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

February 6, 2019
11:20 a.m.

PRESENT

HONORABLE LARRY HOGAN

Governor

HONORABLE NANCY KOPP

Treasurer

HONORABLE PETER FRANCHOT

Comptroller

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Secretary, Board of Public Works

ELLINGTON CHURCHILL

Secretary, Department of General Services

DAVID BRINKLEY

Secretary, Department of Budget and Management

PETE RAHN

Secretary, Department of Transportation

JEANNIE HADDAWAY-RICCIO

Secretary, Department of Natural Resources

MICHAEL LEAHY

Secretary, Department of Information Technology

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PROCEEDINGS

GOVERNOR HOGAN: Good morning, everyone.

ALL: Good morning.

GOVERNOR HOGAN: Welcome to the Board of Public Works.

Last week, I had the honor and the pleasure of administering the Oath of Office to the 33rd Comptroller of the State of Maryland, and so he's official now.

(Laughter.)

(Applause.)

GOVERNOR HOGAN: And I just want to say that throughout the past four years, Comptroller Franchot and Treasurer Kopp have both been valued colleagues and partners and we really have worked together to save Maryland taxpayers hundreds of millions of dollars by reforming our State's broken procurement process, as we created a system that is more fair, more transparent, and more accountable. And together we have done exactly what I think Marylanders want from their leaders, and that is work together in a bipartisan way to take on the big problems and to make things better for the people that we serve. And I think that's what we've, the three of us have done together for the past four years and I want to thank them for working together with us in a bipartisan way. And with that, I will turn it over to my colleagues for any opening remarks. Madam Treasurer?

TREASURER KOPP: Governor, thank you. As you know, you know, we don't always agree. And it's not always --

GOVERNOR HOGAN: I don't always agree with my wife.

(Laughter.)

TREASURER KOPP: Well I, in fact I --

GOVERNOR HOGAN: Sometimes I don't even agree with myself.

TREASURER KOPP: I was going to say, one is known to change one's mind from time to time. So you don't even agree with yourself. But I think the goal of working together in the interests of all the people of the State of Maryland in comity is a shared one. And I do appreciate the opportunity to say that. I sort of focus sometimes a little more on the process, make sure the process is consistent and applies to everyone equally. And sometimes that ends us up where I in terms of my political predilections would just as soon not be. But I think that's the role of this Board, to see that the procurement process is carried out consistently, equitably, according to law and legislative intent. And it's really that simple.

But in line with that, we often have the opportunity to draw attention to some items before us that raise other questions. And in light of that, either now or when we get to the items, I would point out that there are a couple under MDE that I believe raise issues of how this State and how the agencies

together again are working on adaptation and resiliency in the face of climate change. And I think that that issue really ought to be raised to a higher profile level than we have in the past.

So you'll notice I'll be asking questions about that. They are not antagonistic. They are not negative. They are to try to get us to work together to recognize reality and deal with that. And in recognition of climate change, I would like to take the opportunity to recognize the new leader of the Department of Natural Resources, our former colleague in the House of Delegates.

GOVERNOR HOGAN: Hey, you stole my thunder there but --

(Laughter.)

TREASURER KOPP: He left it --

GOVERNOR HOGAN: -- let me jump in there. I was going to wait until later. But our new Secretary of the Department of Natural Resources Jeannie Haddaway-Riccio.

(Applause.)

GOVERNOR HOGAN: While it's her first Board of Public Works meeting in this particular capacity, Jeannie has been doing a lot for the State of Maryland in both the legislative and executive branches for many, many years and the past four years has done an incredible job as our Deputy Chief of Staff. And we're just so excited to have you in this new position. Welcome, Jeannie.

But we're not going to cut you any slack when it comes time for your presentation

--

(Laughter.)

MS. HADDAWAY-RICCIO: That's okay.

GOVERNOR HOGAN: -- the first day. We all, you know, we're going to get right in there and still grill you with tough questions. But welcome aboard and congratulations.

MS. HADDAWAY-RICCIO: Thank you.

(Applause.)

