
STATE OF MARYLAND
BOARD OF PUBLIC WORKS

*GOVERNOR'S RECEPTION ROOM, SECOND FLOOR, STATE HOUSE
ANNAPOLIS, MARYLAND*

July 26, 2017
10:10 a.m.

PRESENT

HONORABLE BOYD RUTHERFORD,

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Treasurer

HONORABLE PETER FRANCHOT

Comptroller

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PROCEEDINGS

LIEUTENANT GOVERNOR RUTHERFORD: Well, good morning.

ALL: Good morning.

LIEUTENANT GOVERNOR RUTHERFORD: I guess we'll just get started because we have a large Agenda today. And I'll ask the Treasurer if she has any comments? I don't.

TREASURER KOPP: Except that it's a pleasure to be here on a beautiful day. I know that the Governor is going to mention the storm over the weekend.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: I just wanted to say over the weekend I unfortunately was not here. We were in New York celebrating the wedding of our son --

LIEUTENANT GOVERNOR RUTHERFORD: That's fortunate.

TREASURER KOPP: -- which went very well. Thank you --

LIEUTENANT GOVERNOR RUTHERFORD: I was going to say, fortunately.

(Applause.)

TREASURER KOPP: It's good to be back. Let me just take a moment to mention two items on the Agenda. The bond sale, which will take place on the 16th, a general obligation bond sale for new money of about \$550 million and refunding, which we hope will bring the taxpayers significant savings. But of course it depends on the market on the 16th. We had discussions yesterday with the bond rating agencies and we hope we answered all the questions they had and look forward to receiving a AAA bond rating, as we have in years past. So that's the good news.

The, I can't let this day go by --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: -- without noting that on Capitol Hill those people are playing with the health of tens of millions of people. And I was pleased to see the Governor speak out against the latest proposals. It's a terrible thing. We just hope sanity will prevail. Thank you, Governor.

LIEUTENANT GOVERNOR RUTHERFORD: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Lieutenant Governor. And good morning, everyone, Madam Treasurer. Like all Marylanders I continue to pray for all the residents and families and business owners that were affected by Monday morning's storms that impacted communities in Queen Anne's County. Yesterday I had the opportunity to survey

the impact of this devastating storm and see the damages to homes and businesses and roads and power lines and people's livelihoods. It was simply heartbreaking.

My office, like every other State and local agency in Maryland, is ready to provide any and all assistance to the victims of this storm. I have spoken with a number of local officials from Queen Anne's County and pledged my support and assistance as they begin to rebuild. I want to extend my heartfelt thanks to all of our first responders, particularly Sheriff Gary Hofmann and I think it's Lieutenant McDonald with the State Police who was heading up the EMS and Fire and other services. All of the personnel there performed very well, as well as the utility workers and countless volunteers at shelters and food banks for, you know, frankly working non-stop over the time since the storm, 48 hours, to provide assistance to those who were displaced or experienced damage to their properties.

Times like these underscore the strength of our communities and the abundant generosity and kindness of neighbors and strangers. And as our fellow Marylanders begin to rebuild their lives, our thoughts and prayers and the support of the State will be with them in the coming months. And Lieutenant Governor, they were very appreciative of your visit. And just showing up from the State level was a big help to the Queen Anne's County personnel who were involved with this devastating incident.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. Yes, as you mentioned I went there Monday morning, several hours after the tornado had hit. At that time it had not been confirmed that it was a tornado but it has been designated an EF-2 tornado.

Initial damage assessments, six homes were destroyed, another 42 with major damage, minor damage to 51 homes, there were 49 others that were affected and then some that the assessment hasn't been completed. According to Delmarva Power the vast majority of the properties' power is back up, which I think is quite amazing given that we saw power lines down, major trunk lines down, as well as of course going to the homes.

It was, you know, quite devastating. But at the same time we all were very lucky. There were no fatalities, in an area that is probably the most densely populated portion of Kent Island. One minor injury, the gentleman's home that was completely destroyed, he was injured from some falling debris and he is staying with a neighbor now. The neighbor came out and told us that when he gets out, released from the hospital he will be staying with them for a period of time. And there's a lot of resilience on the Eastern Shore and the individuals there and they all were coming together to help each other out. And so it was very impressive to see. But it showed the power of nature and the randomness, that you could have one house that has the second floor blown off and another is virtually untouched, or the small boats that are in the little creek behind are

untouched, the tomato plants are still where they were. But next door, the roof, the second floor is gone.

So and it's interesting, a side note that's somewhat comical, the gentleman's house who lost the second floor, he comes to his neighbor and says, I'm sorry that my house blew on your car.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: And she's like, this is a car, your house.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: So with that said, I guess we can start, Madam Secretary.

SECRETARY MCDONALD: Good morning, Governor.

TREASURER KOPP: Governor, could I just add?

LIEUTENANT GOVERNOR RUTHERFORD: Oh --

TREASURER KOPP: I just got a note, if it's okay to share with people, do you notice a change in this room? The windows?

LIEUTENANT GOVERNOR RUTHERFORD: Oh, I saw it a while ago. But yeah. Okay --

TREASURER KOPP: Yeah, but I hadn't seen it. And I understand that it's due to DGS which found the curtains, Mr. Secretary?

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

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TREASURER KOPP: And thanks to former Senators Neall and Madden for helping put them up for the people of the State. That is, paying to have them put up.

LIEUTENANT GOVERNOR RUTHERFORD: Paying, you're right --

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: We don't see Bobby Neall on a ladder.

TREASURER KOPP: I have great respect for Bobby Neall.

LIEUTENANT GOVERNOR RUTHERFORD: But not on a ladder.

TREASURER KOPP: But good job.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, these were actually purchased many years ago under a previous Governor, and then the next Governor did not want to have them put up. And so they were in storage for many, many years. And so they do look nice.

TREASURER KOPP: A new beginning.

LIEUTENANT GOVERNOR RUTHERFORD: A new beginning, a refresh. Okay. Madam Secretary?

SECRETARY MCDONALD: Thank you. Mr. Governor, Madam Treasurer, Mr. Comptroller, we have 15 items on the Secretary's Agenda this

morning. Nine reports of emergency procurements. We are withdrawing Secretary's Item 4. We are ready for your questions on any of the other items. But I do want to point out the bond sale that Treasurer Kopp talked about. Our next meeting of the Board of Public Works, August 16th, is in the assembly room in the Treasurer Building. It is not in this room. Also there is a lot on our Agenda. Dr. Jordan is here from St. Mary's College, the Baltimore Food Hub is here, and we have some wetlands licenses. So we'll turn it over to you.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All right. Well I guess we'll start with the wetlands licenses. You have a couple of people that are interested in speaking?

SECRETARY MCDONALD: Well, on the first, yes.

LIEUTENANT GOVERNOR RUTHERFORD: Item 2?

SECRETARY MCDONALD: I think we have two wetlands licenses, right, on Item 2. And one, somebody is opposing one of the licenses. The other license, everybody is here to say I think thank you to the Board of Public Works. So would you like to hear from the --

LIEUTENANT GOVERNOR RUTHERFORD: Let's do the thank you first.

SECRETARY MCDONALD: Okay, good.

(Laughter.)

SECRETARY MCDONALD: Maybe Assistant Secretary Buhl and Bill Morgante can come up and tell us about St. Luke's Episcopal Church and tell us about the shoreline project that they were doing there.

MS. BUHL : Good morning.

LIEUTENANT GOVERNOR RUTHERFORD: Good morning.

MS. BUHL : I'm Lynn Buhl with the Department of the Environment. This is a church in Eastport, St. Luke's Episcopal. They are represented today by the Reverend Diana Carroll, please come forward, and Betsy Love. This is a shoreline restoration project, totally voluntary, exactly what our department loves to have citizens take an interest in. And I'd like to give them an opportunity to talk a little bit about their vision and how the project got going and their public education effort.

REVEREND CARROLL: Good morning.

LIEUTENANT GOVERNOR RUTHERFORD: Good morning.

REVEREND CARROLL: I'm Pastor Diana Carroll. As Secretary Buhl mentioned, I'm the Rector of St. Luke's Episcopal Church in Eastport, right here in Annapolis. And I want to thank you for the opportunity to speak for a few moments about our restoration of nature project.

St. Luke's is a very small church. We have about 120 active members, about an average of 42 or so on a Sunday morning. And however, we're located on five acres on largely undeveloped land on the highly developed

Eastport Peninsula. Most people don't realize our property is as big as it is. All they see is the sort of open front lawn area where the church is. But the entire back half, which adjoins that creek, is degraded wetlands and woodlands. Or they were degraded until now.

In 2013 some of our members discovered a large storm drain that was dumping 28 acres of urban runoff directly into the creek at the tip of our property. And so began our journey to find ways that we could use our land to be better stewards of creation, which is central to our mission as a Christian community. Along the way we have developed many partnerships, both public and private. I couldn't even begin to name all of those who have made this possible. But in particular we have worked closely with the Alliance for the Chesapeake Bay and the Department of Natural Resources, which is providing most of the funding through grants.

In a moment, Betsy, our Environmental Chair, will speak a bit more about the specifics of the project. But I want to highlight that our final goal after creating the watershed restoration and putting in a number of stormwater mitigation best practices, the final goal is to create an environmental education campus around those with nature trails and benches, an outdoor classroom area, a space that can be used to inspire others to similar kinds of actions. Whether that is scout troops and schoolchildren, or legislators and permittees, contractors, anyone who would be interested in seeing how this kind of work can be done.

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TREASURER KOPP: Members of the Board of Public Works.

REVEREND CARROLL: Members of the Board of Public Works, we would like to invite you all to come down and tour it once it is installed. Please. We really hope to be a shining example of how private landowners can proactively choose to make changes on their property to improve the health of the Bay and its tributaries. And I just want to invite our Environmental Chair Betsy Love to say a little more about the details of the project.

MS. LOVE: Well I want to say that St. Luke's comes with money in their pocket as well. We're contributing a land value of \$350,000 in conservation easement and we have also raised over \$100,000 in not only volunteer labor hours but in small grants and fundraising activities in the form of environmental education festivals and concerts wherein we speak about the Chesapeake Bay program and its best management practices and what we are doing at St. Luke's.

And we call it restoration of nature for one reason, because we are not only going to provide Back Creek, a very beleaguered creek in Annapolis, with clean water, but we are going and try to restore ecosystem balance. With bringing all of this water back onto our property where it was before development began, into, from curb cuts and daylighting the stormwater drains, bringing it into rain gardens, filling into bioswales, directing it to the regenerative stormwater

conveyance system, where that will lead to wetland enlargement. We have a small little wetland on our property now but this will be much greater and richer, hopefully with frogs and dragonflies and turtles, which also will lead to tidal marsh, and then finally into living shoreline. And we've already begun restoring the forested buffer and we're expanding conservation landscapes all the way up to Bay Ridge Avenue.

So we're very excited and happy that we've made it this far, and we sure hope we have your support. And I'd just like to thank Secretary Grumbles and Assistant Secretary Lynn Buhl, Secretary Belton, and my two heroes at DNR, Kevin Smith and Claudia Donegan.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

MR. ARNETT: Good morning. I'm Ross Arnett. I'm the alderman for the ward in which this project resides. I have been involved with it from nearly the beginning. And I think this is just a fine example of the private sector stepping up, recognizing a need, and pushing this project through. I totally support it. The State has also totally supported it with funds to make it possible. And I would really encourage you to approve this. We have made this part of the city's watershed improvement plan to reach our 2025 TMDL goals and we'd really like to see it go forth. It's really one of the first projects out of the box for the city. So thank you very much.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

Okay. And we have someone for the other --

SECRETARY MCDONALD: Okay. So is Mr. Lahm here? Mr. Pete Lahm? Okay. All right. All right. You are here. All right. So Mr. Morgante, the Wetlands Administrator, why don't you step to the stage? This is the Anne Arundel County Department of Public Works license for public recreational activities. They are going to have water access for the public there, the new boat ramp. So Mr. Morgante, why don't you tell us exactly what this license is for. And then there is a neighbor who wants to --

LIEUTENANT GOVERNOR RUTHERFORD: Who has a concern.

SECRETARY MCDONALD: -- who is not happy with this recommendation.

MR. MORGANTE: Good morning, Lieutenant Governor, Madam Treasurer, and Mr. Comptroller. Bill Morgante, Wetlands Administrator for BPW. So what we have here is Anne Arundel County wants to, seeks a wetlands license to actually install a public boat ramp for power boats. The county has wanted to provide additional public power boat access to the Bay for some time so this project would actually be the fourth power boat ramp in the county. This project includes the removal of two large piers that are in poor condition. It

would replace a deteriorating bulkhead, as well as do some dredging in the tidal wetlands.

The project is located in Southern Anne Arundel County in Shady Side. It's actually on a tributary to the West River, right near the confluence to the Bay. MDE issued to the Board a favorable report and recommendation for this project on March 23rd. A nearby property owner, Peter Lahm, contacted me with concerns about the project. I actually met with Mr. Lahm and Anne Arundel County representatives and agency staff from State agencies and came to my own conclusion that really his concerns were actually outside the purview of wetlands administration.

So the county is here to explain the project to you. Also Mike Lofton, he's the Chair of Anne Arundel County Access Commission, is here to speak. Mr. Lahm as well, as we mentioned, would like to let the Board know his concerns. And of course I'm happy to answer your questions.

SECRETARY MCDONALD: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: This is on county property? County land?

MR. MORGANTE: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Then maybe we should hear from Mr. Lahm.

SECRETARY MCDONALD: Mr. Lahm, please approach the podium.

MR. LAHM: Good morning, everyone.

LIEUTENANT GOVERNOR RUTHERFORD: Good morning.

MR. LAHM: Thank you for the opportunity to speak today. I am a nearby property owner but I also stand here representing a number of business owners who would be potentially adversely affected by this particular project. Business owners who have been in that community for virtually decades, Leatherbury Point Marina and others, that have a number of significant safety and also environmental concerns.

Basically what people are looking for is to understand the plan around this project for addressing road safety on the access point into the facility, the actual operation hours, management, security, and other issues associated with the site itself. In addition there are a number of water safety issues. As was mentioned, this is a tributary to the West River. It is a very narrow channel, 50 feet wide, eight feet deep. Over the weekend we all experienced storms. Boaters came rushing in order to get out of the water with the small craft advisory. We've all seen it if we're around the waterfront. I have no idea how many more boats will be rushing to a single boat ramp, 25, 30 on a busy weekend, etcetera, in a very confined space of which there is commercial marina opportunities, workmen in their watermen boats doing their job, slip holders who live in the slips in these

particular marinas, other situations there that are very much safety oriented. Where do these people go in this kind of a circumstance safely in a 50-foot by eight-foot-deep situation for a fairly significant channel roughly, you know, there's a number of turns in it and some significant shoaling that is occurring in that area as well to make it even smaller.

It is a significant safety issue for the schoolchildren that these trucks and trailers will be driving by. There are no sidewalks. This is a flaw that was identified in 2001 in the small area plan put together by the county. And also one other element of that small area plan and that is the retention of the opportunity of this small community to maintain the rural existence, the watermen existence, the water existence that's out there, and retain that opportunity and slowly grow but slowly grow with some planning and some opportunity for input.

I have spoken with a number of the marina owners. In fact, I spoke with one one day ago, had not heard about the project, had not been directly informed yet has a boat ramp which could be at risk with competition with a public facility literally right across the creek.

I suggest a couple of things. One, that a plan be put together that addresses some of these safety issues in a clear, concise way with accountability so that the citizens of Anne Arundel County and Shady Side can make sure that their children are safe, that the boaters and the workmen who are on that waterway are safe if there is a lot of activity. That security is addressed properly

on the site, that there is consideration for the economic impacts of people who employ folks in the south county, in Shady Side. It's great to bring people in but it's also a detriment to the program and to that area to potentially lose services, to lose these businesses when they are going to lose potentially some of their opportunity.

Now under DNR rules there is supposed to be competitiveness. I don't know and no one to this day, none of the marina owners understand what and how that rate will be set. That has not been established. And I have to say, I've spoken with three of the five marina owners there. One is vehemently opposed. I'm interested in seeing a proper plan put in place and delay the motion on this particular license so that those who are opposed, those who have issues about safety and concerns about economics can sit down with the county, with DNR, with those that have management responsibilities with Parks and Rec, to come up with a proper plan that maintains the vision identified in the small area plan of basically a deliberate, slow pace of life that is what is grasped and what is the highest value according to that small business plan from Anne Arundel County in Shady Side.

LIEUTENANT GOVERNOR RUTHERFORD: Have these concerns been addressed to the county?

MR. LAHM: I raised these in a call in April of this year. I raised these to Bill Morgante, who was very helpful in trying to address some of these

concerns. He informed me of this particular topic coming back up. And he said, were they addressed? And I said, no. I don't have an answer of what the fees will be, even if there is going to be a fee. There is nothing in the public record that points any of this information out. That's why people don't know. And they will be affected by this particular effort.

So yes, I have. We met on Friday. I was asked to put together some of the comments and concerns. I did put together a comprehensive list of those items. There was a list provided to Bill in April as well. So several months have gone by and the answers to some of these questions are not there. The first time a Parks and Recreation person hit the site that was at our meeting on Friday. The gentleman was asking, well, what is the management scheme of this building? What is the management scheme of that building? Clearly not having been on that site.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Is there anyone from the county here?

SECRETARY MCDONALD: Yeah, we have the Department of Public Works --

LIEUTENANT GOVERNOR RUTHERFORD: So thank you.

MR. LAHM: Thank you for the opportunity.

SECRETARY MCDONALD: -- yeah, Masoud, or the project manager. Are you here? Can you come up? And also, I would like to make sure

that you know that Mike Lofton, who many of us know from around the State and around the county, Mike Lofton is currently the Anne Arundel Water Access Commission Chair, and he is also here in favor of it. But I think Masoud can explain the project and then Mr. Lofton can tell about the county's strategy --

LIEUTENANT GOVERNOR RUTHERFORD: I'm not overly concerned with the project. Just really address his concerns in terms of no contact or a lack of contact with the local community.

MR. GHATINEH: Yeah, good morning. My name is Masoud Ghatineh. I'm with Anne Arundel County Department of Public Works. Actually, yeah, we met with Mr. Lahm on Friday and Mr. Lahm had brought up his concerns. But actually the majority of Mr. Lahm's concerns have to do with site operations and are under the local county government responsibility and mission. And we as the county government are committed to managing this site for the enjoyment and benefit of the general public and are fully prepared to properly operate and maintain the site. The county has the capability to take corrective action and implement operational modifications at the site if needed.

Regarding the remaining concerns of Mr. Lahm's that deal with waters of the U.S., I'm sorry, waters of the State, those concerns have been reviewed and dealt with by no more than ten federal, State, and county regulatory agencies and have received favorable recommendations. The Discovery Village boat launch facility is a vital part of the county public waterway access

improvement initiative and it's one of the county executive's top agenda items. And I, as the project manager and a county employee, urge the Board to approve the application and allow us to revitalize the underutilized commercial waterfront property in an environmentally sensitive and responsible way.

I'm going to turn to allow Mr. Baharlou, who is my consultant, to actually explain the project in a more technical way. Thank you.

MR. BAHARLOU: If the Board has any questions, I'll be happy to answer those specifically. But there was a question about safety. I think there was a misrepresentation of the channel. Actually it's a 50-foot wide, eight-foot deep federal channel, that the project states the waterway is actually several hundred feet wide. So it is not, we've looked at the safety issue. That is not a concern.

We've also mentioned the competitive nature of the boat ramp. I've spoken to local marina owners and I've spoken to multiple marina owners over the years. And the operation of a boat ramp generally is a nuisance, it's a facility that they provide to their boaters because it's an amenity. It brings in customers to their property. Having a public ramp adjacent to their larger facility generally brings more boaters in the waterway, actually generates income for the community. So that is somewhat, again, different people have different opinions. But generally it's thought about that it actually provides more traffic in the waterway and provides more opportunity for income.

Currently the property is a commercial use. It's partially used. And the county is looking at this as revitalizing the portion of the property that's actually being underutilized. We're actually bringing BNP practices and resulting in minimum, reduced impervious surfaces, we're providing new stormwater management techniques. And so we're actually upgrading the property.

We've spoken to local, we have letters of support from the Anne Arundel County Watermen's Association, from the Riverkeeper, whose office is on the same property. We also have a letter of support from the Chamber of Commerce supporting the project. So we've had plenty of community meetings. I myself have been involved in two community public meetings in this particular project where the project was advertised. We had over 50 to 70 people attending those meetings at different times. So there was plenty of public, these were all done voluntarily by the county prior to the State mandated notifications. So again, we always try to send out the information but we never, you know, may not reach every single person.

LIEUTENANT GOVERNOR RUTHERFORD: All right.

COMPTROLLER FRANCHOT: Could I ask a question?

MR. BAHARLOU: Yes, sir.

COMPTROLLER FRANCHOT: It doesn't sound like you sat down with Mr. Lahm, did you?

MR. BAHARLOU: We've met with Mr. Lahm. After the public notice period was over he raised his concerns so we met with him. Absolutely, I've met with him.

COMPTROLLER FRANCHOT: Yeah. Great. Okay, so it sounds like he has some legitimate concerns.

MR. BAHARLOU: The --

COMPTROLLER FRANCHOT: Let me just ask a question.

MR. BAHARLOU: I apologize.

COMPTROLLER FRANCHOT: He mentioned having talked to three out of five of the marina owners who seem to have a different view than you have about the, about --

MR. BAHARLOU: Again there are --

COMPTROLLER FRANCHOT: -- about the competitive nature. Now obviously, you know, that can be open to dispute. But you seemed to indicate a different opinion. And then your previous colleague stated that you don't have a management plan right now as far as fees and how you are going to operate the facility. Don't you think the community deserves to have some information about what exactly the structure of the operation of this --

MR. BAHARLOU: Absolutely.

COMPTROLLER FRANCHOT: So where is it?

MR. BAHARLOU: What the county has is, this is the first, or second boat ramp that the county is constructing. What we are following is what DNR standards are for boat ramps, which is we look at the rate structure of nearby ramps and the county will charge the similar competitive rate as the nearby ramps provide. So this is not to, this is the standard DNR regulation. So we will follow by that.

Some of the other concerns that were raised dealt with speed limit, where we have spoken to Mr. Lahm that we will provide adequate signage. The other concerns that were raised were about lighting and security. Those are things that the Parks and Recreation will manage as part of their routine operations of park systems. So I'm not sure if this is more of an issue of about not wanting to have a commercial facility, which is an existing commercial site being revitalized, or if it's anything more than that.

