPTROLLER FRANCHOT: But is it your testimony that if we ask you to cut out, or ask the Port Authority, to cut out the World Trade Center steam part that you would not go forward with the contract?

MR. SWEENEY: I think we could still work out a project. It would be a much smaller project, and there would be other measures that would be lost. And we'd have to look at what measures those are.

TREASURER KOPP: And that's because of just the cost difference? I mean, I think that's what I --

MR. SWEENEY: No, it's because of the savings that we're, that this measure in question produced are being used to fund infrastructure, the other infrastructure and to help pay for the whole project.

TREASURER KOPP: And if you didn't have these boilers going in --

MR. SWEENEY: Right.

TREASURER KOPP: -- generating a savings --

MR. SWEENEY: Mm-hmm.

TREASURER KOPP: -- but simply continued at
a lower annual cost, utility cost --

MR. SWEENEY: Mm-hmm.

TREASURER KOPP: -- to use the recycled
energy --

MR. SWEENEY: Mm-hmm.

TREASURER KOPP: -- you couldn't just go
ahead with the rest of, and understanding that in the
end you don't get an extra \$500,000?

MR. SWEENEY: The point is the savings that
we need from this measure is used to fund the other
measures which produce the additional savings. So --

COMPTROLLER FRANCHOT: If I could ask --

MR. SWEENEY: -- we would lose more than,
yeah?

COMPTROLLER FRANCHOT: -- I guess what I
don't understand is the Veolia people testify it's
more or less a wash as far as the price of their
product. And you're saying no --

MR. SWEENEY: No, it's not a wash. It's not a wash. No.

GOVERNOR O'MALLEY: I think if it were a wash they wouldn't be fighting so hard.

MR. SWEENEY: That's correct. That's right. Because if it were a wash we wouldn't end up with a smaller project when we delete the measure. We would end up with either a bigger project or one of the same size. We could add another measure and just say, well, let's just add something else. There's other things we could do. We fight hard for the ones that produce savings because they help fund the whole project.

COMPTROLLER FRANCHOT: But you heard their testimony about the --

MR. SWEENEY: I did.

COMPTROLLER FRANCHOT: -- discrepancy. Do you dispute that and say no, they are wrong?

MR. SWEENEY: They are looking at it from a fuel perspective. We are looking at it from not only fuel perspective but also a consumption perspective. We're reducing the consumption based on not just this

measure but the other measures associated with it. If you remove this measure the consumption will stay where it is right now. They will use the same amount of steam.

TREASURER KOPP: Because those other measures won't be in place --

MR. SWEENEY: They will not be funded by this measure, correct.

GOVERNOR O'MALLEY: I have had, let me just say that I've rarely worked with somebody more capable than Hatim is on these sorts of things. These are complicated, highly technical, and I have always found that Hatim is on top of the job that he does for the people of our State. And sometimes when you come to these things, I mean, I certainly appreciate the sincerity of the line of questioning. But in this matter I am inclined to back up the proven expertise that Hatim has brought to this new field.

COMPTROLLER FRANCHOT: Well, I'm going to have the Treasurer check on her electricity. Maybe it's gone off again.

(Laughter)

COMPTROLLER FRANCHOT: We need a second vote here. I really think if we sent them back for a couple of weeks and they put a pencil to this they could come back with a good compromise that would preserve the renewable component of this and hope that I could get support to do that.

TREASURER KOPP: Well, I am concerned. I mean, we did ask them to go back. They came back with the studies that we asked for two weeks ago. As I understand it, my understanding is limited. I am not a technical person at all. It's beginning to pull out a thread that will unravel a good part of a structure. When there are many other parts of this project and other projects where we can press more strongly I would hope the use of renewables than we have in the past. And for that reason, as sympathetic, and as I told Veolia yesterday, as sympathetic as I am to the question of relooking at it, I don't think I'm prepared to undo this whole project in order to achieve a relatively small benefit of the use of renewables.

I do think that the annual savings of 9 million pounds of CO2 is a good thing. I hope that in our future projects that will be an even greater aspect of the goal, the emission goal.