GOVERNOR HOGAN: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor. And thank you again for being at the swearing in, and particularly for being gracious and solicitous to my dad, who was there. He's going to be 97 next month and he's sharp as a tack.

GOVERNOR HOGAN: He's my favorite Franchot.

COMPTROLLER FRANCHOT: Yeah.

(Laughter.)

COMPTROLLER FRANCHOT: He's a lot smarter than I am. But I was particularly obviously pleased to have him there. And I described the Governor as a breath of fresh air for the State of Maryland and talked about a lot of the procurement activity, etcetera. But I also had dad there frankly for a

secondary reason. I just wanted to remind people that I'm not term limited and he's going to be 97.

(Laughter.)

COMPTROLLER FRANCHOT: It's okay. So anyway, we have a fairly light Agenda today. I wanted to make a brief comment about yesterday's introduction of Senate Bill 703, which would strip my agency of alcohol, tobacco, and motor fuel regulation. I've been in this town long enough to have seen the good, the bad, and the ugly over the years. But this piece of legislation sponsored by Senator Ben Kramer sheds light on the very darkest motivations of the Annapolis machine.

This legislation if it were approved by the General Assembly and allowed to be enacted into law would dismantle a field enforcement division that has earned national acclaim, fabulous people in this division, who have received national acclaim for successful efforts to regulate alcohol, combat cigarette smuggling, and protect consumers at the gas pump. It would compromise our ability to enforce the tax laws of our State and strip us of the very men and women who are fighting tax fraud and identity theft on the front lines. And once they are out of my agency, we are not allowed to communicate anything by federal law on tax issues to the people that enforce the tax laws. Okay. And it would create an entirely new agency of State government that doesn't need to exist and for which there has not been a single reason or justification anywhere

presented as to why they should be taken out of the agency. But it will hose the taxpayers of tens of millions of dollars of lower enforcement, lower regulatory effectiveness, and of course the cost of starting a whole new agency.

If legislators cave into pressure from leadership, which is where this comes from, I'm told that it's all from the very, very, very top, they cave in to pressure from leadership, the winners here are the corporate beer cartels, cigarette smugglers, fraudulent tax preparers, and others who do not have our State's best interests in mind. The losers will be consumers, small businesses, and the taxpayers of Maryland. All of this apparently comes back to my work to reform Maryland's terrible craft beer laws and to work with Governor Hogan to build an economy where innovation and entrepreneurship are truly valued.

Ultimately, this is not a battle of personalities, as some would have you believe. This is about the type of State that we want to become. Are we going to stand up for the public interest, or carry water as this bill will for the special interests? Do we wish to be a State that is known for nurturing and growing its local community based businesses? Or one that does the bidding of corporate monopolies like Budweiser and MillerCoors? And ultimately, is Maryland a State that cares more about winning the future or about holding on desperately to the past? That's what this is ultimately about. It's a conversation I look forward to leading in the weeks to come.

And I want to thank the Governor and obviously the Treasurer. We all serve on this very important body and it's an honor to be with you, too. Sorry to bring up a dischordant note but welcome to Annapolis.

GOVERNOR HOGAN: Well let me -- I wasn't going to comment on this one. But it does appear to be a petty, politically motivated personal attack against the Comptroller. I don't know the motivation behind it. But perhaps it's because he's the most bipartisan and most popular elected Democrat in the State. I'm not sure. But it's not the first time we've seen this kind of thing. There have been multiple pieces of legislation to take away the powers of this Board, all of the fiscal leaders of the State, and give it to an unelected group of lobbyists who make decisions behind closed doors. And believe it or not, the media doesn't write about this much, you've heard about a few other states where a Republican legislature has tried to take two or three powers away from a Democratic governor and it was the lead story on CNN or the *New York Times*. This legislature has introduced 99 pieces of legislation to take powers away from me as Governor. So welcome to the club.

(Laughter.)

COMPTROLLER FRANCHOT: I feel better already.

GOVERNOR HOGAN: I'm not sure what kind of problem they are trying to solve but it goes to the heart of what I've been talking about for a long time. That we ought to try to put aside the petty partisanship and forget

about the party labels and just try to come together and work for the good of the people that elected us and sent us down here to work for them.