LIEUTENANT GOVERNOR RUTHERFORD: You said that you did speak to some of the marina owners there?

MR. BAHARLOU: Our staff did, absolutely.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. And so --

MR. BAHARLOU: Their issues they raised was lack of parking, that they don't have adequate parking for boat trailers. Because there is a, they do have a ramp. One ramp is actually functioning but they don't have a lot of available parking. So they have a limited number of launches that they can --

LIEUTENANT GOVERNOR RUTHERFORD: So the existing site has a ramp now?

MR. BAHARLOU: No, the adjacent marina.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, the adjacent marina? Okay.

MR. BAHARLOU: Yeah. Has a ramp that for a fee, but they have limited space, they have a few launches a day. And they look at it as an amenity to their customers. They are not looking at it as an income generating scenario.

There is another marina that has a ramp that is actually non-functioning right now. But he intends to, he may make the, fix the ramp up. But again, there is a limited, a very short, limited number of parking spaces, a handful of parking spaces.

LIEUTENANT GOVERNOR RUTHERFORD: What's on the property now? The property that we're talking about?

MR. BAHARLOU: Sure. Right now the property is used by Chesapeake Bay Foundation. They have their oyster harvesting operations from the property. We met with them. They fully support the project. They encourage the public access coming back to the site. Also it's used by the Riverkeeper.

LIEUTENANT GOVERNOR RUTHERFORD: Riverkeeper.

MR. BAHARLOU: And it's also, there is a small boat manufacturing, metal working shop there. There are a couple of slips on the property. They are used by local watermen. We have met with them. They all support the project and actually we have a letter of support from the Watermen's Association. They think the project is actually, again, we're trying to revitalize this existing commercial neighborhood that's pretty much in disrepair.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. BAHARLOU: Up against a federal channel in a highly navigable waterway.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you. Unless you have any additional questions?

TREASURER KOPP: I don't. Except that I think clearly it's unfortunate it took them till last Friday for you all to meet with Mr. Lahm. I gather the responses are not to his satisfaction but I recognize that you did do a lot of contact with the public before that.

MR. BAHARLOU: We made responses to Mr. Lahm. I guess he wasn't satisfied. So we made, then we met in person. So there was a, there was a multiple back and forth. I think the idea of meeting in person was maybe because we thought we had addressed all of his concerns a couple of times prior to that through emails. It wasn't satisfied --

TREASURER KOPP: Emails, emails are never as good as --

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MR. BAHARLOU: Absolutely.

LIEUTENANT GOVERNOR RUTHERFORD: Right. But that does show that there was contact before.

MR. BAHARLOU: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

COMPTROLLER FRANCHOT: Sure. But why not take a couple of weeks and you guys meet with Mr. Lahm? If you can't resolve anything, that's okay. But he made a very intelligent presentation and obviously it's an issue that he represents some people more than just himself. And so to the extent you can come back later and ask for approval of this, and maybe meet with him, and give him some more information, I think that's entirely appropriate. I mean, why do we have to like act as if this is, you know, an emergency that needs to be moved forward? It doesn't. It's, if someone comes forward like you did, sir, I've never met him, but he made some good points. And why not slow the thing down a little bit, and get together, and come back and see us later?

SECRETARY MCDONALD: Governor, we have had a request to speak from Mr. Mike Lofton, who is head of the County Executive's Water Access Commission?

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

SECRETARY MCDONALD: Just introduce yourself. Say your correct title.

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LIEUTENANT GOVERNOR RUTHERFORD: Let's, yeah, let's not make it long because we've got a lot of other --

MR. LOFTON: Right. Right. I'll not take much of your time.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. LOFTON: I'm Mike Lofton. I am the Chair of the Anne Arundel Water Access Commission. We are a group commissioned by the County Executive to try and improve public water access. And oftentimes what you find is water access, everybody is for water access as a concept. When you get down to the transaction level, which is where we are, there are going to be folks that are nearby that have existing water access who feel encroached upon and resist.

I've been boating in this particular waterway for at least 25 years. I'm a regular user of the Backyard Boats ramp. I know what the situation is. I'm here to really urge you to act on it today. This has been before, the permit application was submitted in August of last year and I think the schedule in the Code calls for actions within two consecutive 45-day periods. There has been an abundant outreach to interested parties in the area. There was mention of, I'm on the Riverkeeper Board, the Riverkeeper has expressed support for it. The Chamber Director has been to the site on multiple occasions and has expressed, that is the local business community, is the South County --

LIEUTENANT GOVERNOR RUTHERFORD: Right.

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MR. LOFTON: -- Chamber of Commerce. So I think that is the voice of business. They have actually modified the plans to make room for the watermen, who are docking there now. And it will be safer for them as the bulkheads are deteriorating. And if we delay we're going to miss the construction season. So this isn't going to be a delay of a few weeks until we get back, we'll miss a construction season. We won't be in operation in 2018. We'll miss it. So I urge you not to do that.

This is the county with more boats than any other county in Maryland. We just opened our first public boat ramp. And Anne Arundel is so underserved. And the boaters are the ones who pay into the Waterway Improvement Fund and we are happy to do that. And we've enhanced wonderful ramps all over Maryland. It's time for Anne Arundel boaters to get some benefit for their investment on this. So I urge you to approve it today, please. Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you very much.

COMPTROLLER FRANCHOT: Could I just ask, have you met Mr. Lahm?

MR. LOFTON: I was there Friday, yes. And I'm very visible. And people know my phone number. They call me. I don't know. I would

welcome Mr. Lahm to the community. I think he's a pretty new resident. But anyway, I mean, I was present on Friday when he came to the site. Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you very much.

MR. LOFTON: You're welcome.

LIEUTENANT GOVERNOR RUTHERFORD: All right.

SECRETARY MCDONALD: And Governor, we do have copies of those letters in support in the record from the Watermen's Association and from the South Chamber of Commerce and from the Riverkeeper down there.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All right. I want to go to Item 5, which is the Food Hub grant.

SECRETARY MCDONALD: All right.

LIEUTENANT GOVERNOR RUTHERFORD: I'm just going to, I'm barely mentioning it. I see you back there. This was on the Agenda last time I was here, or maybe sometime before then, but at least before. And I'm glad to see that the fund of the matching grant is being made available. So thank you for being here.

I do have questions on -- before we get to St. Mary's, Items 9 and 10, which are Maryland Environmental Service's. Is there anyone here from --

SECRETARY MCDONALD: I think Ms. Frketic is here, yes.

And she has somebody with her. So let us know what's going on with Items 9 and 10, please.

MS. DONOVAN: Good morning. I'm Cece Donovan from the Maryland -- hi, Sheila -- from the Maryland Environmental Service. Roy McGrath sends his regrets. He's out of town right now. If there are technical questions, Ellen is our engineer. So --

LIEUTENANT GOVERNOR RUTHERFORD: No, this really has to do with the procurement. The first, in nine it does say it was an alternate item that is being added now that funds are available. I understand that. But number ten, it just says it's a change order. I want to know was it, and it looks like it was not included as an alt in the original procurement.

MS. FRKETIC: It was not. If I may explain, I'm Ellen Frketic. I'm the Chief of Water and Wastewater Engineering for MES. When we first bid the construction project, we had all these items included, all this work. And so the bids came in over our budget. So we had to regroup and we pulled some stuff out and we made them alternate items with the intention that once we got additional money we would get that work done.

LIEUTENANT GOVERNOR RUTHERFORD: And that's number nine.

MS. FRKETIC: Okay that's -- I'm leading up to it.

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LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MS. FRKETIC: Okay. So when we did the construction services contract with our AE, after we had awarded, or at the same time we awarded the contract we knew those items were out and we said, okay, just give us the price to, for the work that we've got scheduled right now.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MS. FRKETIC: When we got the additional money and we wanted to add in the items that had been set aside, we went to our engineer and we said, okay, we know this is going to take extra time. We, you know, do you, are there going to be additional fees? And that's what this is. It was not an add, we did not have an add alternate to the engineering contract. We usually just negotiate fees with them for hours and their services.

LIEUTENANT GOVERNOR RUTHERFORD: I personally don't like that approach. I think it should have been, you knew that you needed to do this or wanted to do this. So it should have been as an add alt. You know, it should be something foreseen. The previous modification was \$86,000. This is \$80,000, almost \$81,000, on an original \$285,000 contract. You know, if you get a little bit of extra money are you going to bring in another one and we've doubled the contract? No, you said that --

MS. FRKETIC: No, I say --

LIEUTENANT GOVERNOR RUTHERFORD: -- of course not,
of course --

MS. FRKETIC: Knock on wood --

LIEUTENANT GOVERNOR RUTHERFORD: -- you're going to
say no. I wouldn't expect you to say, yes, that's what we plan to do.

(Laughter.)

MS. FRKETIC: That will be in next, next meeting.

LIEUTENANT GOVERNOR RUTHERFORD: It will be here in
a couple of weeks.

MS. FRKETIC: No, no. This should be everything.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Well tell
Mr. McGrath that this is not the way it should be done.

MS. FRKETIC: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: I was hoping he
could be here that I could, you know, fuss at him directly.

MS. FRKETIC: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: Because he was
on our staff, that's --

MS. FRKETIC: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: -- got to get that
opportunity where we can.

MS. FRKETIC: Yeah --

LIEUTENANT GOVERNOR RUTHERFORD: But yeah, this, you did it with nine. That should have been done going forward with ten, that you put it in as an alternate if you are --

MS. FRKETIC: If we --

LIEUTENANT GOVERNOR RUTHERFORD: -- may be short of funding. So that at least you get a competitive bid on that.

MS. FRKETIC: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: Versus having that contractor there that says, yeah sure, \$81,000, you know, when someone else may have been able to it for \$76,000. We're a big enterprise, the State. Every dollar counts.

MS. FRKETIC: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Every dime counts. Because it's a lot of dimes being spent.

MS. FRKETIC: We will make sure we do that in the future.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MS. FRKETIC: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. Let's go to St. Mary's.

SECRETARY MCDONALD: All right. Dr. Jordan is here on behalf of Item 11.

LIEUTENANT GOVERNOR RUTHERFORD: Dr. Jordan?

SECRETARY MCDONALD: A naming opportunity.

DR. JORDAN: Good morning.

LIEUTENANT GOVERNOR RUTHERFORD: Good morning.

DR. JORDAN: It is absolutely an honor to be here this morning representing the College. Today we are here to recognize and honor the generosity of an alumna, who with her husband and via their trusts have bestowed upon St. Mary's College of Maryland almost \$7 million over the years.

This money has played a significant role in helping us to recruit and retain underrepresented minority students, especially students from urban areas across the State to our rural College in Southern Maryland. Their gifts continue to make a positive and significant impact at the College as the number of underrepresented minority students continues to increase, a phenomenon mirrored across the State and around the nation. We are thus here today to ask the Board's approval to name the College's library, a structure currently named, simply, The Library --

(Laughter.)

DR. JORDAN: -- the Hilda C. Landers Library.

LIEUTENANT GOVERNOR RUTHERFORD: It's easy to find it that way, you know?

DR. JORDAN: Yeah. I was really, you know, we were not using our creative juices that day. The Hilda C. Landers Library in recognition and Mrs. Landers' generosity and continuing support to the College and to our students. Thank you. I am happy to answer any questions.

LIEUTENANT GOVERNOR RUTHERFORD: Well we have a staffer here who is Head of our Communications Office, who is a proud alum of St. Mary's. And I had asked if there was going to be a sign placed in the library, you used to have signs around that said, George Washington slept here, you know, to say something like this gentleman's name, I'm not going to say it on the record, this gentleman's name was never here.

DR. JORDAN: You will never see it --

(Laughter.)

DR. JORDAN: You are exactly right.

LIEUTENANT GOVERNOR RUTHERFORD: His comment to me was, we had a library?

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Well thank you, though. Thank you very much. St. Mary's is an excellent school and we're very proud of it in the State of Maryland. And thanks for all your efforts.

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DR. JORDAN: Oh, thank you for everything you do for us.

LIEUTENANT GOVERNOR RUTHERFORD: Anything,
Madam Treasurer or Comptroller?

TREASURER KOPP: It's a great occasion, a very good occasion.
Thank you.

DR. JORDAN: Thank you and have a great week.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you for
being here.

DR. JORDAN: It's my pleasure. Thanks.

LIEUTENANT GOVERNOR RUTHERFORD: Any other
questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Yes, Item 15.

SECRETARY MCDONALD: Item 15 is school construction,
reallocation of monies for Baltimore County. Mr. Robert Gorrell, the Director of
the Public School Construction Program, is here.

MR. GORRELL: Members, this is a --

COMPTROLLER FRANCHOT: Thank you, Governor. Thank
you, Mr. Gorrell. We're being asked to approve a request with this item to allow
Baltimore County Public Schools to reallocate \$620,000 in unspent funds from
the fiscal year 2012, that's five years ago, fiscal year 2012 supplementary
appropriation to fund air conditioning with this grant at Franklin High School.

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This is a project approved in the fiscal year 2018 Public School Construction Capital Improvement Program.

For those who may not remember, these funds were part of the \$47.5 million supplemental appropriation for public school construction projects around the State for fiscal year 2012. \$7 million of the \$46 million, \$7 million were going directly to Baltimore County. Given the academic, behavioral, and public health risks associated with sweltering school buildings, and the magnitude of the windfall back then, \$7 million, that Baltimore County Public Schools was receiving with no strings attached, I sent a letter to then Superintendent Hairston in June, 2011 respectfully urging the school system to dedicate the entire \$7 million windfall allotment to the installation of air conditioning in the 94 schools in Baltimore County that then lacked air conditioning.

I raised it in that letter, and have continued to raise it ever since. And while it's clear that progress has been made, the progress that has been made would never have happened if not for the advocacy of parents and students and for the voice that this Board, frankly, provided to those who had long felt ignored. I do not think we would still be talking about this Baltimore County public school issue if the system had actually followed through five years ago on the request to air condition these schools. But six years of suffering for far too many students, teachers, and staff, and two superintendents later, it looks like there is finally the type of leadership at the helm of the Baltimore County School System that is

willing to address this public health and safety issue with the type of compassion, common sense, and sound judgment unfortunately that her predecessors lacked.

So thank you to Superintendent Verletta White for a new, refreshing brand of leadership at the helm of BCPS. Mr. Gorrell, in light of this new approach to this longstanding concern for so many Baltimore County families, I wanted to see if you could update us on the progress with respect to air conditioning in Baltimore County schools.

MR. GORRELL: Thank you, members. Mr. Comptroller, yes, they have 49 projects. They have, oh, it looks like about half of them, almost three-quarters that have construction scheduled. They still have some that are in design phase that they have not made a commitment on for various reasons in their design. And for the most part, they are projects that are worked into larger replacement projects. And that number is one, two, three, four projects out of the 49.

COMPTROLLER FRANCHOT: Okay. So my understanding is that 20 schools in Baltimore County that currently lack air conditioning are to have new HVAC systems installed this summer. Is that project on track to be completed in each of these schools when the new academic year begins after Labor Day? Oh, we gave them a little extra time this year, didn't we?

MR. GORRELL: Yes, Mr. Comptroller. That's correct.

COMPTROLLER FRANCHOT: So are they on track, those 20 schools?

MR. GORRELL: To my understanding, yes.

COMPTROLLER FRANCHOT: Once those 20 schools are fully air-conditioned, where will that leave the county in terms of classrooms that will still lack air conditioning?

MR. GORRELL: I --

COMPTROLLER FRANCHOT: And when do they expect to have every single classroom air conditioned up there in Baltimore County?

MR. GORRELL: Mr. Comptroller, I would have to return back with that number. I have a status here that pretty well, it indicates that all of the schools will be air conditioned by hook or by crook by 2020 and the oldest of that, Berkshire, is a replacement school. And that is their, they don't want to invest in a temporary solution for something that will only get a very small portion of that temporary solution --

COMPTROLLER FRANCHOT: That's the same lame excuse I have heard for six long years. And it is getting a little bit worn out, frankly. So good luck with that, if that's your assessment of the county's position. I hope you can get back with some specific information about each of these HVAC projects and whether or not on opening day of school, a little over a month from now, that every classroom in these schools that are in this list in fact they've done what they

said they were going to do. And thank you very much for that. And please give my regards to the Superintendent and to pick a phrase, she's a breath of fresh, cool air. And I wish her well. And thank her for doing the right thing by the students of Baltimore County.

MR. GORRELL: Mr. Comptroller, members, thank you. I will pass this on and get together a report for you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. I did want to mention, I guess this is Addendum No. 6. That's the real estate. There's no need for anyone to come up.

SECRETARY MCDONALD: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: The real property lease --

SECRETARY MCDONALD: Right.

LIEUTENANT GOVERNOR RUTHERFORD: -- for DHMH over at BWI. I just wanted to give kudos to Ricky Smith and his team at Maryland Aviation. There was a very nice article in the Washington Post over the weekend, how BWI is the Washington region's largest in terms of volume of traffic airport. So it's the largest in the region in terms of the flights in and out. And that is quite an accomplishment, because Dulles has been, you know, the leader for a long period of time. A number of Marylanders who live in the

Washington area are finally realizing it's more convenient to get to BWI than it is to go to crazy Dulles. Has anyone been to Dulles recently?

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: I hadn't been there in a while. The last time I was there previously you took those trams, which were strange. I guess it was futuristic in the early sixties when they did that and gas prices were like \$.25 a gallon.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: And there was no Clean Air Act. So it was, you know, it was futuristic. They've gone to these subways underground. But you have to talk about a mile and a half. It's like a half a mile to get to the subway, and then another mile after. You know, so if you don't walk well, or if you're late, it is a real challenge.

TREASURER KOPP: Governor, I don't usually use this for a platform. But I have to say that they thought it was a great improvement when they went from the people movers --

LIEUTENANT GOVERNOR RUTHERFORD: The people movers.

TREASURER KOPP: -- to the subways. It takes three times as long to get to a gate.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah.

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TREASURER KOPP: You're absolutely right.

LIEUTENANT GOVERNOR RUTHERFORD: It's -- I was amazed.

TREASURER KOPP: I think it made the airport a great deal less attractive --

LIEUTENANT GOVERNOR RUTHERFORD: I agree.

TREASURER KOPP: -- at least for Washington area commuters -
-

LIEUTENANT GOVERNOR RUTHERFORD: Yeah.

TREASURER KOPP: -- than it was. And let me say also that I mentioned we went to New York for the wedding. We actually drove to BWI train station.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, yeah. Yep.

TREASURER KOPP: Left the car, took the train up. It went so smoothly and so well and that --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: -- garage had a lot of people parking there but there still was room. And the whole thing, the whole complex worked extremely well.

LIEUTENANT GOVERNOR RUTHERFORD: I've even parked there when I've flown because it just, I didn't want to get in, the other parking lots

are just, they're big. And so that one is easy to navigate. The buses run quickly to the airport. So but I just wanted to point that out, that BWI is doing extremely well. Okay. Any other questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Item A1.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, I jumped over it.

SECRETARY MCDONALD: Back to the emergency, yeah, the Department of Juvenile Services. I don't know if -- Secretary Abed is coming up. There's Secretary Abed to talk about the emergency procurement.

MR. ABED: Good morning, Lieutenant Governor, Mr. Comptroller, Madam Treasurer. I'm Sam Abed, Secretary for the Department of Juvenile Services. We do have an emergency procurement for the provision of sex offender outpatient, sex offender treatment services for the metro region, which is the Prince George's and Montgomery County areas. I'll be happy to answer any questions that the members have.

COMPTROLLER FRANCHOT: Great. Thank you very much, Mr. Secretary. And I notice this is a \$165,000 contract to Compass Mental Health Consultants for court ordered sex offender treatment programs in Prince George's and Montgomery County for a one-year cost. Several months ago you or the department was before us to request approval for a contract for these exact same services to Psychological Trauma Solutions. Is that correct?

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MR. ABED: That is correct.

COMPTROLLER FRANCHOT: Okay. So if I recall correctly, I raised concerns about that company's ability to perform in light of their bid at under \$500,000 coming in \$1 million below the incumbent provider. And I think I specifically asked you, Mr. Secretary, whether the department was confident that the company could actually do the job. Despite my concerns I reluctantly approved the contract based on your recommendation, frankly. But here we are.

The contract began on March 1st with the old person we're kicking out now and putting in a new person. So that's frankly less than six -- by May 12th, less than six weeks later, you were forced to terminate the contract due to the company's inability to show up to appointments, meet deadlines, and perform basic services. So I don't really want to highlight who was right or who was wrong. It's about preventing these things from happening in the future.

How did you determine that this company could perform when it seemed so clear that they couldn't? What warning signs can we use to disqualify companies like this who should not be susceptible for contract awards to avoid the need for performance based terminations and subsequent emergency procurements? And I just want to frankly in an odd way compliment you for keeping an eye on this. But we see these from time to time. How do we avoid the situation that we're in right now?

MR. ABED: That's a good question, and it's a difficult one. We have been trying to stimulate more competition in our procurements for these types of services and other services. And in so doing one of the sort of byproducts of that is that we have engaged with vendors that we don't have prior experience with. And there, obviously when we don't have those prior experiences we're basing it on their bid, their technical merits, and of course their, you know, the financials. And in this case the technical piece of the bid was competent. And what gave us a measure of comfort in this one was that they had prior contracts with State agencies, other State agencies, and were able to perform on those contracts.

I think in this case what happened was they expanded more than they, or they took on more than they could actually perform. The deficiencies in their contract were as you mentioned, not being able to make their meetings or staff sufficiently to provide all of the services. And so we had to cancel this contract. And in our experience we've had some hits and some misses in these areas. In some cases when we've stimulated that competition, we went with a new vendor that was significantly lower, we've had success. In others, as we've seen here, we've not had success and had to cancel the contracts. And I think it's just a balancing act. It's sometimes difficult to predict whether a new vendor that we don't have experience with will perform. But we do check in on those vendors. And in this particular case, as they've had prior State contracts, talking

to those other agencies, asking about their performance, they were able to perform adequately. And so we thought, you know, we weren't taking too much of a risk here. Obviously we were wrong and we made the wrong judgment here. But as we go forward I think we will get better and sharper at getting these contracts right and having more hits and fewer misses.

COMPTROLLER FRANCHOT: Well we asked you to keep an eye on it and I'm actually pleased to see that you did keep an eye on it and you took action. But I have one final question. The contract is \$165,000 for a one-year, is it a one-year contract?

MR. ABED: Yes.