GOVERNOR O'MALLEY: Okay. Let's handle this one separately. This is Item 16. The Governor moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye." Aye.

TREASURER KOPP: Aye.

GOVERNOR O'MALLEY: All opposed?

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: The Comptroller votes no. We are now on the balance of the, where are we?

MS. SWAIM-STALEY: DOT.

GOVERNOR O'MALLEY: Department of Transportation Agenda items. I'm confused by DGS.

MS. SWAIM-STALEY: That's true, yes.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: And the ayes have it.

We are now moving on to the Department of General Services Agenda. I need just a thirty second break, and we will resume in forty-five seconds.

(Short recess taken.)

GOVERNOR O'MALLEY: All right. We are now on the DGS Agenda items. DGS.

MR. COLLINS: Good morning, Governor, Madam Treasurer, Mr. Comptroller. The Department of General Services has twenty-eight items on our Agenda, including one supplemental. We are withdrawing Item 25, and we are glad to answer any questions you have on these items.

GOVERNOR O'MALLEY: Any questions?

SECRETARY MCDONALD: We do have one request to speak.

MR. COLLINS: Yes.

SECRETARY MCDONALD: But I think Item 24, the Secretary probably wants to introduce Item 24.

MR. COLLINS: That's correct. Item 24, Governor, has to do with the repayment to the Town of

Easton for the Frederick Douglass Memorial. We are putting before the Board today a request to certify matching funds and enter into a grant agreement and authorize the funds to be encumbered for that particular grant. It's the Town of Easton, the Frederick Douglass Memorial. I think the dedication was held several weeks ago on June 28th for that particular day. We are seeking to repay the Town of Easton \$29,664 that is due today and there will be more coming to them once additional costs are identified.

SECRETARY MCDONALD: Ms. Jackson-Amis?

MR. COLLINS: And we have Mayor --

SECRETARY MCDONALD: Mayor Willey is actually here, too. I don't know if you want to hear from Mayor Willey first to talk about --

MR. COLLINS: Mr. Mayor, would you --

SECRETARY MCDONALD: Or is he still here?

MR. COLLINS: He's still here.

SECRETARY MCDONALD: Okay.

MR. WILLEY: I'll let Ms. Jackson go first and then if there's any questions after that then I can --

SECRETARY MCDONALD: All right. Ms. Jackson-Amis, do you want to introduce yourself for the record? Thank you.

TREASURER KOPP: Could I just while Ms. Jackson-Amis is coming up point out that we do have also written endorsement of this from Delegate Haddaway-Riccio and I think the Senator as well, I don't know if that's in the record.

SECRETARY MCDONALD: I will make sure.

MS. JACKSON-AMIS: I'm to go now? Governor and Madam Treasurer, Mr. Comptroller. I'm Moonyene Jackson-Amis and I'm wearing three hats. Citizen taxpayer, which is real important to me. Former councilwoman for the Town of Easton, serving two terms. And founder and President of the Frederick Douglass Memorial Action Coalition, which is known as Fred's Army.

I want to preface this, and I'll be very, well as brief as I can till you cut me off.

Notwithstanding the fact that a memorial was unveiled last week I think that the reason that I'm here today has to do with the fact that the money in question in that the bond was encumbered, well I guess is the proper term, encumbered, or the award was made, and held by Fred's Army from 2005 until 2009 when it was removed from us unbeknownst to us. But at the time that this \$100,000 was applied for, I did that, and we received it. And the, one of the issues that I have has to do with the expenditures made by Fred's Army. For example, \$40,000 was paid as a retainer to the sculptor that was commissioned, Ed Dwight, to do this work. And it was our expectation that that would not only be part of the consideration as a match but also that we would be reimbursed for some of these costs.

In addition to that it concerns me as a taxpayer that, you know, we've not only paid Ed Dwight this \$40,000 but upon information and belief another \$45,000 was paid. I did do a Freedom of Information Act request to the Town, and they refused to provide the information requested saying that we had to deposit \$25,000 in order to get this information. I

know that, we all know that's not only exorbitant but that's, it shows a lack of good faith. But I'm not here to discuss that. I just want to lay the framework.