COMPTROLLER FRANCHOT: Exactly. Thank you, Governor.

GOVERNOR HOGAN: With that, let's get started with the --

TREASURER KOPP: Governor, could I -- obviously we can't leave it just like that. And I don't have scripts --

GOVERNOR HOGAN: Was it not 99? Did I leave out a couple?

(Laughter.)

TREASURER KOPP: No. I wish I did have scripts to read. It would probably be better than my --

GOVERNOR HOGAN: I just scribbled all this down. I didn't have a script.

TREASURER KOPP: I can see. But obviously the spirit of Kumbaya lasted maybe 75 seconds. Let me just say that I don't know the ins and outs of all these issues and I don't try to ascribe motivation to people who put in legislation or to people who oppose legislation, as you know.

Most, in terms of the gendarmerie that enforce the laws, in most states that's not the Comptroller's Office. It's the law enforcement office. So to look at that is not a very strange, unusual, or bizarre thing. And I don't think calling people's motives into question really helps the discussion. The discussion should be what is the best and most efficient, fairest, and most transparent way of

administering both the taxation aspects and the law enforcement aspects of that particular office. And I wouldn't know, but I presume that this will come out in public hearings.

And in terms of reorganization, every, every legislature and every gubernatorial administration has looked at reorganizations, going back to Marvin Mandel reorganizing our present system, creation of the Department of Transportation, even Governor Hogan, you have reorganized procurement and any number of things, and we hope for the better in all of these cases. But to ascribe motivations, to call it partisan, to talk about, you know, the darkest of motivations of the Annapolis machine, I think does no one any credit. And I would hope that we would be able to use the sort of normal, civil discourse that we want used in our communities and in our families, and not sink to the level of what's going on in --

COMPTROLLER FRANCHOT: Yeah, I forgot to mention, Madam Treasurer, the 50 law enforcement officials who are involved in this, the disruption to their lives being used like --

TREASURER KOPP: Yes, unless they move to a different department.

COMPTROLLER FRANCHOT: -- being used like pawns in this petty battle. And I'm happy to send you the personal attacks and personal comments. Most of them can't be printed, although I saw them in the newspaper.

TREASURER KOPP: Yes.

COMPTROLLER FRANCHOT: And it's, you know, this is not, this is a move that has not one scintilla of any testimony about the deficiencies of the enforcement office of the Comptroller's Office. Not one. Not one single statement. And at every, you know, I'm sorry that you don't know the ins and outs of this, Madam Treasurer. But this is a serious question for the, in my view, the future of the State. I happen to be a reformer. I'm not going to shut up. I continue to be an advocate for not only change but improvement. But --

TREASURER KOPP: Good.

COMPTROLLER FRANCHOT: -- I'm also in favor of tough, fair regulation. And this kind of petty retaliation against me which has been, you know, cooked up downstairs, really puts the worst foot of the State forward. And I love people that protect the status quo forever. But that's not what I'm about. And we're going to have a conversation about what the future of the State really is. And I'm happy to send you all sorts of catch up information on this issue --

GOVERNOR HOGAN: That --

TREASURER KOPP: I was simply asking --

COMPTROLLER FRANCHOT: I see Mr. Bereano falling asleep there, but I --

TREASURER KOPP: No he's --

GOVERNOR HOGAN: Somebody nudge him.

TREASURER KOPP: -- smiling --

(Laughter.)

COMPTROLLER FRANCHOT: Yeah.

GOVERNOR HOGAN: Let's, we all have differences of opinion.

But let's continue to --

TREASURER KOPP: Incivility.

GOVERNOR HOGAN: -- discuss then in a civil way, as I've always tried to do. Welcome to the club, Mr. Comptroller.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: That's one. Ninety-nine bills to take the power away, ninety-nine --

(Laughter.)

GOVERNOR HOGAN: -- take one down, pass it around --

(Laughter.)

GOVERNOR HOGAN: -- 98 bills to take my power away.

(Laughter.)