COMPTROLLER FRANCHOT: And my understanding is the group that we're giving this to, the old incumbent, their bid was initially \$500,000 per year. So they are going to do the same services that they bid \$500,000 for on a losing bid and they're going to do the work for \$165,000? Are we comparing apples to apples?

MR. ABED: Well I believe that bid was for a multiyear contract so that I think was why the difference in price. This is for one year. I think the initial bid was for a multiyear, if I'm not mistaken.

COMPTROLLER FRANCHOT: Yeah, the initial bid was \$1.6 million, is what the incumbent bid over three years, or more than half a million

per year. So are they, is this emergency procurement covering the same services as those in the initial --

MR. ABED: It is covering the same services. I can't explain to you right now why that bid is so much lower this time around versus the time before. Perhaps they've decided that they needed to reduce their prices to win the bid. I don't know but I can check back with our procurement team and see if there's any explanation.

COMPTROLLER FRANCHOT: Well I would recommend you do that and then bring this back to us. Because that is a little unsettling that nobody noticed the discrepancy between \$500,000 and \$165,000. I don't really know what the services are but they sound important, court ordered sex offender treatment programs.

MR. ABED: Yeah, they are assessments and treatment provision. Exactly. So I will check back and find out --

COMPTROLLER FRANCHOT: Good.

MR. ABED: -- why there is a discrepancy there in their --

COMPTROLLER FRANCHOT: I don't know whether my colleagues --

LIEUTENANT GOVERNOR RUTHERFORD: They are already performing. As this is an emergency, they are on site now, right, performing these --

MR. ABED: I don't know if they are, I don't believe --

LIEUTENANT GOVERNOR RUTHERFORD: It says June 1st.

SECRETARY MCDONALD: June 1st.

MR. ABED: June 1st, yes, so they are performing, yes.

LIEUTENANT GOVERNOR RUTHERFORD: June 1st, so they are performing now.

COMPTROLLER FRANCHOT: -- if my colleagues would support that I think you should go and verify that in fact the discrepancy between \$500,000 and \$165,000 --

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

COMPTROLLER FRANCHOT: -- is actually being covered by their services.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. I don't think there's any harm in deferring the item. Because it is, they are operating. It's not where the services aren't going to be provided. So maybe you can come back and also give the Board some assurances of their performance because you would have at least two months of performance.

MR. ABED: Absolutely. And we do have them as a vendor for other regions. So we have experience with this vendor and they have performed well in those other regions. But I will get that information and send it back to the Board.

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LIEUTENANT GOVERNOR RUTHERFORD: All right. Thank you.

SECRETARY MCDONALD: Are we willing to mark this as remanded? This is a report, so it's different. Or are we going to --

LIEUTENANT GOVERNOR RUTHERFORD: You said --

SECRETARY MCDONALD: It's not an item. It's in the appendix.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

SECRETARY MCDONALD: It's an emergency procurement they did. So if you look at the bottom, the signatures, this report was accepted or remanded, not deferred. So I, we're going to mark this remand here, having the report --

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

SECRETARY MCDONALD: -- you want the report to come back to you?

LIEUTENANT GOVERNOR RUTHERFORD: Right. Remand.

SECRETARY MCDONALD: Okay. All right. We will mark that one remanded. It's three-oh, yes? Okay.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, I'm sorry. Okay. Thank you.

SECRETARY MCDONALD: Thank you.

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LIEUTENANT GOVERNOR RUTHERFORD: Any other questions on this Agenda? Questions on Secretary's Agenda? Okay. So Item A1 is remanded --

SECRETARY MCDONALD: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: -- it will be reported again or come back, perhaps at the next Board. And otherwise, do we have a motion for the other items?

COMPTROLLER FRANCHOT: I would move approval. But I would say that Mr. Lahm's presentation I thought was entirely appropriate. I don't happen to think that meeting with him a few days before this Board meets, and then having this Board told that we have to act immediately, with all due respect, because of some position that this permit is in. I mean, we're the Board of Public Works. We're not some kind of rubber stamp that you guys show up at and say, oh, go ahead. You know, we have some letters of support here. Bang it away. And who cares if somebody comes and stands up and says nobody listened to him? Or they didn't listen till Friday? I think you made an excellent presentation, sir. Sorry that the support is not here, apparently, to defer this so that you can continue your conversations. But I hope the county and all of the folks who are so knowledgeable about this would get together without perhaps trying to impugn people by saying they are new people, or something. I mean, come on. Individual people when they show up at this Board, or they take the

trouble to put their hand up and say, we have concerns, they ought to be met. They should at least be talked to. And the idea that we have a management structure and we manage other sites like this and we're going to do it just like we do the other way, I mean, give me a break. These are people that are taking the time to register their concern. And Mr. Lahm, thank you for being here. I hope I'm pronouncing your name right. Feel free to keep me in the loop as to whether or not anybody contacts you and actually works out the structure of a plan that you indicated unfortunately does not exist, or, and so reluctantly I am going to move approval for the rest of the Agenda. Thank you.

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Second? Okay.

In favor, with the exception of A1 --

SECRETARY MCDONALD: Thank you --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

Department of Natural Resources?

MR. BELTON: Good morning.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

We'll give a second for -- okay, Mr. Secretary.

MR. BELTON: Good morning, Governor, Mr. Comptroller, Madam Treasurer. For the record, my name is Mark Belton, Secretary of the Maryland Department of Natural Resources. I do have ten items on our Real

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Property Agenda for your review this morning. I also have a Governor's Customer Service Heroes Award, if this is the proper time to present that?

LIEUTENANT GOVERNOR RUTHERFORD: Oh, yes. Please.

MR. BELTON: If I might call Brian Stupack to the podium? I'm delighted to have the opportunity this morning to highlight one of our outstanding Team DNR employees, Brian Stupack, and to showcase a unit that doesn't always get a lot of attention, the Maryland Forest Service.

A little bit about Brian's background, he is the project manager for an area that includes Anne Arundel County, Calvert County, and Prince George's County. In this role he works with a host of people of different backgrounds. He works with forest landowners to help them manage their forestland. He works with volunteer and paid fire departments to fight wildfires. In fact, Brian is a volunteer to go out west and help fight the western wildfires later this summer. He works with local jurisdictions, homeowners associations, and other civic groups to encourage management, retention, and expansion of their tree cover. He works with various agencies on forest health issues, such as insects or disease problems. And uniquely in Prince George's County, he is involved in inspecting timber harvest sites for compliance with best management practice implementation.

Brian has been with the Forest Service for about 19 years. What I want to do this morning is illustrate an example of why his recent performance

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has caused us to take a change statewide in conjunction with the Department of the Environment, change the way we do business to change Maryland for the better. Briefly, because I know we are running late and you have a long Agenda but I want to give Brian his due, what has occurred, the situation I want to highlight is recently there was a sediment plume that was viewed in Wells Run, which is a tributary to the Anacostia River. And some folks that live along that run in the town of University Park noticed it. They made mention of it to the officials in their town. The town wrote a letter to the permitting authority, which was Prince George's County. They contacted Brian, the local expert. And Brian met onsite, the timber harvest site, with the permitting authority, Prince George's County, also with the landowners. He walked them through the forest. He showed them that the best management practices were in place that they were working, and noticed that there was not any sediment runoff coming from that particular project into Wells Run. They communicated that to the town. The town, after thinking about it, decided they weren't quite satisfied with that result so they would like another site visit. Brian called everybody together to have a second site visit. This time the group was a lot larger, not only including Brian to represent DNR from the State but also folks from Prince George's County's permitting department, the Soil Conservation District, local officials from University Park, including the Mayor and several town council members, and town council members from Hyattsville as well. It was quite a group. Once again

Brian was able to walk them through with his technical expertise, show them that the best management practices on the site were in working order and that there was no discharge from the site into the local tributary. He was also able to, after a little investigation, figure out where the likely source of that sediment was. And that was next door in Northwestern High School. So the group all agreed with that together --

LIEUTENANT GOVERNOR RUTHERFORD: Those pesky kids.

(Laughter.)

MR. BELTON: It was actually stormwater management infrastructure failure that was occurring there at the school. But that was identified by Brian. The group all agreed to it at that particular time. But it was Brian's tenacity, his ability to bring everybody together, understand the technical aspect of forestry, demonstrate that to the local officials involved, and then come up with a solution for everybody that really solved that problem.

Why this is important is because Maryland DNR is working with Maryland MDE to change the way we do business on permitting throughout the State on soil and erosion control permits on forestland everywhere.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. BELTON: About 300 or 400 of these permits come up every year and we figure that our Forest Service folks know the local landowners who do business in forestry. In most cases they help them develop their forest

management plans. They certainly know the local officials and deal with them regularly and they are better able to work on a customer service basis with the landowners on these permit inspections. The MDE folks are great, but they aren't forest experts. And so this might be a customer service improvement.

So we're working on an MOU with MDE to make that change, change Maryland for the better. It all started in Prince George's County with this template that we have with Brian and the inspection services that he does.

LIEUTENANT GOVERNOR RUTHERFORD: Well, great. That's wonderful work, Brian. You know, we're very pleased at what you did there. And it is a testament to customer service that you're providing there and bringing all the parties together and then finding where the real challenge was, because people do, they see a certain place where there could be potential discharge, and they point to it, but you were able to satisfy everyone that it was a different location. And it's very much, we're appreciative of what you did.

We have a Governor's Citation for you, if you don't mind coming up?

I will go ahead and read it.

Greetings. Be it known that on behalf of the citizens of this State, in recognition of your dedicated efforts to make a positive and efficient difference in State government by exceeding expectations while demonstrating the highest standard for commitment and professionalism, going above and beyond and

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creating many satisfied customers for the Department of Natural Resources during the past 15 years. And as the people of Maryland join in expressing our congratulations and grateful appreciation as you are honored as a recipient of the Governor's Customer Service Honors Award. We are pleased to confer upon you this Governor's Citation, signed this date by the Governor himself and the Secretary of State.

(Applause.)

MR. STUPACK: Thank you, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. BELTON: Governor, as I mentioned we do have ten items on our Real Property Agenda for your consideration.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you. I want to go to Item 1, or 2A. Good morning.

MR. BEAUCHAMP: Good morning, members of the Board. My name is Jim Beauchamp. I'm Business Manager for the City of Annapolis.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. This is a purchase of 3.25 acres for I guess it's \$1.5 million, which is a little less than \$400,000 a square foot, or an acre. I don't, I'm not sure about, it's a whole lot of money for this. Is this in danger of being developed? Is there, what is the reason for this and who is the seller?

MR. BEAUCHAMP: The seller is a developer out of the Baltimore area. This has been a negotiation of the city for quite some time. They have an approved subdivision plat that's been recorded. They have filed all of their development requirements. Their permit to begin construction has been approved for issuance. Development of this tract is imminent if we are not able to secure it for the public.

I appreciate your concern about the price. This is an extraordinarily rare opportunity for urban forest. It's one of the last remaining privately held intact urban forest areas in the City of Annapolis. Uniquely this is adjacent to the county's Quiet Waters Park. We've been in talks with the Recreation and Parks Department for Anne Arundel County to build sort of that connectivity and the ability to have passive recreation go seamlessly between these areas. I might also add that in a companion agreement with the developer that they will be working in agreement with the city for an additional 1.18 acres, I believe. That is part of this.

Now these are the 22 lots that have already been platted in a subdivision in the center of this development. The 1.1 acres fundamentally represents the roadbeds on the approved subdivision plat that would come to these lots. So if we're successful in securing this 3.2 acres for public use, a companion document will bring the 1.1 acres as well.

LIEUTENANT GOVERNOR RUTHERFORD: For the same price?

MR. BEAUCHAMP: No additional State money, yes sir.

LIEUTENANT GOVERNOR RUTHERFORD: Yes, go ahead.

COMPTROLLER FRANCHOT: Who is the developer?

MR. BEAUCHAMP: I don't know that offhand. I have with me our City Attorney, Acting City Attorney Ashley Leonard. She, they are here to bail me out in case I wade into water too deep. We have our Director for Environmental Policy as well.

MS. LEONARD: Ashley Leonard, Acting City Attorney for the City of Annapolis. The developer's name is QW Properties, LLC. They are out of Baltimore, as Jim indicated. They sort of developed the LLC for the purpose of doing this project. We've worked pretty closely with them. They are using all local people to do it. But it's, as Jim said, it's a rare opportunity to be able to save something that is slated for development within less than a year.

COMPTROLLER FRANCHOT: If I could just ask, who is they?

LIEUTENANT GOVERNOR RUTHERFORD: The LLC.

MS. LEONARD: QW Properties, LLC is the name of the developer.

COMPTROLLER FRANCHOT: Yeah, well, who are they?

LIEUTENANT GOVERNOR RUTHERFORD: Do you know who is behind that --

MS. LEONARD: They, their project manager is a man named Doug Cann and they are being represented by a local law firm, Fred Delavan, who is an attorney. And then their principals are various investments in the area.

LIEUTENANT GOVERNOR RUTHERFORD: It's interesting that they are, you know, selling what could be prime development property for \$1.5 million and I guess these would be half-acre lots in Annapolis, which is not the low rent district.

MS. LEONARD: Yeah, these would be single family homes.

LIEUTENANT GOVERNOR RUTHERFORD: Right. Right. So --

TREASURER KOPP: So --

MR. BEAUCHAMP: From a developer's and a builder's calculus, that works out to about \$68,000 a lot.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

COMPTROLLER FRANCHOT: Yeah, but why are they doing it? Out of the goodness of their heart?

MR. BEAUCHAMP: It was a compromise with the city and it just benefits the area.

COMPTROLLER FRANCHOT: So what do they get?

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MR. BEAUCHAMP: \$1.5 million.

LIEUTENANT GOVERNOR RUTHERFORD: \$1.5 million.

MR. BEAUCHAMP: And open space adjacent to the rest of their development.

COMPTROLLER FRANCHOT: Oh, really?

LIEUTENANT GOVERNOR RUTHERFORD: Oh, so they --

COMPTROLLER FRANCHOT: How does that work? Tell me about that? Because I'd like to have some parkland right next to my house. How do I get in on that gravy train?

LIEUTENANT GOVERNOR RUTHERFORD: Are they currently developing next door? Or is it an existing development?

MS. LEONARD: They will be developing. It was a three-phase piece. We're looking, the city was looking to buy essentially what I believe they were calling phase three. Depending on how this works out they are going to be proceeding imminently within the next six months or so with phases one and two. And then depending on how this is resolved they will be adding or perhaps not adding phase three to the development.

TREASURER KOPP: So the concern is, I think, that there is development according to one of the articles, what is it, 39 acres now under development that will be nice homes and this one three-acre would be developed too, or it could be kept as green space for those 39-acre folks.

MS. LEONARD: Well --

TREASURER KOPP: That's the concern, I think.

MR. BEAUCHAMP: No, ma'am. The 39-acre tract, as Ashley said, this is phase three, it will either be developed as single family homes and take away this area of urban forest, or we can contribute it to public forest and connect it to the Quiet Waters Park.

TREASURER KOPP: So you're telling us it's not so that there are going to be all these, this nice development, and then instead of everything being developed they will have a nice green space in the middle of the development?

MS. LEONARD: It's not really on the middle.

TREASURER KOPP: Next to the --

MS. LEONARD: Yeah, so you have a phase one and two sort of arcing like this.

TREASURER KOPP: Right.

MS. LEONARD: And then we're working with the developer to do conservation areas as well as this piece, and then Quiet Waters will be down here. So you'll have, if it all works according to plan you'll this one nice area of green space that all connects and then the development will just be on the top essentially.

TREASURER KOPP: What do you suppose they'll ask for the value of the homes in the arc?

LIEUTENANT GOVERNOR RUTHERFORD: That's, I would think the developer could market that.

TREASURER KOPP: And that's the concern I --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. I think the developer could market --

MR. BEAUCHAMP: There is an area between these 22 lots and the phase one and phase two that will be preserved through the subdivision plat. There is a portion of this land that actually has adjacency to the other portions of the development. This happens to be between that and Quiet Waters Park.

LIEUTENANT GOVERNOR RUTHERFORD: So --

MR. BEAUCHAMP: It would be an island in that other area that's being reserved. And the city felt there was immense value to the public to have that unified and tied to Quiet Waters Park.

TREASURER KOPP: So it's adjacent, it's really adjacent to Quiet Waters more than adding a separate green space to the development?

LIEUTENANT GOVERNOR RUTHERFORD: It looks like it's linking green space that this developer --

MS. LEONARD: Yeah, the intent is to link --

LIEUTENANT GOVERNOR RUTHERFORD: -- that you've gotten the developer to agree to. They already have green space you've agreed to and then this property is between the green space and this, the county park?

MS. LEONARD: Correct.

TREASURER KOPP: And otherwise it would be developed?

MR. BEAUCHAMP: Yes.

COMPTROLLER FRANCHOT: Well why doesn't the developer just donate it?

LIEUTENANT GOVERNOR RUTHERFORD: A \$1.5 million write off --

TREASURER KOPP: Yeah --

MR. BEAUCHAMP: We negotiated very hard with them and this was the best we could arrange. I don't think it fits their model --

COMPTROLLER FRANCHOT: I mean, wouldn't they get a large --

MR. BEAUCHAMP: -- I mean, they'd rather develop it than --

COMPTROLLER FRANCHOT: -- wouldn't they get a large tax forgiveness if they donated?

MR. BEAUCHAMP: I don't know their tax profile, sir. But they, you know, this is bull-dozer ready to be developed.

COMPTROLLER FRANCHOT: And what impact will it have on the other homes that they're building? It will obviously improve their value.

MR. BEAUCHAMP: I am not a real estate professional but I don't, it's not immediately adjacent to them. So I don't know that it would have any value impact.

LIEUTENANT GOVERNOR RUTHERFORD: I'd like to defer this one. I'm going to defer this. I'm not crazy about it at this particular time. We need to --

TREASURER KOPP: What happens if it's deferred for two weeks?

MR. BEAUCHAMP: We have a limited time fuse with the developer to complete this transaction. There still is a little bit of time --

TREASURER KOPP: Three weeks?

MR. BEAUCHAMP: -- but we're starting to bump up against the end of it, in which case this opportunity --

TREASURER KOPP: Three weeks.

MR. BEAUCHAMP: -- falls away.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

COMPTROLLER FRANCHOT: If I could just comment?

MR. BEAUCHAMP: Yes, sir.

COMPTROLLER FRANCHOT: The statement that I hear way too frequently is when something perfectly legitimate, like what the Lieutenant Governor just brought up, has a request for a deferral, the question, apparently the

operative question for this Board of Public Works is, gee, if anything bad happens because of that deferral, therefore I don't think we should do it. That's the implication. And I find that statement, that question to be just an extraordinary response since it's given on every, or often, on every single item where there are problems that are raised about this particular project here. Gee, the implication is if there's anything that's inconvenient, oh, for the developer, something inconvenient for the developer, well let's not do it. Let's go ahead and just approve this like a big rubber stamp and the question is what do we need the Board of Public Works for if that's the driving point here?

So I compliment the Lieutenant Governor for taking a couple of weeks to look at this, find out who exactly the developer is. As much as I am a clairvoyant, it's a little hard for me to see who Q Properties is. And also understand what exactly their benefit is as opposed to the public. And so I would gladly support the Lieutenant Governor. And I didn't mean to light my hair on fire about, you know, what bad things happen. But I hear it over and over again. And I'm just a little fed up with the implication, which is that if there is the least little pothole of inconvenience to anybody in the State, therefore we'll approve everything. That's not the case. Thank you.

MR. BEAUCHAMP: Thank you, sir. If I may add, as a resident of Queen Anne's County, I as well as my neighbors and fellow residents are

grateful for all of the help and recognition by State officials that we have a crisis that we're working through.

COMPTROLLER FRANCHOT: Thank you. That's --

MR. BEAUCHAMP: So we all really appreciate your help and support.

LIEUTENANT GOVERNOR RUTHERFORD: Right. Well a lot of the support and a lot of the credit really needs to go to the Queen Anne's County emergency response. Their response was spot on.

MR. BEAUCHAMP: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Along with a couple of the counties surrounding who came in to help. But it really was the local effort. I mean, our State Police of course were there to provide additional support and the aerial support so they could see where the damage was. But the first responders, definitely in the county you should be very proud of your local officials.

MR. BEAUCHAMP: We are. Thank you, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

TREASURER KOPP: Could I just add about this project? If you can come back to us, I think having this property is a good thing adjoining, I see where it is, it's a fine thing. Personally I think it should have been part of the

zoning and the taxpayers shouldn't have to cough up another over \$1 million to do it. But that's a different --

MR. ANTHONY: Can I address just --

LIEUTENANT GOVERNOR RUTHERFORD: That could have been thought about a long time ago.

TREASURER KOPP: -- that's a different question, yeah, and a different time. But I think if you can come back to us and show us why it's really important and it benefits everyone, it doesn't just benefit --

LIEUTENANT GOVERNOR RUTHERFORD: Benefit the development.

TREASURER KOPP: -- these nice folks who are moving into the development, it would be very helpful.

MR. ANTHONY: My name is Rick Anthony. I am the Director of Anne Arundel County Rec and Parks and overseeing Quiet Waters. So I just wanted to provide just some additional insight.

As you know, there has been a lot of discussion about how the county shares its POS funding with the city and the issue was raised when we sought to purchase Eisenhower Golf Course. In this particular event this is almost just an ideal situation because at that time the city was not able to tap into their acquisition funds that we were keeping account for because quite frankly there just was not any property that they could afford to buy.

We are supportive. We have been in conversations with Mr. Delavan over the years, even prior to this potential acquisition. And we look at it as more of a protection of a buffer area at Quiet Waters Park. We do think that forest will be protected. And we also will work with the city to provide access into the park. So this, if this money is not being spent for the acquisition for Annapolis City, it just, you know, it just kind of sits there without any opportunity for them to purchase. And we felt like this was a very significant purchase to preserve the forested buffer of the park. So I just wanted to say that. Thank you for listening to me.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you.

SECRETARY MCDONALD: Governor, could I clarify? Item 2A actually has two parts. Are we noting that the Board has deferred the whole item? Or deferring only part one for the Annapolis nature area? Part two is for Anne Arundel County's land preservation plan.

LIEUTENANT GOVERNOR RUTHERFORD: I think it's just one.

SECRETARY MCDONALD: Okay. So the Board is deferring --

LIEUTENANT GOVERNOR RUTHERFORD: Are these, I mean let me just ask, are these related here?

SECRETARY MCDONALD: I think they are unrelated, all in one county.

LIEUTENANT GOVERNOR RUTHERFORD: This is -- okay.