So that amount of money, and I can speak definitively about the \$40,000 because I authorized that expenditure, has to be figured in somehow. The project as I understand it is coming in at one hundred and, well less than \$200,000. I can't remember the exact amount that I saw. And in December, 2009 the Mayor signed a complaint against our organization, Fred's Army, requesting \$85,000 in cash that we had claiming some entitlement even though they had not raised the money and there was no, there are no proprietary interests in those funds so the question is how could they even claim it? That matter is on appeal. And I would think that they may have used some of that in their statement to you about a match. So the question of whether or not there can actually be a match is an important item to be determined.

Now that notwithstanding, you know, assuming for a moment that that \$85,000 would be considered

part of the match, in that same document complaint in 2009 the Town of Easton stated that it had paid the sculptor, their sculptor, the one that they selected, \$93,000. And if they paid that \$93,000, they claim that it was paid out of the Community Legacy Grant. And my concern, and I think it's fair to have an investigation, I think it should be determined. If \$93,000 was paid out of Community Legacy they cannot use any other State money as a grant or as a match. That's my understanding.

So I just, I have questions about the monitoring of these finances and the verification of these finances, and the expenditures that, from what I read from Mrs. Ensor in her office, that there is only one claim for reimbursement and that's the statue. I just heard I think that maybe they could send in something for additional, additional costs if they had them. So my other question is, since the timeframe that's concerned here in terms of these funds, because there was no other application for funds from the Maryland General Assembly by the Town of Easton. It was only our money, and only our application, and that

was granted and it was carried, as I said, to 2009.

So the question becomes if that is correct and that's the timeframe, are we also, we meaning Fred's Army, also entitled to other expenditures that we made in good faith during that timeframe? And how would that be configured into this particular process? Because it is the same pool of money.

We did have an archaeologist, for example. And I had already spoken to the Department of General Services about some of those costs that would be matching funds, or could be used as a match. And this was in 2009. You know, we were finishing the project when it was snatched away. But in any event, would we be able to recoup those funds? And if not, how can this money be wasted? How can we talk about, particularly in this economy, throwing away the \$80,000 that was given to Ed Dwight the sculptor, and then we can say that we can pay this over \$100,000 to this new sculptor. I'm just not happy with that resolution, if that is indeed what you decide, you know, that that would be the case.

We owe other vendors for the work, as I said, in contemplation of completing this statue. In some cases the invoices were submitted to the Town of Easton. The Town of Easton was our fiscal agent, but the way, for Fred's Army, under very specified conditions. They were to receive the funds that we, that we raised, that we, meaning Fred's Army, raised, and disburse them according to Fred's Army's directive. That's the resolution. There isn't anything else.. There is no other funds. At that time period that the Town was authorized to use there was no appropriation made in any budget for the Town. So it was only the funds raised by Fred's Army to the tune of nearly \$400,000, which included the State bonds, Maryland Heritage Area Authorities, and \$80,000, and Community Legacy Grant of \$100,000, and cash which we raised. I think it was something like \$115,000, somewhere like that.

I filed early on with your Board, and I filed with the Office of the Attorney General on March 10th the same complaint. And I thought that an investigation was in order, and I still think that

it's in order. I set forth in my document to you dated March 7th, actually it was sent to Ms. Ensor, Maryland Department of General Services, and to everybody else. And I don't know if your protocol is for me to have this marked and made a part of your proceedings, because I do want that to be as part of the evidence set forth.

And in, okay, in this -- I don't.

SECRETARY MCDONALD: Oh, you can keep it and give it to us --

MS. JACKSON-AMIS: No, it's all right. And here, take this one too, if you don't mind. This one is notice from Mary Scanlon of the Attorney General's Office dated March 10, 2011 that they received this formal complaint. And several of the violations, at the time that Fred's Army was in control of this project we were given the Capital Grants Agreement, a booklet. And we were told that those were not just the policies and regulations but more or less our marching orders. And within the context of that reading there were certain provisions, I outlined them in the March 7, 2011 correspondence, or complaint as I

stated. And that, two of them I will just highlight. That there is to be no collusion, non-collusion provision. I charge that there was in this instance. And I think that it's fair to have it investigated.