GOVERNOR HOGAN: Okay.

COMPTROLLER FRANCHOT: It's brewery month today, also.

(Laughter.)

GOVERNOR HOGAN: FeBREWary.

COMPTROLLER FRANCHOT: FeBREWary.

GOVERNOR HOGAN: Pass it around. All right. Okay. Let's get started with the Secretary's Agenda.

SECRETARY MCDONALD: Good morning, Governor. Happy February, Madam Treasurer, Mr. Comptroller. This morning on the Secretary's Agenda, we have ten items. We also have four reports of emergency procurements. Item 10 is a wetland license, to which opponents have requested to address the Board. We're happy for your questions on any of the items.

GOVERNOR HOGAN: I'd like to address Item 4, please.

SECRETARY MCDONALD: Item 4, absolutely, is the Housing and Community Development Department. It is --

GOVERNOR HOGAN: A4.

SECRETARY MCDONALD: Oh, A4. Oh, I'm sorry.

GOVERNOR HOGAN: I'm sorry.

SECRETARY MCDONALD: Yes, that's the Appendix. That is the emergency report. Ms. Linda Lamone, the State Board of Elections Director is here. She has a report of a procurement contract that took place last fall.

GOVERNOR HOGAN: Good morning.

MS. LAMONE: Good morning. Linda Lamone, State Administrator; Nikki Charlson, Deputy State Administrator --

GOVERNOR HOGAN: Good morning.

MS. LAMONE: -- hiding behind me.

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GOVERNOR HOGAN: Good morning. So as I understand it, this item is an emergency contract to hire a consultant to assist the State Board of Elections to handle the migrating of sensitive elections systems data to a new data center. Is that correct?

MS. LAMONE: It is.

GOVERNOR HOGAN: And this follows the FBI informing the Board that the previous contractor's ownership had ties to a Russian oligarch. Needless to say, all of us were alarmed and concerned that this was able to occur. And I along with President Miller and Speaker Busch wrote to the U.S. Secretary of the Department of Homeland Security to look into this issue at the Board of Elections. Thankfully, the National Cybersecurity Communications Integration Center found after studying it that there were no successful intrusions into our elections systems. And I understand that the company in question was now sold to a Virginia firm --

MS. LAMONE: Correct.

GOVERNOR HOGAN: -- prior to the State Board migrating the systems to another vendor.

MS. LAMONE: Correct.

GOVERNOR HOGAN: Can you tell us, just give us a little update, on the current status of the work under this contract?

MS. LAMONE: Well the -- I can never remember the name of the company. Intelishift is the new owner and we asked our federal partners to look into the company's structure and finances and we got through the Department of Homeland Security, in dealing with your Department of Homeland Security, a report that all is well with the new owner. So that's very good. Thank you.

And so we had hired Cybraics, the company that you are referring to, the emergency contractor, initially to help us develop a plan to migrate the data center to somewhere else. The experts at Cybraics determined that that was not possible to do before the election because of all the different systems that are housed at the data center. And so we developed a plan to do the migration right after the election. However, then we found out that ByteGrid was going to sell its entire interest to Intelishift. And so we halted that process. And with the approval of the Secretary of Information Technology's experts, we then exercised the last year of the contract with the data center. So, we will be in the process this year of doing a procurement for a new data center or a data center beginning January 1, 2020.

GOVERNOR HOGAN: Okay. And you know, I think we and others have expressed concern about how this occurred and how we're going to avoid something like this in the future, not just in your agency, but any thoughts on how we can keep this from happening?

MS. LAMONE: Well as I understand it the -- well the master contract had the Sidus Group on it and they originally were owned by some people from Anne Arundel County. And apparently, the Secretary and I have talked about this, there is no current requirement that the people that are on the master contract tell the control agency of a sale like happened here. And if the FBI hadn't been investigating it, we probably would never have known about it. Fortunately, with all of the monitoring that's been going on from our federal partners as well as our private contractor, there has been no evidence whatsoever of any wrongdoing at the datacenter. So, knock on wood, that worked out well.