TREASURER KOPP: Right.

SECRETARY MCDONALD: Because actually the first one is the City of Annapolis and the second one is Anne Arundel County.

LIEUTENANT GOVERNOR RUTHERFORD: Is the county.

SECRETARY MCDONALD: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

SECRETARY MCDONALD: But it's just all put in one item because it's by county.

LIEUTENANT GOVERNOR RUTHERFORD: So they would be separated.

SECRETARY MCDONALD: Okay. So we will defer 2A-1 on behalf of the Board. Or the Board defer 2A-1.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I do have another question and it's with regard to Item 8A, the estate of Stanley E. Lloyd, another Program Open Space question.

MR. BELTON: Yes, sir. What's your question?

LIEUTENANT GOVERNOR RUTHERFORD: Why are we buying this?

MR. BELTON: Sure.

LIEUTENANT GOVERNOR RUTHERFORD: It's \$16,000 an acre. It scores 42 on your Program Open Space targeting system. The item 6A is 129 on the targeting system and it's \$2,000 an acre. Item 9A, which was one that was deferred before, not 9A, 10, which was deferred before, the Stump property, is \$2,000 an acre. It scores 100. This one at \$16,000 an acre scores 42 and in the notes it says it is not located in the targeted ecological area but we're being asked to take State funds that come out of Program Open Space, we have \$1.7 million for this property. It's like, why?

MR. BELTON: Well the answer is because this 110 acres in Harford County, which is a very high demand area because of the population that surrounds it, presents an exceptional recreational opportunity for that area. It's directly adjacent to Gunpowder State Park, which has about 18 miles of hiking, biking, and equestrian trails. This 110 acres will afford us the opportunity to expand that trail system in an area that needs it badly.

LIEUTENANT GOVERNOR RUTHERFORD: So why does it score so low on the Program Open Space targeting? I know we've talked about how these, the targeting and scoring is done. But you have others that are over 100. And they are a fraction of the cost. And this one is at 42. It's not in a targeted area. It doesn't even hit your score if, I don't know where failing is but that sounds like a failing score, a failing grade. And it's extremely high. I don't,

I just don't get it. Number nine is \$400 an acre but it's adjacent to a river. I understand that. It's a targeted area and it's 104 in terms of your scoring. This is 60 points lower. What --

MR. BELTON: Right. So I would say our protocol would normally be to buy property that is in the targeted ecological area. Because this is not is why it scores low on the system. That means, that's worth a lot of points to our scoring system.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. BELTON: But when we have a property that presents itself as such an extraordinary recreational value, which is one of the prime purposes of Program Open Space State side, in an area that is underserved and adjacent to other recreational areas, we go for it because the area needs it badly.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Am I being --

COMPTROLLER FRANCHOT: What is the property used for now?

MR. BELTON: The property, what it's used for now? Yeah, it's, I don't know --

LIEUTENANT GOVERNOR RUTHERFORD: Is it a farm?

MR. BELTON: -- it's not used for anything specifically. It is platted with I believe 60-some home sites on it for development. No development

is imminent on it but it is platted for the development. It's not used for any specific purpose at this time.

LIEUTENANT GOVERNOR RUTHERFORD: Now it's not far from current forest easement, right? It's like a stone's throw? I'm looking at some maps to Gunpowder Falls State Park.

MR. BELTON: Yes. It's right there, adjacent to, right across Morris Road --

LIEUTENANT GOVERNOR RUTHERFORD: Across the road?

MR. BELTON: -- from the park, exactly.

LIEUTENANT GOVERNOR RUTHERFORD: I mean, I think, you know, this is, I can't vote for it. Because this is one of those where I know there was last time I was here, there was concerns about the Stump property. You were asking about that. And it scores, it scores more than twice as well as this for a fraction of the cost. \$2,000 an acre compared to \$16,000 an acre. And there's only a certain amount of money. I know there's a plan. We want to preserve property. And there's some that makes sense. There's some that --

MR. BELTON: I would point out --

LIEUTENANT GOVERNOR RUTHERFORD: -- gives me heartburn.

MR. BELTON: If I could just point out one more thing that's relevant to the conversation, is that this particular purchase is leveraged with

\$885,000 coming from Program Open Space, and \$875,000 coming from federal land and water conservation funds. So the price is still the same but the State dollars spent are about half the total purchase price.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, but you know there was a Comptroller who used to sit up here. I think he generally sat over on this side. And he would say, if the money is in this pocket or the money is in that pocket, it's still my money.

SECRETARY MCDONALD: That's what he said.

LIEUTENANT GOVERNOR RUTHERFORD: You know, so it's still taxpayer money that comes out. And I've always remembered that and I'm glad I had an opportunity to quote the former Comptroller, Governor, and Mayor of Baltimore, William Donald Schaefer. So yeah, that doesn't do anything for me when people say that it's federal money. So --

TREASURER KOPP: Governor, could I just, I hear the way it's going. I get it. I disagree but I think it's a problem in the scoring system. As I understand it one of the reasons it scored so lowly, so low, is that it's not in a targeted ecological area --

MR. BELTON: That's right.

TREASURER KOPP: -- it's across the street in another area that will be of significant benefit to the people who are living there because it means it

won't get all developed. It won't change it necessarily ecologically. It will change it for the benefit of the community.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: And the system, while it pays some obeisance to that, not much. So that it, the question is whether Open Space is purely an ecological preservation program or it is, as I believe it was when we created it, something more than that.

MR. BELTON: Right. No, I think --

TREASURER KOPP: And we're caught on that question.

MR. BELTON: Yeah, I think Madam Treasurer you do bring up an outstanding point here. This ecological ranking protocol is just that, an ecological ranking protocol. Which is not the be all, end all purpose of Program Open Space State side. The purpose of the program is to provide open space and recreational opportunities throughout the State. We want to encourage and prioritize ecological ranking to preserve those properties that are most ecologically sensitive throughout the State, without question. But again, the score only reflects the ecological value whereas this particular property has exceptional recreational value.

TREASURER KOPP: But it doesn't have a hard number because of that. And it's much easier --

MR. BELTON: It doesn't have a higher number because of it.

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TREASURER KOPP: -- if you've got a black box and a number comes out.

MR. BELTON: Yes, ma'am.

LIEUTENANT GOVERNOR RUTHERFORD: See, I see the number.

TREASURER KOPP: Yeah.

MR. BELTON: I understand.

LIEUTENANT GOVERNOR RUTHERFORD: I understand, you know, the calculation, what goes in it.

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: And then when I throw in \$16,000 an acre compared to other properties that have a higher value. The county is supportive of this, I guess?

MR. BELTON: Yeah, absolutely.

LIEUTENANT GOVERNOR RUTHERFORD: Because it comes out of their share?

MR. BELTON: No, this is Program Open Space State side, not the local side share.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, so they are not putting anything into this?

MR. BELTON: Correct.

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LIEUTENANT GOVERNOR RUTHERFORD: We're going to defer this --

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: If I have the privilege of being here again, the county better be here talking about how important this is and willing to put something into it. I mean I -- okay. I'm going to ask that --

TREASURER KOPP: So what the county is doing is giving up the property tax. If it's platted already and it's right here where you can see it --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. Yeah, they are.

MR. BELTON: They are giving up property tax revenue from that particular piece of property. They would get, if there's any revenue generation on it from the park system in the future, they would get a small piece of that but it wouldn't make up for the property tax value.

TREASURER KOPP: But that's not --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. But yeah. And the question is how far off are they from development on this? So it may just sit as agricultural or --

TREASURER KOPP: I don't know what it is.

LIEUTENANT GOVERNOR RUTHERFORD: -- yeah, and what the plan, okay. I prefer to see we defer this and for later.

SECRETARY MCDONALD: Is that three-oh, deferral?

LIEUTENANT GOVERNOR RUTHERFORD: Do you, there's at least two of us.

SECRETARY MCDONALD: You can always tell them to withdraw. But I just wondered if this is deferral --

LIEUTENANT GOVERNOR RUTHERFORD: It's a deferral.

SECRETARY MCDONALD: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: -- defer it or --

TREASURER KOPP: Yeah. I just --

SECRETARY MCDONALD: Okay. Thank you.

TREASURER KOPP: But could I --

MR. BELTON: What additional information might I be able to bring back, since you are deferring it, for when it comes up again on the Agenda? The representative of the local jurisdiction?

LIEUTENANT GOVERNOR RUTHERFORD: I would like to see a local here. But I may not be the one up here next time. And I can sometimes be more particular than the Governor when it comes to Public Works items.

TREASURER KOPP: Could I also ask, Governor, that I mean you all give some thought to this question of how to work with an evaluation system. Not -- understanding the ecological scoring system. But if you're going to have instances like this --

LIEUTENANT GOVERNOR RUTHERFORD: Right.

TREASURER KOPP: -- it says extraordinary whatever it says. Extraordinary recreational project. That's sort of, that doesn't stand up well next to a number.

LIEUTENANT GOVERNOR RUTHERFORD: Right. Yeah. It would be good to get a, you know, maybe a break down of the scoring, how many points are for this, how many points are for that. And is that something that's in regulation? Is it in statute?

MR. BELTON: No, that's DNR policy and --

LIEUTENANT GOVERNOR RUTHERFORD: So it's policy? Okay.

MR. BELTON: And the score sheet with that break down is included in your package.

LIEUTENANT GOVERNOR RUTHERFORD: It probably is in the backup that I don't have. So maybe I'll take a look, Mark and I can take a look at that and we can talk about that. Maybe there should be even a separate score for other recreational --

MR. BELTON: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: -- it scores high on recreation but not high on targeted ecological --

MR. BELTON: Maybe a combined score type of situation, yeah.

LIEUTENANT GOVERNOR RUTHERFORD: Combined. And in my mind, and maybe because I'm a cheap guy, there should be something in terms of price, too. You know, because if this was probably a third of the cost, I probably wouldn't be raising as much of a fuss. But it's \$16,000 an acre for something that at least on paper, not, because recreation is not calculated in that, it looks like it's highway robbery without a gun.

COMPTROLLER FRANCHOT: Well I'm tight with a dollar but I'm delighted that the Lieutenant Governor is here also taking the responsibility for making sure that everybody appreciates every dollar that's spent. And so I'm happy to join him in deferring this.

LIEUTENANT GOVERNOR RUTHERFORD: All right.

MR. RAHN: Governor, could I be a little helpful here?

LIEUTENANT GOVERNOR RUTHERFORD: Maybe not but okay.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: You can try.

MR. RAHN: Yeah, look I was just going to point out I suspect what's happening here when you're comparing \$2,000 an acre property to \$16,000, we run into these same situations when we're buying a right of way. And that is once something is platted all of a sudden its value skyrockets because now it's being appraised at the value of residential lots --

LIEUTENANT GOVERNOR RUTHERFORD: Development, right.

MR. RAHN: -- rather than open farmland. And so the fact that there's an approved, platted development on it means that our appraisers would have to go out and appraise it, even though it might look like farmland immediately adjacent to other farmland, if it has a plat on it, all of a sudden its value skyrockets. And if you have a retail, it even makes it worse. If you have a plat for a retail shopping center, even though it's just bare land, all of a sudden now you're buying retail land. And so the fact that it's got that plat, I would suspect is why the price is so much higher for that.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

TREASURER KOPP: And it's not adjacent to only farmland. It actually is land under development.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. I mean, that does make sense. And it would be smart on the part of family members that feel they are not going to take over the farm or they live in another state that as

they are starting to, you know, think about estate planning, you know, before Mr. Lloyd passes, or even after, to go out and get it platted and say, okay, we don't know what we're going to do with this. We probably are going to donate it or we're going to, you know, we know the State likes to buy property, it's near the, let's pay the money to go through the process, we go through the process and we jack up the price four or five times. So smart estate planners will do that and family members if they know -- oh, I just gave the secret away.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

TREASURER KOPP: But I would point out it's next to developed property. It's not simply farmland --

LIEUTENANT GOVERNOR RUTHERFORD: No.

TREASURER KOPP: -- that a couple of generations from now might be developed.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, yeah. Yeah. I mean, I live in Howard County. So that's --

TREASURER KOPP: Right.

LIEUTENANT GOVERNOR RUTHERFORD: -- you know, I know how that works. And that's what you do if you're not sure. And your family members, you develop, you get the plat, and then when the appraisers come out and the county or somebody says, we want to buy it, or even if you then

donate the easement, you get a lot higher price donating that easement on land that's already got a plat. So, okay. Any other, did you want to talk about the Stump property?

COMPTROLLER FRANCHOT: Yes. Item 10A. Thank you, Governor. I asked at our last meeting for this item to be deferred so that we could have some more time to take a look at it. I want to thank Emily Wilson and Secretary Belton for providing my staff with additional information regarding this acquisition. I obviously have stated many times that I am a proponent of Program Open Space and more broadly of protecting and preserving our precious resources. It's because of that strong belief that we must be diligent, I believe, in how we invest the limited Program Open Space dollars. And I associate myself with the Lieutenant Governor. I'm not out of any adversarial approach to Program Open Space. It's just as he said, every item, every dollar, and every acquisition needs to be looked at very closely.

This particular project I think is unfortunate. And I'm going to ask that it be deferred again unless I can get a second vote just to say no because I think it personifies what I call mission creep in Program Open Space. I don't think that program was ever intended to be an economic development program and I remain skeptical that this land along Route 13 in Somerset County, which is characterized by the -- well it's very helpful to me I guess in my argument. Because on the State Highway map this property of 1,664 acres that we're

purchasing for \$3.44 million, this exact property is identified on the State Highway map as Tulls Swamp. I don't have my glasses but the Lieutenant Governor can verify that that is the name. Tulls Swamp.

So I guess the question is is there any risk of Tulls Swamp being developed today or in the future? Can someone help me with that?

MR. BELTON: Well I'll take a stab at it.

COMPTROLLER FRANCHOT: Thank you.

MR. BELTON: And then we do have some speakers I believe who have signed up to discuss this, including the owner who can address that issue perhaps if he's so inclined.

To the development potential, you mentioned it is right on Route 13 just very near the town of Princess Anne in Somerset County. Just south of it, not the very next parcel but the one next to that, was just rezoned by the county and 60-some acres sold for \$900,000. This particular property is in what the county calls or the State calls a tier four sewer map. There's 11 parcels that we're purchasing as part of this purchase, or we'd like to purchase as part of this. Those 11 parcels would be allowed seven units each according to law. So there would be 77, the potential for 77 dwellings on the property were it to be sold. It could be sold today for a solar farm. It could be continued to be used as forestland but not managed sustainably and clearcut. There are a number of things that could be done from a development aspect on this property.

COMPTROLLER FRANCHOT: Well it would come back down to the fact that none of that is, all of that is maybe, could have, would have. We're talking about 1,664 acres. It's a property that is identified as Tulls Swamp. Apparently there are beneficial ecological things in swamps. I can see that.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

COMPTROLLER FRANCHOT: There are lots of dragonflies and

--

LIEUTENANT GOVERNOR RUTHERFORD: Swamps are now called wetlands.

COMPTROLLER FRANCHOT: Swamps. Yeah, so swamps are important. But my question is couldn't we spend these State POS dollars, \$3.44 million, couldn't we spend them on something that is subject to more immediate, a lot more economic sensitivity and a lot more threat of imminent development than this particular site? And I know it landed on your lap. It was not something you went out and identified. But I, if you're going to get back to the Treasurer on the scoring criteria, I notice this had 100, a rating of 100, so I assume that's because of the swamp, right?

MR. BELTON: The --

COMPTROLLER FRANCHOT: Yeah, the swamp is --

MR. BELTON: -- Pallier Stream Wetlands is the proper term.

COMPTROLLER FRANCHOT: Okay.

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MR. BELTON: Yes. So let me address the issue of the development potential. It's interesting that you brought up, Lieutenant Governor, the other item, which is Item 8 on today's Agenda. And when you compare the two together, on the one there is development pressure, which makes the price too high so we don't want to buy it. This one has very little, or a lot less, economic development opportunity therefore we won't buy it even though the price is very favorable to the State and to the taxpayers. It's less than \$2,000 an acre.

I mentioned last time when this subject was brought up, your question of where does this all end as far as buying land?

COMPTROLLER FRANCHOT: Mm-hmm.

MR. BELTON: And I pointed out that the State has a land conservation goal. As the Secretary of Natural Resources I'm given a goal to purchase and put in easement. That goal is set out as part of the Chesapeake Bay Agreement, of which Maryland is a signatory and Governor Hogan is the current Chair. And there is a goal of between 2010 and 2025 of the entire watershed purchasing 2 million acres. Maryland represents 14 percent of the watershed. So 14 percent of the 2 million would be Maryland's goal during that 15-year time frame. That translates to about 280,000 acres would be our goal. To extent that I have a goal that I have to reach and I can spend less than \$2,000 an acre to get it on ecologically significant property and provide tremendous recreation opportunity, as this property does, and economic development, or sustained

economic development because it's a working forest, this really represents an ideal purchase for Program Open Space State side.

COMPTROLLER FRANCHOT: Well I understand and I appreciate that. But I'm happy to vote no on this. I'm happy to defer it. I just would be very concerned if it were approved because, you know, frankly I think we can find a lot better options out there for you to fulfill your goals. And this one is not a good one. And it is what it is. It's not Tulls Wetlands. It's Tulls Swamp. And try selling that.

And also, you know, we all went down to Tawes. I mean, really you just get on that road and drive south until you fall off the end of the Earth. And there is, God bless them, Somerset County. And the idea that this is going to be platted and developed in the next 100 years, and somehow the price is going to skyrocket, I think is a little bit tenuous. And I just think we need, as the Lieutenant Governor started out today talking about, every dollar is important. So that's my view and I don't know what my colleagues are, where they are. But I would urge that this be deferred indefinitely or voted down.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, I am not as concerned about this one as I was the previous one that I fussed about for a long time and probably longer than anyone here wanted to hear me fuss about it. Because I do see particularly ecological value in wetlands and old swamps, as we used to call them. And then the fact that you could have sustainable forestry there

does bring some economic opportunities, as well as the hunting and fishing and hiking that can take place.

And in terms of the forestry aspects and the timber aspects, one of the big problems that California is having with their forest fires is because a number of years ago they became overly restrictive on what you could do with those forests. As a person who worked at the Department of Agriculture, which the U.S. Forest Service is a part of, I know from talking to the various experts there that you have to cull the forest from time to time to make sure that you get the diseased trees out of there which become a tinderbox for fires.

Now we don't have as much of that problem because it rains here. It doesn't rain in the summer in California. There was a song that went that way.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: But it is true. It does not rain during the summer there. And it gets very dry and it can be a tinderbox. But in terms of being able to provide that and still have, you know, the wetlands, I don't have a tremendous problem with this. And this is where I differ a little bit from the Comptroller on this particular piece. And I do agree it is an expensive piece of property. But I think that, you know, over the long haul, not necessarily from a development standpoint but from keeping the forestry aspects of it and preserving it I think it can be of value. And Madam Treasurer, do you have any comments on it?

TREASURER KOPP: We discussed this at some length. Because something was once called a swamp I think to say therefore we will not preserve it doesn't make a lot of sense to me. I think it's a --

LIEUTENANT GOVERNOR RUTHERFORD: Swamps are positive.

TREASURER KOPP: -- prime piece --

LIEUTENANT GOVERNOR RUTHERFORD: That's a positive.

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: That's just another term for wetlands.

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: It's just really the same thing.

TREASURER KOPP: Where the Washington Monument now is, there the Lincoln Memorial now is was a swamp.

LIEUTENANT GOVERNOR RUTHERFORD: I have photographs of that.

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: I have pictures of what it used to look like.

TREASURER KOPP: The value is high but not as high as a number of other things we've approved. And it does adjoin property that we've wanted to expand. I supported this last time and support it still.

LIEUTENANT GOVERNOR RUTHERFORD: -- Mr. Comptroller. Any other questions on the Department of Natural Resources Agenda? Okay. Is there any other questions on the -- oh, sir, were you here to speak one way or the other?

MR. JOHNSON: Yes, I am. I'm Tom Johnson from Eastern Shore Forest Products.

LIEUTENANT GOVERNOR RUTHERFORD: Yes, sir.

MR. JOHNSON: So I wanted to speak a little bit about Comptroller Franchot's comments at the last meeting about the program and mission creep and where does this all end. So a little bit about my company. Again, I'm Tom Johnson. The company is Eastern Shore Forest Products. I have five processing plants on the Eastern Shore where we make a variety of consumer forest products. We're vertically integrated. We start with the trees and take it all the way through. We ship our products to every state in the nation. We'll probably be exporting products over the next few years. We have a brand new plant being built in Federalsburg, Maryland as we speak. I hired ten people last week. I'll hire another ten over the next month. We have about 100 employees total now, and about 100 contractors that work with us.

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One of the concerns that I have is not with this particular purchase. And frankly if we've made an agreement to buy something from Mr. Stump we probably should honor that. My concern is much more about the entire land acquisition program at the State of Maryland. You know, and a few facts that I live with, most of my plants are in Maryland. However, two-thirds of all my wood that I need to run my plants comes out of Delaware and Virginia, and most of my plants are here in Maryland. I built my newest plant that's under construction now in Federalsburg because it's closer to Delaware wood. Delaware wood is less restricted. We're able to get what we need.

So the concern that I see and how I'm going to continue my business in the future and how my kids will continue my business, where will we get the wood? State ownership of the land puts restrictions in place. Immediately 25 percent or more of the land is off the table to being harvested ever. Currently we have just in the Chesapeake Forest I believe about 72,000 acres. Last year's work plan had a final harvest of less than 100 acres could be finally harvested there. That's where I need to get my wood. So there's concerns about the level of harvest that can even come off of these lands.

As Secretary Belton has said, it could be 288,000 acres that need to be purchased between 2010 and 2025. That's a lot of the land base of Maryland that even if 25 percent gets taken back to never be harvested, the other land that's out there for harvest the restrictions on State lands are great. At my company I

get about six percent of all my wood comes off the State lands. They own a much higher percentage of that, of the actual forest lands that are out there.

So the future of the State owning the lands to preserve it is of great concern. We're not going to be able to preserve jobs and build an economy around their forest products. There is a grave concern. At some point, what happens to these things? Most of that land, I shouldn't say most, a lot of these State lands are locked behind a locked gate that's overgrown. They are not necessarily public access.

COMPTROLLER FRANCHOT: Let me ask a question. So let's just be, this is 1,600 acres, say it's 1,000 acres that is subject to harvesting. What does that represent as far as economic activity for the State? It's just obviously part of your business but what does 1,000 acres of land that as I believe, Mr. Secretary, you guys told us that this was ready to be harvested, right?