I'm not, this is not idle. I asked for a hearing. I understood from the various entities, I mean the various branches of the Department of General Services, that there wasn't a hearing in order. However, and the Board of Contract Appeals only deals with, we have to have a formal letter from the Department of General Services which I never did receive any. And there are a number of other issues that would preclude an ordinary citizen from coming forward and making these allegations and having them researched. But I say this, that you're the top echelon of our government. And you asked us to vote for you. And you promised that you would look after all of us. Not just the politically savvy. Not just those with finances that would enable them to have high powered lawyers. But those of us who have very simple requests, that there is a modicum of due

process and fairness. That our issues be taken extremely seriously.

In the scheme of things and my experience, which is not so shallow actually, the enormity of this taking from this private group was something unfathomable. But nevertheless it has occurred and with a great deal of consequence. There are lots of debts out there that our group have to bear. And it's not just the group, because people start scurrying, you know, when you start looking for money for payment. So as the President and founder a lot of it has fallen on me to do, which is not fair at all. Particularly since this was a community activity engaged in in good faith. And the Town had no basis for its actions. But even that aside, because I'm not here on those issues, we won't leave them alone, hopefully, you know, those issues will be resolved in another form. But I am here on the money. Do they need it?

GOVERNOR O'MALLEY: All right. Well, let's ask the Mayor to come up. Mayor, do you want to come

up and explain to us why you need this money, and whether or not you have matched it? Thanks very much.

MS. JACKSON-AMIS: Okay. I just wanted to make sure there was -- just give me one second, Governor.

GOVERNOR O'MALLEY: Sure.

MS. JACKSON-AMIS: Just give me one second.

GOVERNOR O'MALLEY: Absolutely.

MS. JACKSON-AMIS: Okay, because what I'm asking for, if I might just say this?

GOVERNOR O'MALLEY: Sure.

MS. JACKSON-AMIS: Is a stay of, if that's appropriate in this forum, of any action. The, as you say, the statue is up. But the specifics of my allegations should be clarified. And if there's validity there should be action taken. And there is, and there is substantial evidence which we have to provide.

The other thing is that I'm asking that the stay, until the appeals process has been exhausted. Because if in fact that \$85,000 was in any way considered as a matching fund, and if we are lucky

enough to prevail, the question will be whether or not they have the match.

The other thing is if in fact the money was paid to the sculptor in 2009 exhausting the funds from the Community Legacy, how does that fit in with this, with your scheme of the match? And I think those are very credible --

GOVERNOR O'MALLEY: Would you summarize for us what exactly your allegations are?

MS. JACKSON-AMIS: Say it again?

GOVERNOR O'MALLEY: Would you summarize please for us as succinctly as you might be able to the allegations that you're making?

MS. JACKSON-AMIS: Well, in terms of your, the Capital Grants Agreement, you have clauses in there I set forth. And it says that there would, if I can remember, no collusion with respect to the bid process. I have to read it. But anyway what I'm saying, what I'm essentially saying --

GOVERNOR O'MALLEY: I'm just trying to get to, I'm trying to understand, and we've been very patiently listening to your presentation. And yet --

MS. JACKSON-AMIS: You don't understand it?

GOVERNOR O'MALLEY: No, ma'am, I don't.

MS. JACKSON-AMIS: Oh.

GOVERNOR O'MALLEY: I don't, and I think what I hear, and maybe Al, Secretary Collins you are more familiar with this one than I am. I think I hear you alleging that the Town in their application for these grant dollars matched them with dollars that your organization raised. So I understand, is that one of the allegations you are making?

MS. JACKSON-AMIS: Well, all of the money that they used, we raised nearly \$40,000 as far as that's concerned. But we raised those funds. The Town did not raise a dime of it. Now if they raised anything after, you know, in the last year or so, they may have. But not in the context of these funds, or the funds for Community Legacy, or the funds for the Maryland Heritage Areas Authority, or the \$115,000 that we raised.