GOVERNOR HOGAN: Great. While I have you here on a sort of somewhat unrelated topic, we had the problems that so many voters experienced across the State in November, but particularly Prince George's County on Election Day. And back in November you were here before this Board and I don't believe I was at the meeting but you were asked some questions about these problems and you said that you were looking into the matter.

MS. LAMONE: Right.

GOVERNOR HOGAN: It's now been several months. Have you had the opportunity to look into this yet? And can you explain, you know, what happened with the running out of ballots and the problems with people waiting in line and what exactly took place with some of these local boards of elections, particularly in Prince George's County?

MS. LAMONE: Well the investigation that we did showed in fact that 24 of the counties, 242 precincts ran out of ballots before the polls closed.

GOVERNOR HOGAN: Do you know why?

MS. LAMONE: She didn't send all of the ballots out. She had printed ballots that she held back and --

GOVERNOR HOGAN: And do we know why? Or are we doing something about it?

MS. LAMONE: Well yeah, we are. It's not going to happen again. We're going to work with -- and the interesting thing about over there was the, as you probably read nationally, the voter turnout for this election in a lot of jurisdictions was higher than even the last Presidential General Election.

GOVERNOR HOGAN: Yeah, but everybody knew that was going to happen and we predicted it so we should have been prepared.

MS. LAMONE: Yeah, but it was a significant difference, Governor. And I agree. She should have been prepared. But we're working with her to make sure that the ballots that she does print are in fact all allocated out to the polling places. We're developing ways to track ballot uses during voting so that we have a better idea.

One of the things we're limited by is a lack of communication directly with the precincts. We don't have that ability right now. We're working on trying to get that so we can have a sense of what's going on without having to

rely on the press which, you know, we appreciate the reporters, although they tend to over exaggerate sometimes, or the local election directors. And for the most part, they don't know unless they are getting regular communication from the polling places. So we're working on trying to establish that better line of communication. Because as we all know, the next election is going to be wild and furious with the voter turnout.

And then we think that the local boards, especially the ones in the urban area where there are traffic issues. Here it happened during rush hour and it was raining. She had a hard time deploying the people to get more ballots out to the polling places. So we're thinking in more urban areas of having regional centers where we can have people, supplies, and so forth, available to more quickly deploy them to the precincts.

GOVERNOR HOGAN: And then I guess perhaps somewhat related to that, a decision was made to not release any information on the results for hours.

MS. LAMONE: That's correct. Two hours.

GOVERNOR HOGAN: That caused a lot of consternation from, we got complaints from nearly every single county, and from 100 different candidates for office. I know in my particular case, not that it matters personally, but every national network declared me the winner like somewhere around 8:00. And yet we didn't get a single result from the State Board of Elections until

several hours, two to three hours later. So we were unable to, you know, go down and have a victory party and most people left by then. But there were other people that were like, what the hell? Where's the numbers? And there's, we just, who made the decision not to make any announcements and why?

MS. LAMONE: I did.

GOVERNOR HOGAN: And what was the reason for that?

MS. LAMONE: Because people were still voting.

GOVERNOR HOGAN: But only in Prince George's County?

MS. LAMONE: No, that's not so.

GOVERNOR HOGAN: Okay.

MS. LAMONE: There were other places. There was --

GOVERNOR HOGAN: I mean there were --

MS. LAMONE: -- in Montgomery County, and --

GOVERNOR HOGAN: But you were, were you holding up results everywhere --

MS. LAMONE: Yes --

GOVERNOR HOGAN: -- or just in that county?

MS. LAMONE: -- I did. I held them up statewide.

GOVERNOR HOGAN: For all the races?

MS. LAMONE: Mm-hmm.

GOVERNOR HOGAN: Because there were attorneys calling from every county saying why are you holding up our numbers because somebody is waiting in line in a precinct from Prince George's County? And there were lawyers saying that wasn't, the rules did not call for that. It was just a decision you arbitrarily made? Or is there some justification for that?

MS. LAMONE: That's the tradition in the elections community across the country, is you don't release results --

GOVERNOR HOGAN: Even if, even if those votes in Prince George's didn't have any impact on Baltimore County or Allegany County? You still aren't giving out numbers?