MR. BELTON: Well our State Forester who spoke last time said there is timber here that is ready to be harvested but not the whole tract but we have --

COMPTROLLER FRANCHOT: A thousand acres, is what I was told, or 900 acres?

MR. BELTON: We have that information if you'd like to hear --

COMPTROLLER FRANCHOT: Where, yeah, is somebody here?
Yeah.

MR. VAN HASSANT: There are 320 acres of mature timber that could be harvested right now. There's another 1,300 that is, it was harvested anywhere between 20 and 35 years ago. So it's regenerating --

SECRETARY MCDONALD: Could you identify yourself for the record and please come to the podium, the microphone to speak so the court reporter can hear everything?

MR. VAN HASSANT: My name is Don Van Hassant. I'm the Director of the Maryland Forest Service part of DNR. Of this parcel, crews from nine years ago by the consultant forester at the time, there are 320 acres that is what is considered mature timber, which could be harvested now.

COMPTROLLER FRANCHOT: Mm-hmm.

MR. VAN HASSANT: It all depends on exactly where it is, what it is, what the value is at the time. Another 1,300 or so has been harvested over the past 20 to 35 years. It is now regenerating into the next supply in hardwood and that is about the right age where you are going to start doing some thinning, to the Governor's, the Lieutenant Governor's point about trying to cull out, you know, make sure we have healthy, growing forest, that's what we need to do. And yes, we don't have quite the fire problem here but we do have insect and disease problems as well. And that's what thinning can help address.

COMPTROLLER FRANCHOT: Yeah. Okay. So Mr. Johnson, I take it the 300 acres that's ready for harvesting now and the extra whatever it was,

the other 1,000 acres or something that could be, that's something that would be helpful to your economic growth?

MR. JOHNSON: Well generally --

COMPTROLLER FRANCHOT: And more open if it were in the private sector than if it's suddenly part of the State's acquisition?

MR. JOHNSON: If it's in the private sector, the landowner has much more flexibility in what he can do with that.

COMPTROLLER FRANCHOT: Okay. So --

MR. JOHNSON: When it comes under State ownership there's less flexibility there. So just to give you an example of the economic, so to thin the forest out, as we're discussing here, that doesn't necessarily give me the proper size piece of wood that I need for my factories. I need a specific size piece of wood. If you thin too early, there's nothing there for me. It has to go to a paper mill. Generally that's going to get chipped up and sent to Spring Grove, Pennsylvania. It's a very low value but it does thin the forest out. You can wait later, and you can get a bigger piece, a larger tree. We still thin out but we get the size piece of wood that we need.

Much of the program under the State ownership doesn't give us the right size piece of wood. However, when land is in private ownership I can then negotiate with the landowner and purchase that. But as long as there's a thriving forest products economy, much of this forestland is going to remain forest. To

think that at the State we need to buy this up so that God forbid it doesn't become developed, most of it, it's wet. It's, you know, and I'm not necessarily so knowledgeable about Mr. Stump's property. But much of the property the State owns today is just a wetland. It was already preserved. The only thing that happened, we transferred deeds to the State and what happened to the forest products industry is, oh sorry, that wood is kind of off the table for you, Mr. Johnson.

What we already own at the State, I'm fine with. The way it's managed, I'm fine with. But at some point we've got to say where does this all end? If it's 288,000 acres, we're done. There's not that much land out there that the State can take ownership of that. It's going to cost you 500, at \$2,000 an acre it's going to cost you \$560 million to buy all that and you've got to do it between '20 and '25. When you own 288,000 acres, you can't expect, you know, the great folks at the Forest Service to be able to manage that with the staff they've got. We've got to be prepared to put more budget dollars to those folks. They are going to need more employees. They are going to need more equipment. There's a lot to manage in this giant land ownership that we're going to have.

I think personally what the State has, be satisfied. If you want to preserve it and be able to say to the Chesapeake Bay Program that, listen, we've preserved it, buy an easement. That would certainly help a landowner out. If I was buying, well just take Mr. Stump's property for example, if I was to buy that

property from him, and the State would buy an easement, guess what? Now it's protected.

LIEUTENANT GOVERNOR RUTHERFORD: Isn't there an easement currently on this property? But there's a conveyance from the Nature Conservancy?

MR. BELTON: They are the ones that are working with Mr. Stump to purchase the property. They are our partners in the acquisition. There is no current easement on the property.

COMPTROLLER FRANCHOT: Why don't we just buy an easement?

MR. BELTON: Well we do have the ability to do that should the owner want to go into that type of arrangement. But it takes two to tango in these things.

COMPTROLLER FRANCHOT: Why not?

LIEUTENANT GOVERNOR RUTHERFORD: So the owner just wants to sell it? The estate basically wants to sell it?

MR. BELTON: The owner is here and speak for himself.

SECRETARY MCDONALD: The owner is here. He's not, he's alive. Mr. Stump is here.

LIEUTENANT GOVERNOR RUTHERFORD: Do you want to speak on the property, sir? Come up to the microphone.

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MR. STUMP: I'm Brice Stump and I'd like to point out that even though that property is called the Tulls Swamp, sir, it is a tract of land that Dr. Tull probably bought in 1900 and which he added the other 1,600 or so acres to over his lifetime, my wife's lifetime, and my lifetime. So even though it's called Tulls Swamp, which would now be wetlands, that doesn't characterize the entire property by no means.

And I'd like to also point out that it was our intention as far as I know from the earliest owners of this property in my family, that it would be built large enough to make it ideal, an ideal location situation for State ownership to preserve it for all generations of Marylanders. There's no other 1,664-acre tract of land that I'm aware of that's available to the State. It's 1.3 miles of highway frontage. I just had my neighbor sell a 63-acre parcel for almost \$1 million.

Development will be coming eventually to Somerset County. I don't know when. But I know it was my intent when I first entertained the idea, because I'm almost 70, to have this conserved. I went to the DNR, the Nature Conservancy, and asked them to determine a fair market value for the property. I didn't want any more and I didn't want any less for this. This is not a money making, gouging opportunity because I happen to be dealing with the State. My intent is that this property be conserved for the future generations and the present day use of Marylanders. It was that, pure and simple.

So I'm a little bit dismayed about some of the elements. I know this gentleman is talking about forest products. My property represents a very small percentage of the overall acreage that he needs to survive on. So I'm sorry that the legislation is such that this gentleman is restricted in how he can profit from State-owned properties. But my intentions are certainly honorable, to make this property available first to the State of Maryland. And that's pure and simple. That's it.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you very much. I think just like looking at the scoring process for targeted ecological areas, the question in terms of the forestry and the timber industry with regard to State properties is maybe something that -- is that in statute, regulation, or policy? In terms of some of the restrictions that he was just alluding to?

MR. VAN HASSANT: Don Van Hassant, DNR Forest Service again. When we own land, we own it for a variety of reasons. One, forest health; there's ecological reasons; there's economic reasons. But we are the Department of Natural Resources. So what we try to do is protect a lot of what's there. And in some cases there will be some areas of land where timber management is not compatible with the resource we're trying to protect. Some plants, some animals, some insects, some amphibians just don't live well where there is timber harvesting going on.

Having said that, we try to, if we were to acquire this property this will be folded into our sustainable forest management plan for Chesapeake Forest Land, where we address all the ecological stuff, the economic stuff, the recreational opportunities. It's all folded into the sustainable forest management plan.

LIEUTENANT GOVERNOR RUTHERFORD: But that is, that plan is by policy, correct?

MR. BELTON: No, sir. The --

LIEUTENANT GOVERNOR RUTHERFORD: Or is that regulatory?

MR. BELTON: There is State law that requires the Department of Natural Resources to become, have its forestland dual certified for sustainable forestry. It states that the, it will be the policy of the State to have dual certification --

LIEUTENANT GOVERNOR RUTHERFORD: Certification with whom?

MR. VAN HASSANT: There are two certifying bodies internationally. There's the Forest Stewardship Council and the Sustainable Forestry Initiative. The Forest Stewardship Council is more of a, is really the first one. It was more of an international thing and it was started really by environmental groups. And the Sustainable Forestry Initiative is more back with

the forest products industry. But they are really trying to accomplish the same thing and they are both doing a great job of it. And we had made the decision back when we first acquired what was then Chesapeake Forest Products that we were to become dual certified. We did become dual certified and a number of years ago we added our Western State Forest to that certification. So all the land that the Forest Service owns is dual certified under both internationally recognized agencies.

LIEUTENANT GOVERNOR RUTHERFORD: But are our restrictions that he's alluding to, are they directly in line with the certifications?

MR. VAN HASSANT: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Or do we take a step beyond what the certifications are saying?

MR. BELTON: If I might, my direction as Secretary to the Maryland Forest Service is to maximize timber sales on State forest land up to the point that we would, could do so and still remain dual certified by these two organizations. So we aren't, my direction is that they will not preserve in an un-timber harvest way property that we don't need to to maintain that standard.

LIEUTENANT GOVERNOR RUTHERFORD: But is there a way to, in the case of the forest products industry, to negotiate with the timber purchasers in terms of the type of wood that they may be looking for? Like you

said, and you just mentioned, if it's too early, it just becomes paper, pulp, you know, it's just pulp. Now I know there are going to be disease control.

MR. VAN HASSANT: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: So you may have to take that out.

MR. VAN HASSANT: Well the --

LIEUTENANT GOVERNOR RUTHERFORD: But if there is the ability, like you said, the other property, the property that's ready for timber sales now or cultivation versus the property that may be coming online because it was cultivated 20 or 30 years ago, that there seems to be, there's room at least with the 20 or 30 year ago property to start talking about when it would be ready for best market --

MR. BELTON: Don, if I might just jump in here again. And I'm sorry for the interruption. But that's directly on point to the conversation I had at length yesterday with Mr. Johnson and members of the AFI.

MR. JOHNSON: AFI.

MR. BELTON: Yeah. And what our conversation, what it entailed was that they were not opposed to this particular purchase but they did want to sit down with myself and our Forest Service to discuss the long term benefits of the Chesapeake Forest Lands and other Maryland State Forest from a timber harvesting point of view. And we pledged to do exactly that, sit down

with industry and come up with a plan moving forward to see if we can't satisfy all concerns.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Okay.

That sounds good.

TREASURER KOPP: Governor, could I, I think that's a good idea.

MR. BELTON: Mm-hmm.

TREASURER KOPP: It's always good to sit down --

MR. BELTON: Mm-hmm.

TREASURER KOPP: -- and talk. I think it also is true that the goals and the intent of Program Open Space was not simply to support the forestry industry, as much as I respect you and your business and your colleagues. It's also to preserve the land, the open space, the habitat. This is a good move for carbon sequestration and a number of the other goals of this State, which obviously would be vitiated if it were, not that you're suggesting or ever would do clearcutting, but that would clearly vitiate other goals. It's a balancing act and always has been. But I really respect the effort your family, sir, took to put together this really magnificent piece of property. And I hope that Maryland and the community will be able to benefit from it as you intended in the future and not simply have it sold off piecemeal.

COMPTROLLER FRANCHOT: If we could have this item voted on separately, I'd be appreciative.

LIEUTENANT GOVERNOR RUTHERFORD: I just want to say, Mr. Johnson, you probably can correct me. But the commercial industry, it's very rare now that anyone is clearcutting.

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: That's a gone practice in this country, as far as clearcutting. It's a lot more sustainable work that's done, even with the, you know, Georgia Pacific and those who own property that they are in the timber industry. It's not clearcutting. They are cultivating the forest as product and the property that they are utilizing. Correct me if I'm mistaken?

MR. JOHNSON: There is some clearcutting that goes on. Various species need a clearcut. So not necessarily where we wholesale cut thousands of acres here, but you need to cut some areas out. Certain species need that and I'm sure Don could say that. Year ago, fire took care of that forest.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. JOHNSON: Now we fight fires. So you know, a logging crew can go in and do some final harvest, if you will. It creates clear cut areas. There's new brows comes up, new plant species that come up. So that is a very important part of it but it's just part of the portfolio.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. JOHNSON: And we don't by any means think that we should clearcut the 90,000 acres or 70,000 acres of the Chesapeake Forest. We do believe that 50 acres is probably not enough final harvest on 72,000 acres and it cannot support --

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. JOHNSON: -- any forest products company or any industry out there. So maybe there's an opportunity to do more of that.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. JOHNSON: So the clearcutting that you do see, we'll do it for two things. Much of the forest, even at the Chesapeake Forest, it's a pine plantation.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. JOHNSON: It was an old industrial forest. It's a monoculture of pine trees. It does not support a lot of diversity. Much clearcutting --

LIEUTENANT GOVERNOR RUTHERFORD: With sandy soil --

MR. JOHNSON: -- that we do, we work with the federal government and we are actually clearcutting to bring back new plant species, to get those pine plantations converted back to mixed hardwoods of the colonial era. You know, we've done some projects where they have these alluvial dunes and

they tell me the seed bank in there is 10,000 years old. And we get this cleared for them. They can go in and do some prescribed burns and end up with plant species that we've not even seen in Maryland for years. So there's, you know, it's a work together sort of a thing.

LIEUTENANT GOVERNOR RUTHERFORD: It can work, yeah, it can work together.

MR. JOHNSON: So when you do see a clearcut --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah.

MR. JOHNSON: -- it's not always, oh man, look what we did to the land. It's really a good thing. But we just can't do it in a wholesale fashion.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. JOHNSON: I think we all agree with that.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah.

MR. JOHNSON: And to your point, the forest products industry agrees with that as well. We agree --

LIEUTENANT GOVERNOR RUTHERFORD: Okay. And thank you. And it's a very good point, that the fires used to take care of a lot of that and it was, you know, in the old days they used to, if you noticed that Smoky the Bear says wildfires, it used to be forest fires, because forest fires are not a bad thing. But it's the wildfires that are the problem. Because they get over hot and it kills everything versus the natural process. Okay. Thank you very much. Any other

questions on Department of Natural Resources. We're going to vote on Item 10A separately. We deferred one of the items.

SECRETARY MCDONALD: For 2A-1 and 8-A. So they are off the Agenda at this point.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

SECRETARY MCDONALD: If you want to take a separate motion on --

LIEUTENANT GOVERNOR RUTHERFORD: So a motion on 10A?

COMPTROLLER FRANCHOT: So if we could defer this until the report on ecological scoring comes back to us, I would be appreciative. I don't think there would be any damage done if we were to wait and combine those two reports so I could look at this again. I would make that motion.

TREASURER KOPP: Governor, I would just personally oppose that. I don't, I think they are two different subjects.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. And I think I'll, I don't think the scoring, if anything it will go up --

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: -- because it will put more recreational points toward it. So I --

COMPTROLLER FRANCHOT: No, I'm not concerned about, I just suggested that we were bringing back the ecological scoring report. I take it that's going to come back. I'm not suggesting that this is intimately tied to that. I'm just saying as long as we're doing that, why don't we defer this since, you know, let's be honest here. This is swampland that is being purchased with tax dollars. There is an alternative approach that could preserve the land forever through some kind of easement, I'm sure, or something the Nature Conservancy could come up with. And this is not, this is not a good project for Program Open Space to be identified with. I would hope that we could defer it for a couple of weeks so I could continue to make my case. And if at the couple of weeks down the road, I fail to do that then it can go ahead I guess with approval. But I ask that indulgence.

LIEUTENANT GOVERNOR RUTHERFORD: Well I'm going to differ from you this time. We deferred it last time around. I'm going to make a motion to approve this item.

COMPTROLLER FRANCHOT: Well I think the motion to defer is --

LIEUTENANT GOVERNOR RUTHERFORD: Oh, I'm sorry. Okay. Then I disapprove.

SECRETARY MCDONALD: Is there a second to the motion to defer?

LIEUTENANT GOVERNOR RUTHERFORD: No.

SECRETARY MCDONALD: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: So I have a motion to approve this item today.

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. So it's two to one. All right. The rest of the Agenda, excepting 10A and the other two that are deferred. Is there a motion?

TREASURER KOPP: Favorable.

LIEUTENANT GOVERNOR RUTHERFORD: Second? I'll second. So the other items, three.

SECRETARY MCDONALD: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.
Department of Budget and Management.

MR. NICOLE: Good afternoon, Mr. Governor, Mr. Comptroller, Madam Treasurer. For the record, Marc Nicole, Deputy Secretary of the Department of Budget and Management. The department has submitted 19 items for today's Agenda. Before we begin the Agenda I would like to take a quick moment to recognize two of our outstanding budget analysts. If I could have them stand?

Both Carissa Ralbovsky and Nathan Bowen were recent recipients of the George A. Bell Service Award from the National Association of State Budget Officers.

TREASURER KOPP: Oh.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. NICOLE: The purpose of the award is to recognize state budget personnel for outstanding contributions and service to public budgeting and management in state government.

Carissa is recognized for her outstanding leadership and contributions for the development and management of a more efficient and automated process for managing for results and for budget instruction procedures. Carissa's implementation of a significant change for managing for results has been extended to all State agencies within the past year. She has held numerous workshops to train other departments on this new system.

Nathan is recognized for significant and innovative transformation of budgeting processes, the development of an extensive procedure manual for analysts, and implementation of efficient processes to track State legislation. During the 2016 budget session, Nathan ensured the transformation of a budget preparation and publication in Maryland by designing a multilayered spreadsheet pivot table that allowed analysts in the Office of Budget Analysis to analyze data that was then uploaded into a new Access database. Nathan's spreadsheet provided analysts a tool to generate reports, analyze data, and make changes

based on the Governor's decisions and then upload the final amounts into the new database.

I would like us all to give them a hand.

(Applause.)

LIEUTENANT GOVERNOR RUTHERFORD: Well thank you very much for your hard work. I didn't understand half of it.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: I think it sounded like three-dimensional spreadsheets. But thank you and we're very appreciative that we have such talent in State government. Okay.

MR. NICOLE: As I previously mentioned we do have 19 items for today's Agenda. We have representatives to answer any questions. Item 5-S has been revised and Item 19-S is a supplemental.

LIEUTENANT GOVERNOR RUTHERFORD: I have a question on 3-S, the retroactive contract, Department of Transportation, Motor Vehicles. And the simple question is how was it discovered that the contract had expired in December of 2016? It was, it's retroactive, the contract was working, and according to the notes that I have it says it was discovered that it, someone just, a file fell open and fell to that date and said, hey, it's now, you know, July? Sir? Or --

MR. NICOLE: So we have Georgia Peake, the Director of Procurements and Contracts.

MS. PEAKE: Hello.

LIEUTENANT GOVERNOR RUTHERFORD: Hello, Ms. Peake.

MS. PEAKE: Hi. I'm -- 3-S.

LIEUTENANT GOVERNOR RUTHERFORD: 3-S.

MS. PEAKE: It is yours, Secretary --

MR. RAHN: I'm sorry, I was --

LIEUTENANT GOVERNOR RUTHERFORD: It's not your Agenda.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Why are you looking on his cheat sheet? Okay.

(Laughter.)

MS. PEAKE: So I'm Georgia Peake and I'm the Director of Procurement at the Motor Vehicle Administration. And my understanding is the staff in the procurement area basically was looking forward to moving on to the next phase. So they knew that this contract was going to be expiring so we needed a replacement contract. So they went, you know, looking through the files, you know, see what we're going to do for the replacement, and that's when

they discovered, uh-oh, we have a problem. So we went ahead and did an item for retroactive and submitted it here today.

LIEUTENANT GOVERNOR RUTHERFORD: All right. Do you have a tickler system of some sort that --

MS. PEAKE: Yes, we do. And really we're just starting to implement it. It's the iContract system through MDOT for all of the TBUs to use.

LIEUTENANT GOVERNOR RUTHERFORD: Is this your contract management, Mr. Zimmerman?

MR. ZIMMERMAN: (Indiscernible.)

MS. PEAKE: Yep. Stage one.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

SECRETARY MCDONALD: That voice from the crowd was Michael Zimmerman with the Department of Transportation.

LIEUTENANT GOVERNOR RUTHERFORD: Michael Zimmerman from Transportation, right. Who was on the Procurement Modernization, or he represented the Secretary on the Commission and this was one of the items that was discussed.

MS. PEAKE: Mm-hmm. Any other questions?

LIEUTENANT GOVERNOR RUTHERFORD: No, not on that item. Thank you.

MS. PEAKE: Okay. Thank you. Thank you.

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TREASURER KOPP: Governor, I --

LIEUTENANT GOVERNOR RUTHERFORD: I'm sorry?

TREASURER KOPP: -- I'm just curious, because this question of do you have a tickler system --

MS. PEAKE: Yeah.

TREASURER KOPP: -- this comes up like every two or three years.

MS. PEAKE: Mm-hmm.

TREASURER KOPP: Every two or three years it seems like there's a new system but clearly, and I don't mean just MDOT.

LIEUTENANT GOVERNOR RUTHERFORD: No, they are not, yeah --

MR. RAHN: So we really are, Madam Treasurer, I mean, we are trying to get a handle on these. And unfortunately we continue to find other retro contracts that we discover the deeper we look into what's there. But Mr. Zimmerman really is working on a holistic approach for the department and that we will be managing these. And the next piece to it is not just the tickler, it's the contract management piece.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

TREASURER KOPP: Yeah.

MR. RAHN: So we are, you know, we really are trying to link contract management to contract procurement. And it's been --

TREASURER KOPP: Right.

MR. RAHN: -- disparate.

TREASURER KOPP: Absolutely.

LIEUTENANT GOVERNOR RUTHERFORD: This was, yeah, this was an issue that was discussed, you know, in the Modernization Commission and particularly in the work groups. Just the whole idea of the contract management and Transportation is kind of leading that. And the hope is they perfect it and we can use it in the other agencies, the contract management system.

TREASURER KOPP: That was my next question.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah.

TREASURER KOPP: And I think you're right, the question of management versus procurement. I mean, it's always management versus procurement as opposed to management and procurement.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. RAHN: Yes. So we truly are working diligently on coming up with a system. You know, the history we've got as a department is we in effect have six departments under the auspices and we are trying to operate much more as a department. And so we run into different issues as we get into each one

of these business units, or modes. It's a big task but we're determined to address it.

TREASURER KOPP: Well I assure you there are other departments and agencies which are not as complex which also have exactly the same --

LIEUTENANT GOVERNOR RUTHERFORD: Oh yeah.

TREASURER KOPP: -- history and problem. So I look forward to what you all are, what you all are doing.

MR. RAHN: We fully anticipate that others can replicate what we have. So that's our goal as well.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

TREASURER KOPP: Because I know the Comptroller is very concerned about finding old contracts or finding --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm. We have another one popping up.