What I'm saying essentially, Governor, is this. That you have in the Capital Grants Agreement that I received it says, and I know, it says A, that

you don't discriminate. That's one thing that troubles me. All of the African American professionals, the sculptor, the archaeologist, all of the professionals were kicked out and Caucasians were put into place. That's a problem for me. It's a problem for those that I represent. That's one thing. I'm also saying that I have a question about the matching funds and whether or not the appropriate funds were used. I'm saying that. I'm saying that the funds that have been requested, if in fact the complaint that was filed in the Circuit Court for Talbot County states that \$93,000 was paid from Community Legacy to the sculptor, then that \$93,000 it seems to me would be subtracted from the full amount, the \$134,000 that they claim that the sculptor is going to cost. And the question becomes, is this money being used as a match? Because there's nothing definitive in the paperwork that I saw that says where these funds are coming from that are matching. And I'm looking at the funds that I know about, and I'm questioning how can that be.

I'm also saying that the \$40,000 of the money that we raised, that we paid out that is to say, are we able to get that back under this process? Because it was used during the course of the time that these funds were in the hands of Fred's Army.

GOVERNOR O'MALLEY: And these were dollars you paid to a prospective sculptor who ultimately was not the sculptor that did the sculpture?

MS. JACKSON-AMIS: He was the sculptor that was commissioned and we don't know why he didn't complete it. It was, the sculptor that completed it was, was someone who competed as a matter of fact. There was a competition. And he dropped out of the competition. The only of the, and I'm bringing all this up because I think fundamental fairness has everything to do with what I'm trying to convey today.

GOVERNOR O'MALLEY: Okay. Anything else?

MS. JACKSON-AMIS: Not at the moment. But if the Mayor says anything that I need to rebut, I hope I'm able to do that.

GOVERNOR O'MALLEY: Well, okay. Al, Mr. Collins can you, I should have asked you initially, but can you summarize what, you know, this item is?

MR. COLLINS: Yes, sir. Two items, Governor. Today we are putting before the Board the certification of this particular item setting up our, an encumbrance so that the Town of Easton presents matching, presents appropriate costs to us to pay for this Memorial the State will reimburse it. The Legislature set up in 2009 the Town of Easton as the grantee for these particular funds.

We are also asking the Board today to reimburse the City of Easton \$29,664 because they have submitted appropriate receipts to us saying that they have spent these monies towards the \$100,000 of certification here. So from our perspective we reviewed what the City of Easton has present as appropriate reimbursements, we have certified those. Those costs are true and reasonable and they deserve to be repaid.

Now I will also say that this matter in terms of this Memorial and the Town of Easton has been

under litigation. We've obviously traded correspondence over time. And we feel that the action put before the Board today is appropriate, and we have said that --

GOVERNOR O'MALLEY: Okay. Mr. Mayor?

MR. WILLEY: Good afternoon. This was a project that was started back in April of 2004, as near as I can figure. And up until 2009 nothing had really taken place substantial with the project. It appeared to the Town that this was a project that was kind of mired in a rut and really needed to have some help. We were not able to get proper documentation for bills that needed to be paid. And to say the Town didn't have any money into this was kind of a misstatement because we were doing the financial issues, we were sending out thank you notes for donations that were received, and so forth. So we did have a dog in this fight.

In 2009, because it didn't look like the project was going anywhere and needed to be kick-started, we actually went to Talbot County Circuit Court and got the approval from them that, I quote,

"Talbot County Circuit Court ordered that donations received belonged to the Town for purposes of erecting the statue. The most recent appeal has been stricken and the case is currently closed." Once that happened we set up a committee to process the plans for the statue and so forth. And most of the members of this committee were members of the old Fred's Army group. They had become disenchanted for one reason or another and had come to us and worked with us on a committee. They included Harriet and Eric Lowery, who worked at Chesapeake College, both African Americans; Walter Chase, who is a former Police Chief of the Town of Easton and currently Councilmember for Trappe, African American; there were also Walter Black and one other that were State officers of the NAACP. So we thought we had a fair representation of people that were willing to work with us on this project.

And as you saw back on June 18th the statue was dedicated, it was unveiled. We had a rather substantial crowd there and it was hotter than the hinges. You know, it was hot. But we had a rather substantial crowd there, very diverse, very

enthusiastic, and well meaning. And without a doubt all were quite excited that the statue had finally been erected, put in place. And really it looks in front of the Talbot County Courthouse like it was there all this time. Because it just fit in very well.