TREASURER KOPP: -- having to retroactively do things, or emergency, I mean, all these extraordinary things.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. RAHN: Well I can give you a heads up that as we've gotten into the procurement at MTA, our search over the last couple of weeks, we're going to be bringing many, many retros to you.

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LIEUTENANT GOVERNOR RUTHERFORD: Yeah. We were, well at least I was forewarned of that, that there are some concerns over there. So yeah, the intent is that Transportation has such a large amount of procurement is that if they can perfect a good contract management system that we can utilize something like that in other agencies. We have another retroactive in the Department of Disabilities. And so that's a smaller agency and as we look at shared services there may be another agency that picks up their responsibility for procurement and utilizing these types of systems to help in this area.

TREASURER KOPP: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: So thank you very much.

MS. PEAKE: Okay. You're welcome.

LIEUTENANT GOVERNOR RUTHERFORD: I have -- I point out this other retroactive. I'm not concerned about it. I do have a question about 19-S supplemental.

MR. NICOLE: Jamie Tomaszewski our Department Director of Procurement will be --

LIEUTENANT GOVERNOR RUTHERFORD: Hi, Jamie.

MS. TOMASZEWSKI: Hey, how are you? I guess it's good afternoon.

LIEUTENANT GOVERNOR RUTHERFORD: Yes. Okay.

Sorry. Did you --

MS. TOMASZEWSKI: Yes. Jamie Tomaszewski, Chief of Procurement for the Department of Budget and Management. Nice to see you, Lieutenant Governor and Madam Treasurer.

LIEUTENANT GOVERNOR RUTHERFORD: Good to see you. Now this is a contract upwards of \$10 million for customer service training?

MS. TOMASZEWSKI: Yes. It's part of the Governor's customer service initiative. We have created a master contract where we're going to have a total of 19 master contractors that will be available to the State agencies to provide customer service training. Part of the initiative is that State agencies provide their employees with customer service training on a regular basis. And so the task orders will be done based on the individual agency's needs for the services.

LIEUTENANT GOVERNOR RUTHERFORD: All right. I guess what struck me, and maybe I'm just a little slow, but I just didn't think that you really needed to do a whole lot of, \$10 million, possibly \$10 million worth of training to tell people to say please and thank you.

(Laughter.)

MS. TOMASZEWSKI: Hopefully not.

LIEUTENANT GOVERNOR RUTHERFORD: And answer the darn phone. Answer the phones. Respond to people, you know, it's kind of the basic things.

MS. TOMASZEWSKI: Yeah, answer the phone and answer the questions. Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: Please and thank you. Answer the phone, be courteous, and return phone calls.

MS. TOMASZEWSKI: Yes. Absolutely.

LIEUTENANT GOVERNOR RUTHERFORD: You know, that's the foundation. Some of the others, like the gentleman from the Forest Service, Mr. Stupack, what's being done with your analysts, those, that's customer service as well. But \$10 million --

MS. TOMASZEWSKI: It's a five-year contract and we're not sure of what the availability would be requested at all because we've never done this before.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MS. TOMASZEWSKI: So we based it off of our statewide audit services contract, which is approximately \$2 million a year. And so that's why we set it. It's a not to exceed amount. So obviously we're only going to be paying for the services that we do need. Yes, Mr. Comptroller?

COMPTROLLER FRANCHOT: Yeah. This is a boondoggle.

Really --

MS. TOMASZEWSKI: I'm sorry --

COMPTROLLER FRANCHOT: -- this is \$10 million wasted taxpayer dollars. You know, look, I have 1,200 people in my agency. One of the very few fireable offenses is not to follow the three Rs, which we have pasted all over the agency: respect the taxpayer, respond to the taxpayer, get results for the taxpayer. I.e., it is customer service. If you don't provide that to our taxpayers, please go and find another job before we fire you. To his everlasting credit, Governor Hogan has picked up on customer service and I assume from his comments the Lieutenant Governor is right there with him. But the idea of spending out of the blue \$10 million with some group -- where are they based? Here?

MS. TOMASZEWSKI: There's 19 different vendors. They are all State of Maryland firms.

COMPTROLLER FRANCHOT: Oh great. So we're going to --

MS. TOMASZEWSKI: Well, not all State firms, but there are some --

COMPTROLLER FRANCHOT: -- put together some bureaucratic matrix of something that's just simple common sense and could be implemented tomorrow statewide through all the State agencies, and frankly

through the county agencies also. If the leaders of all of those entities simply said, if you do not provide customer service, you have go and find another job.

So what does that mean? We answered about a half a million phone calls this year in my agency. It used to be 40 minutes on hold, 50 minutes on hold. It's a big improvement over the IRS, which is you can stay all day on the phone and no one will come and answer it. But it was still way too long. Now we average 40 seconds between someone dialing the 800 number and a live, professional, helpful member of my agency picking the phone up and saying, what can we do to help you? And yeah, did we have to plan for that? Sure. Have we hired and created new satellite phone offices around the State so that we could accomplish that? Yeah. But any agency can do that. And within existing resources, I would add. We didn't ask for extra money.

So yeah, to see a \$10 million item like this just plunked down in the middle of nowhere, you know, is very disappointing. Even though the subject and the goal is laudatory. But you might as well take this \$10 million out and burn it in the, out here in front of the State House. Because that's about as much use as it's going to produce.

LIEUTENANT GOVERNOR RUTHERFORD: It would probably be a violation, but --

COMPTROLLER FRANCHOT: Yeah --

(Laughter.)

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COMPTROLLER FRANCHOT: Anyway.

LIEUTENANT GOVERNOR RUTHERFORD: -- destroying currency is a federal violation. And then the Department of the Environment would get in there. State House Trust, oh, heaven forbid that.

COMPTROLLER FRANCHOT: But I didn't, I wasn't even going to comment on this because I had frankly forgotten about it with my swamp issue. But --

(Laughter.)

COMPTROLLER FRANCHOT: -- yeah, this is --

LIEUTENANT GOVERNOR RUTHERFORD: You can thank me.

COMPTROLLER FRANCHOT: -- yeah, no, and I do appreciate it. Because you know what? This is the single, best thing we could do to improve the State's business reputation. And improve the quality of life for our much taxed citizens. And it's called answer the damn phone. And answer it with someone who is friendly and professional. And as the Lieutenant Governor said, says thank you. And because, you know, because you guys who make our, call us in our agency, you're the guys that pay our salaries. So thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Right. Right.

COMPTROLLER FRANCHOT: That is --

LIEUTENANT GOVERNOR RUTHERFORD: Their customer.

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COMPTROLLER FRANCHOT: -- I don't want to say it's completely missing in county, municipal, and State government, but it sure is not the standard. And it's not a Democratic or a Republican issue. It's just a good government issue.

LIEUTENANT GOVERNOR RUTHERFORD: It's good government.

COMPTROLLER FRANCHOT: And so I'm happy to follow your lead, Lieutenant Governor.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, I'm going to wait on this item. I would motion to defer this item. So we're going to defer. But thank you very much.

MS. TOMASZEWSKI: Okay. Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Any other questions on the Budget and Management's Agenda? And a motion to approve with deferring 19-S?

SECRETARY MCDONALD: Right. Got it.

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All in favor of approval? I think we are.

SECRETARY MCDONALD: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you. University System. Give me a second. I need to step out just for a moment.

(Short recess taken.)

LIEUTENANT GOVERNOR RUTHERFORD: So do we have everyone in for the University System?

MR. EVANS: Ready?

LIEUTENANT GOVERNOR RUTHERFORD: Thank you, sir. Thank you for the indulgence.

MR. EVANS: No problem. Good morning. Joe Evans, representing the University System of Maryland. We have nine items on the Agenda. We have Delegate Anderton here in favor of Item 9-RP. We're here to answer any questions.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Before getting to 9-RP, I want to commend you on Item 3-C. It's a contract that is under the small business reserve program. I'm, you know, glad to see that you're utilizing that program. So I want to commend you.

MR. EVANS: Two of which are MBEs.

LIEUTENANT GOVERNOR RUTHERFORD: I'm sorry?

MR. EVANS: Two of the five are MBEs.

LIEUTENANT GOVERNOR RUTHERFORD: MBEs in the small business.

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MR. EVANS: Also.

LIEUTENANT GOVERNOR RUTHERFORD: Great. Okay.

But I am pleased that it's being utilized. I think Mr. Jordan would feel the same way.

MR. JORDAN: Absolutely.

LIEUTENANT GOVERNOR RUTHERFORD: A question on 8-S, with the one bid, a single bid on the residential housing management.

MR. EVANS: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: I know that Capstone is all over. But was there, do they have competition, does Capstone have competition?

MR. EVANS: Let me bring up Thomas Dawson, who is the Assistant Vice President for Procurement at Coppin State University.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you.

MR. DAWSON: Hi, this is Thomas Dawson. So your question was, was there competition? Unfortunately I could not get anyone to bid on that other than Capstone. When we did this five years ago, we solicited the same way we did this time on eMaryland Marketplace and went to a couple other vendors that were known to do this type of work. Unfortunately we only received two bids at that time. When we redid it again I reached out to the second vendor, and

they had, they are part of another, a bigger company now. So they just were not interested in doing that type of service for the University.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Who was the other vendor?

MR. DAWSON: I knew you were going to ask me that. I'm sorry

--

LIEUTENANT GOVERNOR RUTHERFORD: That's okay. I've heard of Capstone. I know that they've been around.

MR. DAWSON: Yeah, I want to say Allen and someone but I just can't recall the name.

COMPTROLLER FRANCHOT: Yeah, so why don't we just give them a permanent contract, Capstone, for the next 90 years, say, pick a number. Because --

MR. DAWSON: Well I'm not comfortable with that, sir.

COMPTROLLER FRANCHOT: Why not?

MR. DAWSON: Well because I do believe we should get better pricing --

COMPTROLLER FRANCHOT: Really?

MR. DAWSON: -- if we do solicit competitive bids.

COMPTROLLER FRANCHOT: No kidding?

MR. DAWSON: Get competitive bids.

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COMPTROLLER FRANCHOT: I couldn't agree with you more.

MR. DAWSON: Yes, sir.

COMPTROLLER FRANCHOT: So why don't we defer this? Because you know, this is, this is absurd to have one company, I guess they've scared away all the competition because they take it they, Mr. Salt, do they use, does the University System use these guys elsewhere? I'm sure they do. Capstone? Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: I think I've seen it somewhere but I don't know --

COMPTROLLER FRANCHOT: How many of the University Systems use Capstone, whatever they are, On Campus Management?

MR. DAWSON: On Campus Management, yes, sir. I am not sure.

MR. EVANS: I'm not sure. I can get that information and bring it back to the Board.

COMPTROLLER FRANCHOT: Yeah. I'd like to see it. Because I'll bet it's most of them. And I'll bet most of them have single bid contracts. And I just find, I couldn't agree with you more, sir. That competition always shows what's a good deal for the taxpayer. So maybe we can get some competition here or how long is this contract for?

MR. DAWSON: I believe a five-year contract.

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LIEUTENANT GOVERNOR RUTHERFORD: Five.

COMPTROLLER FRANCHOT: Yeah, maybe we could do it for a year. You could just do it for a year while we scratch our heads and try to figure out where we could get some competition that would prove I think your point would be proven, which is competition produces better results.

MR. DAWSON: Yes, sir.

COMPTROLLER FRANCHOT: Particularly if the University could come back with some information about other parts of the system.

MR. DAWSON: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: I think --

MR. DAWSON: Is it approved for one year, may I ask?

COMPTROLLER FRANCHOT: Well I'm subject to the Lieutenant Governor and the Treasurer.

LIEUTENANT GOVERNOR RUTHERFORD: Well --

COMPTROLLER FRANCHOT: I'm just the Comptroller so --

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: History of Comptrollers have been very powerful and you are stepping into that role now. So, or have been for the last several years. I guess the contract that is there is a five-year agreement with then five options, optional years after that. Correct? Or is it --

MR. EVANS: That's correct.

LIEUTENANT GOVERNOR RUTHERFORD: So it's a five-year base. So we, I don't, and correct me and maybe this is a Sheila question of approving one year of a five-year, I don't know if that's something that we really can do.

SECRETARY MCDONALD: Okay. Ordinarily we would tell you only you can do the five-year base term. Now you do have this, you know, well the thing is it was a competitive, it wasn't sole source, so somebody else could then say, yes, that if they would have bid differently if they thought it would be here, so this Board --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, you can't, right. I would --

SECRETARY MCDONALD: -- in my opinion is not authorized to make a five-year contract into a one-year contract.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

SECRETARY MCDONALD: So you could either approve or disapprove or defer the five-year base term. The options are provided as information to you.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

SECRETARY MCDONALD: That would not be approval for them to go past --

LIEUTENANT GOVERNOR RUTHERFORD: Because they would have to come back anyway with the options.

SECRETARY MCDONALD: They would have to come back at year six. But you would either approve the five-year, or disapprove the five-year, or ask them to look at it again.

LIEUTENANT GOVERNOR RUTHERFORD: Why don't we do this? Why don't we just defer this item. It doesn't go into effect until the end of August. And what you can do is come back with some information, if you can do some canvassing of the other, of the competitors to find out why they did not bid on this contract. I know you said there's at least one, but there's probably more companies out there that do this kind of work. It could be that they are more regional but they just --

MR. DAWSON: Yeah. I don't mean to interrupt, but I think we did put the reasons why I believe four other companies did not respond.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. You reached out to five firms. And reasons given, okay --

COMPTROLLER FRANCHOT: Well one of the reasons was, one of the companies said we needed to come on campus and talk to you guys.

MR. DAWSON: Right. Yeah.

COMPTROLLER FRANCHOT: Is there some prohibition on that?

MR. DAWSON: No. They said that after I reached out to them. They didn't say that at the time that they received the solicitation. So I had not idea that was one of the things they needed to do until after I reached out to them and they said that one of the things they needed to do was come out to the campus before they could submit a bid. Which they had the opportunity in the RFP. They could have actually come out and take a look at the housing developments that we have.

LIEUTENANT GOVERNOR RUTHERFORD: So they, this particular entity, they had the RFP but they, did they wait until after the RFP was to be returned, or the due date?

MR. DAWSON: They did not respond at all.

LIEUTENANT GOVERNOR RUTHERFORD: They didn't respond but then after the response date they came back and said they wanted to come out?

MR. DAWSON: No. I reached out to them.

LIEUTENANT GOVERNOR RUTHERFORD: Oh.

MR. DAWSON: I reached out to them to determine why they did not solicit --

LIEUTENANT GOVERNOR RUTHERFORD: Oh, why they didn't, okay.

MR. DAWSON: -- I mean, submit a bid.

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LIEUTENANT GOVERNOR RUTHERFORD: Okay. And then they said because they need to come --

MR. DAWSON: And that was -- yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

TREASURER KOPP: Governor, I'll do whatever you all want. But it does seem to me that the agency did try to get competition --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: -- and then went out and tried to find out why the competition wasn't there.

MR. DAWSON: So I did remember the name of the other company. It's called Allen and O'Mara.

LIEUTENANT GOVERNOR RUTHERFORD: Allen & O'Mara?

MR. DAWSON: And O'Mara.

LIEUTENANT GOVERNOR RUTHERFORD: And they are now part of another company?

MR. DAWSON: Of a larger company, yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: And the larger company said that, what, that Coppin is too small?

MR. DAWSON: Basically. Yes, sir. Honestly, yes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. DAWSON: We have, our --

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LIEUTENANT GOVERNOR RUTHERFORD: Yeah, you're, I mean, you're not --

MR. DAWSON: We have a 600-bed --

LIEUTENANT GOVERNOR RUTHERFORD: Right. You're not the size of the University of Maryland or the University of Wisconsin or, you know, one of, if you're a huge company you may say --

MR. DAWSON: Right. Exactly.

LIEUTENANT GOVERNOR RUTHERFORD: That's not something, okay. All right. Any other questions on -- oh. Did the Delegate want to talk about 9-RP?

DELEGATE ANDERTON: Just real quick, I want to thank you for your continued support of Salisbury University.

LIEUTENANT GOVERNOR RUTHERFORD: Introduce yourself, please.

DELEGATE ANDERTON: I'm Delegate Carl Anderton, Jr. I'm blessed to be here with you three today, and you, and you, and you.

(Laughter.)

DELEGATE ANDERTON: So it's an awesome day in Annapolis. You know, Salisbury University practices what you guys preach especially today with frugality and making sure our tax dollars go as far as they possibly can. It is

Maryland's Yale. And so it's awesome. I just want to thank you in advance for your continued support of the home of the national champions.

LIEUTENANT GOVERNOR RUTHERFORD: National champions in lacrosse --

DELEGATE ANDERTON: Right on.

LIEUTENANT GOVERNOR RUTHERFORD: -- and my daughter's alma mater.

DELEGATE ANDERTON: Amen.

COMPTROLLER FRANCHOT: And thank you for being here.

DELEGATE ANDERTON: Absolutely. All right.

LIEUTENANT GOVERNOR RUTHERFORD: Always good to see you.

DELEGATE ANDERTON: Thanks.

LIEUTENANT GOVERNOR RUTHERFORD: All right. I move that we just defer for one session 8-S, the service contract. Maybe just you can give us a little bit more detail, the names of the firms that you reached out to, along with the, you know, you have a brief explanation at least in the draft. But the names that you reached out to and what they said. And names and their locations and the reasons that they didn't bid.

COMPTROLLER FRANCHOT: And other --

MR. EVANS: Institutions that --

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COMPTROLLER FRANCHOT: -- institutions within the system
that --

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

COMPTROLLER FRANCHOT: -- Compass uses.

MR. EVANS: I hadn't forgot, sir.

COMPTROLLER FRANCHOT: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: All right. Any
other questions on the University System?

COMPTROLLER FRANCHOT: Move approval.

LIEUTENANT GOVERNOR RUTHERFORD: Do we have a
motion? Okay. And second?

TREASURER KOPP: Favorable.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. We're all
in favor.

SECRETARY MCDONALD: Thank you.

MR. EVANS: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you very
much. And good job on those small business reserve contracts. Okay.
Department of IT, Information Technology.

MR. LEAHY: We're the IT. Good afternoon, Governor, Madam
Treasurer, and Mr. Comptroller. For the record, I'm Michael Leahy, Acting

Secretary of the Department of Information Technology. Today we have nine items on the Agenda, two are supplemental. And I do have agency representatives here to answer any questions you may have.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

Any particular questions? I think 9-IT. I have a couple of questions about that.

Can you explain this particular item? 9-IT, I'm sorry.

MR. LEAHY: Certainly, Mr. Governor.

LIEUTENANT GOVERNOR RUTHERFORD: The revised, or it's, yeah, supplemental.

MR. LEAHY: This is a retro item for payment for past services to a company called Periscope that is the developer and provider of software as a service that is the underlying software for the electronic marketplace. And they had a contract that expired in October of 2016 and at that time there was a contract with NIC that a work order was placed to bring Periscope in to ostensibly upgrade the electronic marketplace, including integration so we could do procurement to pay with the ADPICS and R*STARS systems.

Last winter the project was suspended because there were concerns about the integration with the FMIS, ADPICS, and R*STARS system, and we were instructed to do two things. First of all, end the integration with NIC and to negotiate directly with Periscope to find an interim solution that would allow us time to do a full procurement to replace or mend the system that existed. We are

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here today because we have negotiated in good faith with Periscope for a number of months and the item is divided into two parts. First to pay them for the work they have done since last October, and also to consider the potential new contract for two years to maintain the system as it exists today so we would have time to do a new procurement.

The principal points of the new contract, if the Board desires to enter into it, would require payment to Periscope of \$150,000 a month to maintain what is now version 13 of their software. And the cost is extraordinary, \$150,000 a month, but appears to be necessary based on what they've told us. Because everyone else in their portfolio has moved to version 14, which is hosted in a completely different environment. So they would be maintaining the old environment only for the State of Maryland.

So that's what we're bringing before you today. I know Secretary Churchill has been very active with me in these negotiations and we have worked closely with the BPW staff throughout the process.

LIEUTENANT GOVERNOR RUTHERFORD: When you say a separate environment in terms of going forward, is that they've gone to Microsoft

--

MR. LEAHY: No it's --

LIEUTENANT GOVERNOR RUTHERFORD: -- or something --

MR. LEAHY: Sure. Software as a service resides on a particular server.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. LEAHY: And they, like everybody else, are upgrading their equipment as new equipment becomes available and have migrated the rest of their current customers to a new server environment that is faster, less expensive, better security. And we are the sole customer remaining on the existing platform for version 13.

LIEUTENANT GOVERNOR RUTHERFORD: And so there's no migration unless we --

MR. LEAHY: Unless we upgrade --

LIEUTENANT GOVERNOR RUTHERFORD: -- reprocure. We have to reprocure.

MR. LEAHY: We would have to reprocure, yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. So part A is retroactive. Now I think there was at least at the staff level some concerns about part A in particular but maybe B as well --

MR. LEAHY: Well just very quickly, Mr. Governor. Yes, I have been told there were. The contract and the work order were subject to the NIC rate table and the hours that the Periscope personnel sent to us and the rates that

they charged against that resulted in that amount of money, which is the \$3.6 million.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

TREASURER KOPP: I have a lot of questions about this one.

MR. LEAHY: Absolutely.

TREASURER KOPP: In fact, I sound almost like the Comptroller, I hardly know where to start, whether it's with A or B. There seems to be very little backup, very little information. We are now paying them to do what we thought we paid for them to do five years ago or six years ago. I don't get what's happening. I find it very difficult to accept it or support it. What's your backup if it's not supported?

MR. LEAHY: Our backup --

TREASURER KOPP: We were told before that you were very near to having your own system.

MR. LEAHY: Yeah, well we --

TREASURER KOPP: Is that still so? Or has something happened?

MR. LEAHY: No, that is the case. We as a matter of prudence negotiated in good faith with them. But because they had told us on several occasions that there was a distinct possibility they would turn the system off, we have basically had a system built that meets the statutory requirements to keep the

electronic marketplace running. It's rudimentary and it will require additional aspects to be incorporated over time, which goes to the procurement matter that we discussed in earlier meetings. But there would be an alternative. If the system is turned off, we have an alternative.

TREASURER KOPP: Am I right in thinking we have a list of a huge number, 20-some things that were to be part of the original contract, the 2011 contract?

MR. LEAHY: Yes.

TREASURER KOPP: Integration with FMIS being one of them. I gather those things were not done. But I don't, but I really also don't understand the basis on which the specific charges are now being made --

MR. LEAHY: Mm-hmm.

TREASURER KOPP: -- or I mean there just seems to be --

LIEUTENANT GOVERNOR RUTHERFORD: Let me ask Gabe to come up.

SECRETARY MCDONALD: Gabe Gnall, the Procurement Advisor.

MR. GNALL: Good afternoon, Lieutenant Governor, Madam Treasurer, Mr. Comptroller. My name is Gabe Gnall. I'm Procurement Advisor to the Board of Public Works. I'm here to answer any questions.

LIEUTENANT GOVERNOR RUTHERFORD: I know that you've looked into this matter and I think some of the concerns that the Treasurer was just expressing, you've looked into some of those issues. Is there anything that you can add with regard to the cost aspects or performance or any --

MR. GNALL: I have concerns with both parts, part A and part B. As mentioned, part A is the retro compensation for nine months of work. During that time period, Periscope continued to provide eMaryland services as they had been providing for the State for five years before that. In addition, from January through March, they provided additional services where they provided development, as Mr. Leahy described, for integration with FMIS.

LIEUTENANT GOVERNOR RUTHERFORD: And let me just say there is really no question in terms of Periscope would be compensated for work that they did. That's really not a question as to --

MR. GNALL: That is correct. They should be compensated for the work. However, the statute that governs how a contractor is to be compensated states that a contractor shall be awarded compensation for actual expenses reasonably incurred under the procurement contract plus a reasonable profit.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. GNALL: And my issue, and I'm very skeptical on this, is whether or not the amount being charged here is a reasonable amount.

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Under the previous contract for five years, the Comptroller's, the contractor was charging about \$50,000 a month for services. So let's say nine months, we extrapolate that, let's say half a million dollars for just the EMM services. So what they are charging is over \$3 million for less than three months of work with all the Q&A and all the development they were doing for the FMIS integration. I questioned that. What they have provided is a list of over 50 employees of theirs, their hours worked, over 11,000 hours for this time period, and the hourly rates for them. We have not received any verification from the department as to whether or not they actually approved these invoices, whether or not they approved the work. We do not even have any work product, as far as I understand, any work product as far as what has been provided to the department for that work provided. That is part A.

And actually I want to clarify also we are still asking questions on this item because it was only submitted last Friday. And so we're still trying to figure out exactly what has been paid, what has been provided, to date.

Part B is the new contract award going forward, a sole source contract for two years where they are asking for \$150,000 a month. Now again I want to reiterate, previously we were paying \$50,000 a month. And if we would have exercised the five-year option last fall we would have paid \$40,000 a month for these services. Again, continuing the same services under the same platform, the same version, as we had for the past several years. Looking at that dollar

amount, I find that also to be unreasonable. There is no particular statute on that. However we have an advisory, Board of Public Works Advisory 2016-1 that addresses contract pricing for single bids and sole source contracts. And we ask the agencies to provide analysis for a fair and reasonable contract price. In my estimation this is not a fair and reasonable contract price for these services going forward.

COMPTROLLER FRANCHOT: Can I ask a question? With all due respect, could I hear from Secretary Churchill and from Secretary Leahy again? Because I have a lot more confidence in you two. I have confidence in the procurement advisor as far as the procurement law, but not very much confidence as far as his offbeat back of the envelope calculations. Are you guys, do you have any response to his statement that we're buying a wildly inflated, unsubstantiated, ridiculous contract that if we don't sign it we'll be fine with some kind of jerry-rigged system I guess? Or whatever. I don't know whether he's concerned about what will happen if you don't, if, what will happen if we --

LIEUTENANT GOVERNOR RUTHERFORD: I don't think he went into that.

COMPTROLLER FRANCHOT: -- turn the thing off. But anyway, he's made the point that this is a hugely bad deal for the State which is completely unsubstantiated. I have confidence in his procurement advice. I just don't have a lot of sense as far as his background as to whether he's qualified on

the doings of eMaryland Marketplace. You guys are. You negotiated it. What do you have to say? I'd like to hear from you, Secretary Churchill. Because, you know, please, trust me, you have a lot of credibility.

MR. CHURCHILL: The eMaryland Marketplace platform that we have here today, our agency and other agencies are greatly dependent on it.

COMPTROLLER FRANCHOT: Mm-hmm. So bad things would happen if we just turned this down?

MR. CHURCHILL: Well, no we, it depends on the avenue that we go down. The platform has only been up for a number of years. We still have redundancies in place if the systems were turned off that we could take advantage of in terms of each individual agency. We can go back to, at worst, the tried and true method that was done before eMaryland Marketplace was in place, where we would take hard bids, faxed bids, in person bids. So --

TREASURER KOPP: Well in fact the Secretary said he had a system that would meet the constraints of the law.

MR. CHURCHILL: The Secretary has talked about a --

TREASURER KOPP: An electronic system.

MR. CHURCHILL: -- an electronic system. But I'm saying if the system, and of course we've been working with Periscope for a number of months. They've kept the system up. But if the system were to go down, it would not be catastrophic. We would have mechanisms to still solicit bids and

receive bids. It would be an unwelcome interruption but business in Maryland would still move on.

COMPTROLLER FRANCHOT: Okay. Secretary Leahy, what about not a catastrophic occurrence but certainly not one that's desirable? So where, what about this information about wildly inflated invoices with no justification and great skepticism as to whether we're getting taken advantage of here or not?

MR. LEAHY: Well I certainly understand his concern and in fact applaud it. Because this had started when I took on this position. And the first instructions we had from the State basically were that wanted us to enter into negotiations with Periscope to determine how to best reach an understanding that would lead to a new procurement. Because there were significant issues about the control factors in integrating the financial systems.

It's my understanding that, and that I based my willingness to say I thought this was in the interest of the State, on two factors. And the first one is that the integration work with ADPICS and R*STARS was a heavy lift and a great deal of work had been done in that short interim period from October through March. And that the rates for services were consistent with the rates that we had already agreed with NIC to charge for similar services and NIC has been a significant vendor for the State for a number of years. We accept their rates on

other contracts and I found no reason that defining these sorts of responsibilities and these rates called for a different rate. So that was the first piece.

The second piece goes to the issue, as I said, \$150,000 a month seems like an extraordinary amount in light of the fact that our past history was for \$50,000 a month. I think there are two factors that impact that. The first is this will be in a stand alone system now which will require them, Periscope, to maintain certain redundancies, to in fact add memory to the system because when you have a balanced system with a number of customers you can presume how much it's going to be used by various customers at various times. Since we will be the sole customer left on this system, they will have to maintain a bigger spread in the availability of memory and computing resources.

The second piece is although we had hoped in our negotiations to reach an agreement with them that would have led to upgrading to version 14, which would have allowed us to move it with everybody else they have moved, we were unable to negotiate an agreement that made sense because the time periods that they believed were necessary to make it profitable for them exceeded the periods that we believed would be reasonable to seek another procurement. And so two years was the shortest agreement they were willing to consider under any circumstances and to do an upgrade to version 14 would have required a longer term.

This is one of those unfortunate circumstances that in a perfect world we may have negotiated this very differently. But we were left with an agreement that was a work order under the NIC contract, which I think does have precedential value in terms of the rates and the amount of time necessary, and the fact that because we've taken your instructions that there was a need for a new procurement seriously, that extending this for any period of time was contrary to what was in the best interest of the State and two years was the shortest period they were allowing and willing to give us. So that's how we've come to this position.

As Secretary Churchill said, if we do not go forward with this, it will cause some headaches. And you know, I think it would be inconsistent with what we've negotiated because we've both acted in good faith since March trying to come up with a solution that was acceptable to both parties.

COMPTROLLER FRANCHOT: Could you describe in a little more detail headaches?

MR. LEAHY: Certainly.

COMPTROLLER FRANCHOT: And how much that would cost the State?

MR. LEAHY: Absolutely. Absolutely.

COMPTROLLER FRANCHOT: Please.

MR. LEAHY: At present the principal concerns are although we have built an application that we believe will meet the statutory requirements, it has not been tested in the wild, if you will. So we have 50,000 vendors currently that could use the system. We've never tested it in that sense. We've done the stress testing to the underlying computer systems and they passed. But again, typically problems arise because people do something that is out of the ordinary that you wouldn't expect and there are nests in code that I might type something in, remove it, and retype it in that somehow has an impact that none of us have anticipated. So there's the user sustainability issue.

Were it to fail that would put us in the circumstance that Secretary Churchill noted, that we would have to go back to using more rudimentary systems, doing things by fax, by letter. And I take our requirement statutorily that we maintain this system very seriously. So that's the worse possible case, what if.

The expenses of maintaining this system until we come up with a full procurement would require approximately about \$1,700,000 over the next year. \$750,000 of that would be for the licenses that we have to acquire for the vendors and others that the State pays for because we would be using a different software platform. The other \$800,000 would be from the development of this system, the further development if we find things that don't work while we seek a new procurement, and the training and maintenance of the system. Obviously because some of the processes would change, we want to make sure that both the

procurement officers and the vendors would be educated as quickly as humanly possible to make a new system work. So we've started working on looking at what we would have to do to have telephone support, to have online seminar support, to have videos of how things work and what it would cost to produce those and put those together in very short order. So this system, as I said, would cost about \$1,700,000 to run it for a year.

COMPTROLLER FRANCHOT: You know, I remember the health exchange.

MR. LEAHY: Yes, sir.

COMPTROLLER FRANCHOT: Wasn't that a, didn't that have a headache when it started?

MR. LEAHY: That had a number of headaches and although I was not here then it is my understanding that the solution was to contract with the State of Connecticut, which used a different system, and piggyback onto their software and their code.

TREASURER KOPP: So how about that? Have you looked at that contractually?

MR. LEAHY: We have looked at other states and there is nothing that is economically viable available at this time.

TREASURER KOPP: So the feds, neither the feds nor other states have systems we could use?

MR. LEAHY: We talked to a number of states. We didn't talk specifically to the federal government. But there was nothing that we could just use as it came from them. It would have to be significantly amended to fit our requirements.

COMPTROLLER FRANCHOT: Mr. Secretary?

MR. CHURCHILL: I just wanted to add just one point of context for the impact. And that is of course we have thousands of users, thousands of vendors that are using the system presently. We have our State agencies using the system. And we have a number of local municipalities that are also integrated into this system. And so trying to as a part of the consideration for this item trying to keep continuity to that greater system is why this is in front of the, in front of the Board. So.

TREASURER KOPP: See I find this ironic because this is the system on which we held a number of hearings --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah.

TREASURER KOPP: -- and everybody agreed it was a lousy system and had to be changed, right?

LIEUTENANT GOVERNOR RUTHERFORD: Right.

TREASURER KOPP: This is the same eMaryland Marketplace --

MR. LEAHY: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: Yep.

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TREASURER KOPP: -- that everyone complains about?

MR. LEAHY: Yes, Madam Treasurer.

TREASURER KOPP: Can I just, do you have invoices? I mean, do you have anything? I remember the NIC, NIC USA contract. As I recall the one I voted on it was for a very different purpose. It was not for something like this. Do you have invoices on these specific services?

MR. LEAHY: My -- well, I'm going to have to rely on what we've received in terms of their hourly rate and what they said they did over this period of time. I have not looked at the specific invoices because the work order was set up that they would receive the one percent administrative fee. And so it was structured as a no cost to the State. There was no means in the contract to invoice specifically.

TREASURER KOPP: Right. Because that was the work order under the NIC contract --

MR. LEAHY: Yes.

TREASURER KOPP: -- which may or may not have been relevant --

MR. LEAHY: That's correct.

TREASURER KOPP: -- originally --

MR. LEAHY: And so since they didn't invoice us I could only ask for the specific records they relied on in doing the work internally.

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TREASURER KOPP: And I heard, but it may not be so, that one of the reasons it became so inflated, in addition to the fact that all the others are on 14 instead of 13, is that it includes salaries for people, but we don't know, like the CEO and all sorts of, is that right?

MR. LEAHY: Yes. There are some very senior officers that had significant hours incorporated into the work. And they have told us that it was necessary because of the integration issues. And again --

TREASURER KOPP: Those integration issues are the same ones -

-

LIEUTENANT GOVERNOR RUTHERFORD: -- right --

TREASURER KOPP: -- that were under the original five-year contract and the three-month contract.

MR. LEAHY: Yes.

TREASURER KOPP: You know they've got us --

LIEUTENANT GOVERNOR RUTHERFORD: So it went from \$50,000 a month to \$150,000 a month on that?

MR. LEAHY: To maintain the system, yes.

LIEUTENANT GOVERNOR RUTHERFORD: I guess I don't understand the going, if it was \$50,000, and I think that's what Gabe was talking about, and I don't know it in any detail, to do the same things. And then now, to do the same things going forward it's going to be \$150,000?

MR. LEAHY: Well it's not quite doing the same things. As I said, if I have ten customers that I'm using an infrastructure for, the cost per customer is lower.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. LEAHY: I still need a box that costs a certain amount of money. The difficulty we face here is because they have moved to a completely different infrastructure they have to maintain an infrastructure that they presumed was for ten customers which will now only have one.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. But for the prior nine months, it's more than \$150,000 a month, the work, because they were working on integrating, and we're not asking them to integrate any longer. Is that why there's that --

MR. LEAHY: Well there were, as I understand the work order there were three tracks. And the third track was to do the integration with the ADPICS and R*STARS system. The two other tracks were to upgrade to version 14 --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. LEAHY: -- and then to provide new training and several new enhancements to the software for the procurement officers and the vendors, as well as do business intelligence to make the system utilized more thoroughly throughout the State. It has been Periscope's contention that we are very

inefficient in using this particular vehicle to do procurement and that with the upgrade to the software and the training upgrades, which are not going to be part of this contract going forward --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. LEAHY: -- they would have saved us considerable money because additional people would be utilizing the system and the price would go down effectively per each procurement.

COMPTROLLER FRANCHOT: Can I ask a question?

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

MR. LEAHY: Please, sir.

COMPTROLLER FRANCHOT: So if despite our best efforts the, whatever the company is, says we're not going to move forward and we have to move to plan B, which is a system that I'm sure you could create, if that were to fail --

MR. LEAHY: Yes, sir.

COMPTROLLER FRANCHOT: -- what is the extent of eMarketplace? How many vendors? How many items? How much volume?

MR. LEAHY: Certainly.

COMPTROLLER FRANCHOT: How much dollar amount is put in jeopardy?

MR. LEAHY: I'll defer to Secretary Churchill but I can tell you simply because I know these statistics from looking at what we would have to be able to maintain with regard to software, there are approximately 47,000 vendors that currently use the eMarketplace at one time or another. There are approximately 300 open procurements and there are another almost 350 that are in process, either pre-bid or being processed for award. The system is used extensively by a number of counties and municipalities and as I think the Secretary can explain is integral to how the Department of General Services does its procurement. So it is an important piece of the work that's done with regard to procurement. And if our alternative were to fail, and I'm using that word as catastrophic failure --

COMPTROLLER FRANCHOT: Mm-hmm.

MR. LEAHY: -- that like the --

COMPTROLLER FRANCHOT: Health exchange.

MR. LEAHY: -- health exchange it just does not work, we would be left with two options. And the first would be to have an emergency procurement and in the interim utilize our paper fax-based systems to seek a new system, or to determine very quickly what didn't work in it and utilize the resources available to repair that.

COMPTROLLER FRANCHOT: Do people still --

MR. LEAHY: We wouldn't put this forward --

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COMPTROLLER FRANCHOT: Do people still have fax machines?

MR. LEAHY: Amazingly, they do, Mr. Comptroller.

LIEUTENANT GOVERNOR RUTHERFORD: But you could use PDFs.

MR. LEAHY: You could use email. There are any number of electronic means that we could meet this. I will say, though, that if I didn't have significant faith in this process and our ability to take every opportunity to think about what could go wrong, I wouldn't be serving you well. And so if indeed you decide not to go forward with Periscope, we will have a solution available. But I think like all new software solutions there will be things we will find that we hadn't thought about initially and they will require repair.

COMPTROLLER FRANCHOT: I can pretty much guarantee that.

MR. LEAHY: Absolutely.

COMPTROLLER FRANCHOT: Because when we make, the Legislature makes a change in the tax law or the federal government does, Mr. Smith and his colleagues and my agency have to make adjustments in the 3 million tax returns that are filed electronically.

MR. LEAHY: Absolutely.

COMPTROLLER FRANCHOT: And if somebody looks cross-eyed at the wrong line or something, it stops the whole system.

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MR. LEAHY: Yes, sir.

COMPTROLLER FRANCHOT: Knock on wood, that has never, hasn't happened recently. And but seriously, you start to get into these systems that are --

MR. LEAHY: Very complex.

COMPTROLLER FRANCHOT: -- home, you know, kind of, they are very sensitive, I guess is my point of view. Mr. Secretary, I'm sorry, I --

MR. CHURCHILL: No --

COMPTROLLER FRANCHOT: Just what is the scale of the eMarketplace that we're talking about?

MR. CHURCHILL: Well --

COMPTROLLER FRANCHOT: How many dollars are bid?

MR. CHURCHILL: I don't have an exact number. It is a very large number and I would just ring one point because I sampled the number of bids that are coming up in the next three days as an example, and I did bring copies too, so you could see. And there's, everyday there's a dozen to two dozen open procurements that are receiving bids or from the vendor community. And it's just not the State of Maryland. So the answer I would give you in terms of the State of Maryland, I know we say we do about a billion dollars in business.

COMPTROLLER FRANCHOT: How much?

MR. CHURCHILL: A billion dollars in procurements or business, and that includes construction contracts, commodities contracts, leasing as well. And leasing is not a part of this. MDOT can give you their buy in terms of, or spend with the State. But it is a very large buy and I can come back to you with the, the defined number very quickly. And I have this if you would like to see bids over the next couple of days.

COMPTROLLER FRANCHOT: I respect my colleagues. I would vote for this contract. I think that the stakes are way too high for at all even coming close to having adjustments that are to a sensitive system, I guess is the way to describe it. And I have a lot of confidence in Secretary Leahy and Secretary Churchill. And I just think we're, we may not realize, Lieutenant Governor, exactly what the consequences are if this were to be turned down.

LIEUTENANT GOVERNOR RUTHERFORD: Well there are two parts to this. And one is the retroactive aspects of part A, the nine months, \$3.6 million, almost \$3.7 million for nine months of work. And then going forward, \$3.6 million. I know that there are questions on both and Gabe raised those. The Treasurer has raised questions on both of them. But I am particularly concerned about the retroactive portion of it, the nine months. Compensation is due to the organization but there seems to be some unanswered questions with regard to exactly what was done and justifications for what was done and who all was involved.

I don't, only, you know, I've heard of Periscope. I don't know. I know they do business in other states. And I'm an old guy. I don't know the new ways of technology. But usually the senior executives are not billing. They usually are not billing. They are part of the overhead. They sit direction. They have workers who do the actual billing because they are actually involved in the coding aspects. So I would have questions about that. But so I'll turn to the Treasurer. You have concerns?

TREASURER KOPP: I have very serious concerns. This company was supposed to be doing things for five years. In 2013 there was an audit with which General Services agreed that indicated the work had not been done and would be done. That's the same work that was undertaken in October, as I understand, and then asked to stop for whatever reason but we're now paying, going back and paying for that work that wasn't done.

I understand paying for maintaining eMaryland Marketplace for those months. I understand that if it had been bid last October it would have been \$40,000 a month. Now it's proposed to be how much?

LIEUTENANT GOVERNOR RUTHERFORD: \$150,000.

TREASURER KOPP: \$150,000, even though it's \$50,000 right now. I, I'm sorry. I just, I can't do it.

COMPTROLLER FRANCHOT: And I would move --

TREASURER KOPP: And I respect, let me just say as the Comptroller always says and I do want to say, I do respect both the company and the Secretaries and the departments, the work that has to be done. But I don't see the justifications that I believe as a financial person should be seen.

COMPTROLLER FRANCHOT: Well I would like to be put down on a no vote on this. I think we're playing with fire for no --

TREASURER KOPP: A no vote?

SECRETARY MCDONALD: This is --

LIEUTENANT GOVERNOR RUTHERFORD: You mean a yes vote?

TREASURER KOPP: A yes vote.

COMPTROLLER FRANCHOT: I mean, yeah, well if the motion is to approve, I want a yes vote. Yeah, I'm sorry. I am in favor of these two Secretaries being empowered to move forward and preserve the eMarketplace that we have. And I think, as I say, playing with fire if you are adjusting this kind of information as you are moving forward I think is a huge error. And yes, there are some questions about the compensation. I have no problem with the State providing the information to the Treasurer and the Lieutenant Governor as to what --

TREASURER KOPP: I thought it was --

LIEUTENANT GOVERNOR RUTHERFORD: No, it's the vendor.

COMPTROLLER FRANCHOT: -- what they are exactly. But the idea of holding up billions, jeopardizing possibly a marketplace where billions of dollars of State and local, I take it, county and municipal contracts are thrown into disarray, I just think is irresponsible given the testimony of the two Secretaries.

Now our procurement advisor is a commendable, very talented person. But your expertise is not in software, I take it and eMarketplaces. And we're getting a very clear somewhat sotto voce warning here that this is not good. And you know, it's all sugarcoated with this could cause headaches, or gee, we hope there's not a catastrophic failure. But why do it? And given the scale of what could occur?

LIEUTENANT GOVERNOR RUTHERFORD: Well I think there are a couple of ways we could take it. We could take the items, or separate part A from part B. That is an avenue. Or we can vote on them together or we can defer either one of the items. I'm inclined at this point to defer the A and B and so I will make a motion to defer both of them. My particular concern is, as I said, with part A. I'm a little concerned about part B. I know that, you know, there's the possibility of catastrophic failure on the part of, you know, some alternative and what we have to do. And I know we do procure billions of dollars in goods

and services. I don't think the world comes to an end. But I guess we have people that want to speak.

COMPTROLLER FRANCHOT: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: Did we have people sign up?

SECRETARY MCDONALD: No we didn't have anybody signed up.

LIEUTENANT GOVERNOR RUTHERFORD: Nobody signed up? Well we'll give you an opportunity to speak anyway. You can, introduce yourself.

MR. UTLEY: I'm CEO of Periscope Holdings.

COMPTROLLER FRANCHOT: Oh.

LIEUTENANT GOVERNOR RUTHERFORD: So my name is Brian Utley.

COMPTROLLER FRANCHOT: Great.

MR. UTLEY: Nice to see everybody here. Thank you for letting me speak.