We're very pleased the way it has worked out. And again, if there's issues with any kind of expenditures we stand ready to provide that information to you. But to the best of our knowledge and our ability it's all been done aboveboard and very straightforward.

GOVERNOR O'MALLEY: Okay.

MR. COLLINS: I have no reason to question that, sir.

GOVERNOR O'MALLEY: Okay. Any questions at all about that. So right now we're encumbering the \$100,000?

MR. COLLINS: Yes, sir.

GOVERNOR O'MALLEY: Which was put out in a bond issue?

MR. COLLINS: Yes, sir, this --

GOVERNOR O'MALLEY: Back in 2005?

MR. COLLINS: That's correct. The --

GOVERNOR O'MALLEY: And it designated who --

MR. COLLINS: That's correct.

GOVERNOR O'MALLEY: -- the administrator of the bond would be?

MR. COLLINS: That's correct. For two years it was Fred's Army. Two periods of four years. And actually in the third continuation the Legislature changed it from the Army to the Town of Easton.

GOVERNOR O'MALLEY: The Legislature did that?

MR. COLLINS: That's correct.

GOVERNOR O'MALLEY: Okay. All right. And it's \$29,000 that's being asked for in reimbursement?

MR. COLLINS: They are due reimbursement for their expenditures today on this Memorial. There may be more funds forthcoming to ask to seek reimbursement up to a total amount of \$100,000.

GOVERNOR O'MALLEY: Okay. But right now we're encumbering the \$100,000, and we approving \$29,000?

MR. COLLINS: That's correct, sir.

GOVERNOR O'MALLEY: Okay. And Madam in rebuttal do you want to come up and correct the things that you have problems with, with which you disapprove?

MS. JACKSON-AMIS: Yes. We had this project from 2004, like you said, to 2009. And we were in conversation with, in 2009 we were finished and our sculptor was ready to do the clay model. The reasons that this didn't go forward have to do with politics and it's not really something that I wanted to really bring up here, but I can. It had to do with the stalling by the County and the ultimate, as we have said, the ultimate desire of the Town and the County to take over the project. There was no reason for Fred's Army not to have completed it. We were with DGS and we were working on our matching, we had that covered. We were done. But it was snatched from us.

The, in terms of the African Americans who came over, Michael Eric Dyson said it best, and I hope you don't consider me flip. But he said what we don't want is the ventriloquist syndrome. African

American's weren't running this project. African American mouths were moving, but there were, the Mayor and the County officials and Rob Picard, all of the Caucasians were running this. This was troubling to me, who ran for office so that we could improve the standard of living and to have a voice in what is happening.

It is critical for you to know, and to cause some pause, that the Douglass descendants did not come. They did not participate on purpose. They did a press release to talk about why they were going to boycott this, because of what happened in this whole situation. And you know, maybe the \$40,000 that we paid our sculptor makes no difference. Maybe you don't see a reason to investigate why there were two sculptors paid. Maybe that's okay. But it's not okay for a taxpayer to see that kind of money thrown out. And I think it was interesting the Mayor said that they sent stamps and they did letters, they did. We raised \$400,000, which was taken from us. And we say unlawfully. An appeal has been filed as of today. So

there is an appeal pending. And at some point, you know, it will come out.

And I don't think that a body such as yours should ignore, I'm hoping that you don't anyway, ignore the concern that has been raised. And if they have the documents to prove their financial contribution and we have ours, then I think that that's great. Then they should all be put on the table. At least it would be done for once. Because the judgment that he talked about was a default judgment for \$85,000 because we didn't get notice. That's why they have the judgment. Nothing on the merits has ever been discussed in this case in a court of law. We are praying for that opportunity now.

GOVERNOR O'MALLEY: Okay. Thank you. We're not going to be able to resolve the court case here. The Treasurer moves approval of the DGS items, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay."

(No response.)

GOVERNOR O'MALLEY: And the ayes have it and that concludes our Board of Public Works for today.

(Whereupon, at 12:20 p.m., the meeting was concluded.)