What I want to say is this, is that we signed up for a contract so the contract expired after five years. And what happened was back in the old contract we developed the integration. It was done. The old administration under DoIT did not want to do the integration. So it was designed, it was built, we handed it

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over. So they decided not to go forward with the integration. And so what we did was we actually discounted how much we were charging the State over that five-year period. So we gave them a discount back. We said, listen, we built it, we did it, we delivered, but you don't want to take it. That's okay. And we'll give you a discount. So under the original five-year contract, we gave a discount.

What happened was is we came back with NIC and we talked to the original CIO that was here. And we talked about a program that was going to be very different for this State. So I've heard a lot about contract management in the room. And I've seen a lot of the contract management issues in the State. And I've been working with the State for a long time.

So this NIC work order was not just about an integration to the ADPICS system, which by the way we've done integrations to that in three other states, real time integrations. All right? And seen huge value from it. But there are also two other phases to that NIC agreement. One was building new stuff for GOMA. They had enhancements that they wanted. And we're like, great, we'll build these enhancements for you. There were some other things that the agencies wanted that were additions to the system, so we built that. So in addition there's roll out, there's training, we had project planning, we had all sorts of people at agencies that were there for project planning. I mean, it was, it was actually kind of, it was refreshing, it was fun. We were having a good time on the project.

This is underneath a contract that we thought we had agreed to. The way to pay for that was the one percent fee was going to pay. No longer was Periscope going to ask the State for money. We were actually going to roll out this statewide program, a co-op, a true co-op where you could get more spin on your contracts. You could give the system for free to the locals. The locals could use the system. There were so many benefits and we spent a ton of hours working on this. And actually the agencies spent a ton of hours. I mean, it was, it was going to be a great project.

So you had not just the integration, you had enhancements to the system, you had roll out, you had training, you had system expiration, and you also had what was called strategic sourcing.

So I've heard a lot about savings in here today. So we pulled all the numbers from the State on your statewide contracts. We've looked at them. We've codified them. We benchmarked them against other states. When we do this deal right here, you will get all that data. It will be your data, data you've never seen before. And we've projected over the next three years possibly \$750 million in savings because data you've never seen in this State, we got, we looked at, and we cleaned it.

Now we did all of this work underneath a contract that was signed between us and DoIT.

TREASURER KOPP: Did we see that contract?

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LIEUTENANT GOVERNOR RUTHERFORD: It's the NIC contract.

MR. UTLEY: It was the NIC work order.

LIEUTENANT GOVERNOR RUTHERFORD: The NIC --

MR. UTLEY: It was the NIC work order.

SECRETARY MCDONALD: The work order was not presented to the Board of Public Works.

TREASURER KOPP: No, we didn't.

LIEUTENANT GOVERNOR RUTHERFORD: So they weren't -
-

MR. UTLEY: But I don't, as a vendor, I don't, all I know is I'm underneath a contract.

LIEUTENANT GOVERNOR RUTHERFORD: I know. We understand that.

TREASURER KOPP: No, no, no. It was --

LIEUTENANT GOVERNOR RUTHERFORD: No, we're talking procedurally within the State.

MR. UTLEY: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: It's inside baseball.

TREASURER KOPP: The answer is no, we didn't, we never saw it.

LIEUTENANT GOVERNOR RUTHERFORD: No, it didn't come before the Board.

MR. UTLEY: And so I'm a vendor here. I just performed all this work. I hired local vendors to help us. I hired national vendors to help us. I've written the check. I mean, I've written the check to all these people that worked with us. And we were excited to do something for the State to save money. Somewhere in the process nobody wanted to do sharing of the transaction fee. And the way I look at sharing of the transaction fee is that is us investing in the State. That is Periscope writing a check to bring value to this State. And for some reason nobody wanted to do that and we canceled it. I don't know if it was the integration, the ADPICS, I don't know what it was. All I know was in March I got notification of cancellation of the contract under your own statute that says, if a vendor does work underneath a contract he is paid fair market value. The only way for me to identify fair market value on this contract is underneath the NIC work order rates.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. UTLEY: And under those rates we gave a detail of everybody's hours, detail, what they did, how much they worked on it. Now the value you are going to get as a State back, you're going to get EMM still running,

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but you're also going to get all the spend data. So all that data we did, we're going to hand it over to you. You get it, you get to look at it, you get to see it, and your procurement people can deal with it how they want to. If they feel like they can build better contracts, great. We're no longer going to help with that.

Now mind you, we also had set up an entire team to market your contracts to locals. So we had three people that were ready to market all your contracts to locals so people would buy off those contracts, the locals. Well the more the locals buy, the more savings you get. So we had basically staffed up this team to run an entire co-op program for the State.

The contract is canceled. Everybody says -- or suspended. So when that contract was suspended, we at that point had no contract by which to run EMM. Understand that. So I have insurance for all sorts of protections on cyber, you know, cyber attacks, everything. Because I don't have a contract, my insurance doesn't convey back to this. All right? So I'm keeping a system running with no protection and all the cost associated with it. But I'm doing that because I want to be a good partner to the State. And I know you can't have the system go away. At least four occasions we were like, we have to shut this system down because we're owed money, there is no contract, and I got no vehicle. Now let's approach -- so that's all the services, and no contract. Let's approach the \$150,000.

So you're sitting in a COLO here in Maryland that is a small business, minority owned small business.

COMPTROLLER FRANCHOT: A what? A COLO?

MR. UTLEY: Colocation, that's where the system resides. We have transferred all our products into an international solution that has cybersecurity, I mean, it's state of the art. We no longer reside in this facility because it's a lot more expensive, it doesn't, it's not up to the, you know, it's not in the SAS cloud solution. That's what we were moving you to. So we have to maintain that system in a different environment. We have to maintain a different support group because you still have to get upgrades for security patches and so we have to do that. We have to maintain a different testing group. So when you go down that path, the expenses just get higher and higher and higher.

So --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. UTLEY: -- I felt like we were working underneath a contract. That's the first part of it.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. UTLEY: And I can explain the other 150. Now we're still going to have I think close to 20 to 30 percent small business vendor participation in this contract, minority owned business participation going forward.

COMPTROLLER FRANCHOT: Okay. So let me ask what if despite my best efforts this contract is not approved today, or big parts of it are not approved, what are you going to do?

MR. UTLEY: It's got to go down. I've got no choice. I've got no protection and no security of a contract on a system. So literally I'm at risk. If that system is attacked, I have no security behind me in a contract that I can look at my, you know, the people that provide us insurance, the people that provide us everything. I've got, I've got nothing there. And I've done this for a long time.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, let me ask it in a different way. If the part B which is going forward is approved but part A is deferred to take a closer look at the previous charges, does that put you in the same situation?

MR. UTLEY: Same situation. It's all wrapped into one. I mean, I have a fiduciary responsibility to my company that we worked underneath a contract and we, and really from our standpoint it's all rolled into one.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. UTLEY: I know it's presented as two --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. UTLEY: -- but in our viewpoint, it's presented as one. It's really one and the same. What is it we get paid for our work, and what do we get paid moving forward? And, you know, from my standpoint I'd have rather gone

than with the original way we contracted this with NIC. But it's not going to work that way. So this is, I mean, this is, those two protect us both ways. We have to have them both. It's not one or the other.

LIEUTENANT GOVERNOR RUTHERFORD: Well but there really isn't, there's not a dispute with regard to A that you should be paid. There's just a question of are the, can we justify the charges, can everyone justify those charges? There's no question that you're going to be paid for services. There's just a question of the amount, if it's this number, if it's something different. So it's not like we're saying forget what you've already done, you're not going to be paid. You will be paid. It's just a question of whether we can get it justified to the point that our procurement advisor feels as well as the detail in terms of our different departments feel comfortable with it. Now, so that's, that's why, you know --

MR. UTLEY: Yeah, I mean --

LIEUTENANT GOVERNOR RUTHERFORD: -- it's presented separate and that's where I make that distinction too.

MR. UTLEY: So where we sit is is we have held on long enough not to get paid under a contract. And we also have held on long enough with no contract in running the system. So in our viewpoint they are both joined. We cut a deal on the 150 based on the 3.7. So --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

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MR. UTLEY: -- there was a deal cut that was basically joined together. And I think, I don't know how it's not justified. We gave the State, you know, the rates and the detail behind the rates in April. I mean, it's fully justified. And we're going to turn over every piece of work product and we've said that from the very beginning. You own it all. We, you know, you'll get strategic sourcing data, you'll get everything. I mean, we, you know, we've justified the best we can. We didn't originally think this was how this contract was going to be done.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Mr. Secretary, are you satisfied with the nine-month charge?

MR. LEAHY: Well as I said, Mr. Governor, it is consistent with the NIC rate table and although the Treasurer does raise points about how people typically do business, from negotiating with Periscope, their business practices seem to be a team effort and there may be people involved that might not be as other people did their business. But again, we don't have the ability to see inside their heads and say whether their business process is appropriate or not. We can only look, as you've said, to see if it's reasonable. And I rely on the rate charts that those rates were in place and for similar services by similar people. We paid those under the NIC contract. So I don't see how we differentiate them. Yes, sir?

COMPTROLLER FRANCHOT: Can I ask a question?

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

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COMPTROLLER FRANCHOT: And do you think that the possible savings are within a country mile of \$750 million over three years? I know that's probably partly sales pitch but that's a lot of money and a lot of contracts. So help me understand --

MR. LEAHY: I would have to look to the folks at DGS. Because they are dealing with the contracts daily. The software side is a bit more limited.

COMPTROLLER FRANCHOT: Oh, I see. Yeah, I'm sorry.

MR. CHURCHILL: As to the savings, we can't comment on the savings. Because as Mr. Utley has stated, they have the data.

COMPTROLLER FRANCHOT: Mm-hmm.

MR. CHURCHILL: And the data hasn't been shared. And so we would have to make an analysis of that. I can tell you that to date during the period of the contract, of course we generated from the State an administration fee of \$9 million. That's, so that's one percent of a total sale. When comparing to the forecast of Periscope, the natural question is how do we get to that number? And the only way to understand it is for the data to be shared and it hasn't been at this point.

COMPTROLLER FRANCHOT: Any other states you know have marketplaces where people fax things in?

MR. UTLEY: Most, I mean, most of the states, the eight states we deal in, they've moved all electronic, I mean completely electronic. That said,

there are some vendors out there that still do business on paper and so you have to invite them in. But I mean I would say it would be a huge risk moving to another system. I wish as CEO we had stayed on the NIC work order. I think that was the best for everybody. But I think at this point this is the best deal. And the reason we did two years instead of one, it will take the State at least that long, when I watch the process of procurement here, which includes BPW and everything, it will take the State at least that long if to replace the system or to continue forward, whatever that decision is. And so we wanted to make sure we did a two-year deal to cover the State for two years so it didn't, it didn't lose its system, if that makes sense. And so that was not us just saying that's the only thing we'll do. And that's the only thing I would maybe disagree with, is that that was really to get you guys down a path. So we have to, we have to make a decision today. I know you guys may just, your staff has been hearing about this a long time.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. UTLEY: But we have to as a company, we've got to make a decision. My risk is --

LIEUTENANT GOVERNOR RUTHERFORD: I understand. I understand.

MR. UTLEY: -- as far as I can go.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. And as, you know, my memory fades. But I think, you know, it was before you were, either one of you were in place --

TREASURER KOPP: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: -- about two years ago I think when the contract was coming to the end I was telling the previous Secretary that I wanted to see this, you know, rebid. That didn't happen for various reasons. The NIC contract, I think the previous DoIT Secretary thought it could be just utilizing an existing contract. So you have a motion to --

COMPTROLLER FRANCHOT: I would move to approve the contract.

SECRETARY MCDONALD: The item --

LIEUTENANT GOVERNOR RUTHERFORD: And that's both A and B?

COMPTROLLER FRANCHOT: A and B.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Second? I will second it with hesitation. But I will second it.

MR. UTLEY: Thank you. Thank you for your time.

LIEUTENANT GOVERNOR RUTHERFORD: So we'll vote two, your vote is --

SECRETARY MCDONALD: Two to one.

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TREASURER KOPP: I'm sorry. I do respect very much your work and the Secretaries and all the work that has been done. But I don't, I don't think the numbers have been justified. And thank you. I look forward to --

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I have concerns --

MR. UTLEY: Thank you for your time. I really --

TREASURER KOPP: -- in the future.

MR. UTLEY: Thank you. I appreciate your time. Thank you, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. All right. Very concerned, but two to one.

SECRETARY MCDONALD: Right. And then you need one through eight --

LIEUTENANT GOVERNOR RUTHERFORD: With reservations.

SECRETARY MCDONALD: -- on IT.

LIEUTENANT GOVERNOR RUTHERFORD: Yes. Do we have a motion for the remainder of --

COMPTROLLER FRANCHOT: Move approval.

LIEUTENANT GOVERNOR RUTHERFORD: Second on those other --

TREASURER KOPP: Second.

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LIEUTENANT GOVERNOR RUTHERFORD: Yes. Okay, thank you. Transportation.

MR. RAHN: Governor, Madam Treasurer, Mr. Comptroller, for the record, my name is Pete Rahn. I am the Secretary of the Maryland Department of Transportation. MDOT has 26 items for you today. All of them will be very lengthy --

(Laughter.)

MR. RAHN: But I would like to take just one moment if you would permit me as we have today the second academy class of procurement --

LIEUTENANT GOVERNOR RUTHERFORD: Oh, excellent.

MR. RAHN: -- for procurement here today. Can I get you all to stand up who are here?

LIEUTENANT GOVERNOR RUTHERFORD: Please stand up and be recognized.

SECRETARY MCDONALD: Yes.

(Applause.)

MR. RAHN: So we are attempting to continue to grow our own. And then also I would like to introduce our summer intern who has chosen procurement as the office he worked in. And Sam Biddle or Biddle, how is it?

COMPTROLLER FRANCHOT: Oh, wow.

SECRETARY MCDONALD: Nice job.

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LIEUTENANT GOVERNOR RUTHERFORD: All right. Great.

(Applause.)

LIEUTENANT GOVERNOR RUTHERFORD: You can have a bright future in procurement. They now call it supply chain management. Every time you hear these commercials about supply, that's procurement. So thank you. Now since you embarrassed the employees we should bring him up to embarrass him -- no.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Go ahead, Mr. Secretary.

MR. RAHN: I'm concerned that maybe after today they're going to choose another line of --

(Laughter.)

MR. RAHN: -- of work. So we are available to answer questions.

LIEUTENANT GOVERNOR RUTHERFORD: Madam Treasurer? Questions?

TREASURER KOPP: I have -- I'm just really curious. And after this last episode, this is nothing. But Item 9-M in the MTA. This is, I'm happy to see that after a competitive bid we're awarding a contract for \$250,000. The independent cost estimate was \$952,000. The reason it was \$952,000 compared to \$250,000, as I read what's said here, is because it was based on other instances

in which there were, it was a reduced, a very different size, scale, so it's more expensive, the smaller, the scale. And it was based on essentially emergency contracts, right? That just doesn't make sense to me, that you would take your comparisons based on emergency non-comparable contracts. Am I reading this correctly?

MR. RAHN: Yeah, I believe you are. And as I look at his, too, obviously with the bids we've got none of them are nearly anywhere close to that.

TREASURER KOPP: So it makes me wonder, then, about our estimates and when we --

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. RAHN: Well I think, as you can see through nearly all of our procurement, we're usually pretty close.

TREASURER KOPP: Yes.

MR. RAHN: We're usually pretty close. And so all I can say is we get a clinker every once in a while and I think this one was clearly a clinker.

TREASURER KOPP: Okay. So all right. But does somebody look when they come in and say, wait a minute, this is not at all comparable?

MR. RAHN: This is, this was done by procurement at MTA.

LIEUTENANT GOVERNOR RUTHERFORD: But you said there are some issues that have to be resolved over there?

MR. RAHN: Well in fact we've moved procurement from MTA into the Secretary's Office.

LIEUTENANT GOVERNOR RUTHERFORD: So Mr. Zimmerman now --

TREASURER KOPP: And this may be very atypical of MTA. I'm not saying that. But it just seemed so peculiar.

MR. RAHN: Yeah. It's a clinker.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

TREASURER KOPP: Thanks.

LIEUTENANT GOVERNOR RUTHERFORD: I had a question on the rolling stock. That's 4-AE. And it's really only, and we've seen these before where it comes up where you're asking for additional, that's 4-AE, additional funds under existing on call contract due additional work. So this is more, there's more work than what as anticipated at the time? Is that the reason?

MR. RAHN: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. It's not --

MR. RAHN: I can have --

LIEUTENANT GOVERNOR RUTHERFORD: -- major. But it just --

MR. RAHN: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: -- stands out when they have, that happens. And then on 17-E, the only reason I bring it up because it's \$400 million in rail cars. That's a whole lot of money.

MR. RAHN: It is a lot of money. And this is to replace every single rail car on our Metro system in Baltimore. The original estimate of need for this, I believe it was 93 cars, we've reduced it to 78.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, 93 to 78. And you're still below your estimate.

MR. RAHN: And we're still below. Because one of the reason the first number came out, it was based on what we were needing currently. And that number was being inflated because of the age of the cars and they were failing. So the estimate at the time, at the beginning of this was, well, we're going to have this many backups. Well obviously if we have a new fleet --

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. RAHN: -- we're not going to see the same failure rate and we're not going to need the same number of backup cars. And so we've gone in, we've pared this back. And this goes over a number of years. But it means we're going to frankly be doing the kind of work that WMATA should have been doing throughout its operational life. And we don't want to get to that point.

LIEUTENANT GOVERNOR RUTHERFORD: All right. WMATA is more extensive than the Metro, the Baltimore Metro.

MR. RAHN: There, there's, they are, they have, they have huge --

LIEUTENANT GOVERNOR RUTHERFORD: There's one line
in the --

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: We're not going
to get into that whole Red Line discussion.

MR. RAHN: Right.

LIEUTENANT GOVERNOR RUTHERFORD: But this is one
line compared to WMATA's Metro is a system.

MR. RAHN: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: And when we
talked about the Red Line in Baltimore it was one line, one additional line, that
didn't even connect to this line, didn't connect to the Light Rail, versus a system.
So that's the only thing I'll say about the Red Line boondoggle, to use a kind of --

COMPTROLLER FRANCHOT: Not me. I --

LIEUTENANT GOVERNOR RUTHERFORD: No. For you it's
air conditioners. For me it's when people squawk about the Red Line it's such a
boondoggle. It's --

COMPTROLLER FRANCHOT: I like the Red Line.

LIEUTENANT GOVERNOR RUTHERFORD: I think it --

COMPTROLLER FRANCHOT: For the record.

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LIEUTENANT GOVERNOR RUTHERFORD: I mean, if you're going to do the system, you do a system.

COMPTROLLER FRANCHOT: I like transit.

LIEUTENANT GOVERNOR RUTHERFORD: And I think in the 1950s they had a plan, or the early sixties, I like transit, too. I used to ride the Metro. I have my Metro card in my pocket, D.C. Metro card in my pocket. But it's a system. It's not a line that goes one place to another, that doesn't connect to the other systems that are there. It was a bad decision to put in one line that didn't connect to another one. You put in then a Light Rail that doesn't connect to the other system. And then they're going to put in a third line that doesn't connect to either one of those systems. It doesn't make sense.

MR. RAHN: And I certainly don't want to open up a whole new conversation at this late time --

LIEUTENANT GOVERNOR RUTHERFORD: You did. You did.

MR. RAHN: But, but I would say that that I don't believe the Board of Public Works would be happy with the result of the Red Line procurement as it was progressing. Because it would not have been \$2.9 billion, it would have been closer to \$5 billion. And it just, the costs were hugely underestimated for that line.

TREASURER KOPP: We'll never know.

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MR. RAHN: And I know there's politics well beyond facts. But I just want to say the facts are you would not have liked the results coming back constantly increasing that contract by hundreds of millions of dollars at a time.

COMPTROLLER FRANCHOT: So the Secretary has not made this the longest BPW meeting I have ever in ten years attended.

LIEUTENANT GOVERNOR RUTHERFORD: No, I did it.

COMPTROLLER FRANCHOT: Yes. No, Lieutenant Governor.

LIEUTENANT GOVERNOR RUTHERFORD: We spent a lot of time on the wetlands license right in the beginning, and then we went through the Program Open Space. Okay. Any other questions on the Transportation Agenda?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: We're all in favor.

SECRETARY MCDONALD: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.
Department of General Services?

MR. CHURCHILL: Well, good afternoon, Governor, Madam Treasurer, and Mr. Comptroller.

LIEUTENANT GOVERNOR RUTHERFORD: -- stay for it.

(Laughter.)

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MR. CHURCHILL: For the record, I'm Ellington Churchill, Secretary for General Services. The department has 39 items on our Agenda and we are withdrawing Items 5, 7, 9, and 13. We'll be glad to answer any questions you have at this time.

LIEUTENANT GOVERNOR RUTHERFORD: It's not a question. Things are going well I guess with the Enoch Pratt Library?

MR. CHURCHILL: Things are going well with the Enoch Pratt Library. And I will be happy to promote that in our annual report coming up.

LIEUTENANT GOVERNOR RUTHERFORD: Okay, because you have this modification. I also want to praise 4-AE as a small business reserve program for architectural and engineering. I'm glad to see that.

MR. CHURCHILL: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: As this goes along, hopefully you'll increase the value. This is a not to exceed \$500,000. There are small A&E firms that can do larger projects than that but I'm very pleased to see that.

I'm moving along quickly. I want to point out that I was very pleased to see the capital grant and loan for the Clarence Du Burns Memorial Fund, that that's being provided. The former Mayor, the first African American Mayor of Baltimore City. I'm glad to see that that is in one of our items.

And also one of my favorite organizations, Cornerstone Montgomery, the grant being provided to them. And I don't see Kerry -- oh, okay. I see Nicole back there. So good to see you and I'm glad to see that we're providing the funding for your program there.

Okay. Any questions?

COMPTROLLER FRANCHOT: If I could just also in that light so to speak compliment the grant to the Board of Directors of The Light House, a fabulous organization that does so much good in Anne Arundel County and frankly the State of Maryland. So I'm delighted to see those dollars being allocated there. Well deserved. That's Item 16-CGL on that, Governor.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. I like all the capital grants. I just pointed that one out in the name of Paul Giorgio. Okay. Any other questions on General Services?

COMPTROLLER FRANCHOT: Move approval.

LIEUTENANT GOVERNOR RUTHERFORD: And second?

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All in favor? Unless we want to continue and look back at everything.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

(Whereupon, at 2:05 p.m., the meeting was concluded.)

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