MS. LAMONE: Well they could. They were still voting for the statewide races.

GOVERNOR HOGAN: But, but you didn't release the local races, either?

MS. LAMONE: I did not.

GOVERNOR HOGAN: And why?

MS. LAMONE: Because people were still voting. Not just in Prince George's County. They were still voting in Montgomery County, Charles County, Baltimore County, and I think a couple of other places.

GOVERNOR HOGAN: Wow.

TREASURER KOPP: Is it that you can't separate out the local races --

MS. LAMONE: No, you don't. It's a single data --

GOVERNOR HOGAN: It has to all go together?

MS. LAMONE: It does.

GOVERNOR HOGAN: Okay. All right. I don't have any more questions.

COMPTROLLER FRANCHOT: Can I just ask why were people still voting in the other counties?

MS. LAMONE: Well --

COMPTROLLER FRANCHOT: They didn't have enough ballots either?

MS. LAMONE: No. It was a different situation. For example, there is a polling place at Towson University and this just shows you the problems of doing that. Because in a university setting, most of the students aren't registered to vote there. But the one precinct that I looked into, the one at Towson, they only had 69 regular ballots cast on Election Day but they had over 629 provisional ballots cast. So you had legitimate voters who were registered to vote and supposed to vote at that polling place caught up with all of these students that went there to vote that weren't registered there and had to go through the provisional ballot process. And so you had people still voting at 9:33 but they

were, they couldn't get checked in because the people in front of them were part of the provision ballot backlog. And so --

GOVERNOR HOGAN: So --

MS. LAMONE: -- I don't know what we do about it because the students are entitled to try to vote there under federal law.

GOVERNOR HOGAN: So if one person in Prince George's County makes a stupid mistake and forgets to send out the ballots, or somebody doesn't handle the provisional ballots properly at the student union in College Park, millions of voters all across the State in every precinct in all 24 jurisdictions are going to be held up for three hours?

MS. LAMONE: Well it wasn't --

GOVERNOR HOGAN: That doesn't make any sense. I mean, I get saying you're not going to decide the gubernatorial election or the Comptroller's election because you don't want to impact how people vote. But how does that impact the Allegany County commissioner vote, or the delegate on the Eastern Shore?

MS. LAMONE: Because it's one voting results database. I can't just pick and choose.

GOVERNOR HOGAN: Okay. I think people are going to want to look into this a little further. Because, you know, how, we can't have Prince

George's County making mistakes like that in the future. And you're going to have to take some responsibility to hold them accountable.

MS. LAMONE: I --

GOVERNOR HOGAN: You know, you're just like, oh well, they messed up.

MS. LAMONE: Well they did.

GOVERNOR HOGAN: And they can't do it in the future.

MS. LAMONE: Well I can tell them what to do all I want to, and they don't have to do it. I have no control over them.

GOVERNOR HOGAN: Well we don't have any control over you, and you don't have any control over them. We just kind of wing it.

COMPTROLLER FRANCHOT: No, I just, I just want to comment, Madam Administrator, that every election there seems to be something like this. The time when the Baltimore County polls only had one scanning machine, and the lines were easily to get in and vote but then you had to wait for hours to get to the one scanning machine. And so it just seems every time, every four years there's something that goes on and maybe you could get on top of these different delays. Because I agree, what the Governor left out was it was a black eye for Maryland around the country.

GOVERNOR HOGAN: Yeah, they were making fun of us on national television about how bad the Maryland election was being administered. And you are the Maryland State Board of Election Administrator.

MS. LAMONE: Indeed I am.

COMPTROLLER FRANCHOT: I have a different, I wanted to return to Section A4, the issue the Governor brought up. Last week, the Director of National Intelligence of the United States of America Dan Coats issued a dire warning that Russia and other foreign actors continue as we speak to plot new techniques to influence the upcoming 2020 Presidential elections. And he asked that all levels of government work together and exercise due diligence to maintain the integrity of our elections and democratic process. So I just wanted to ask Administrator Lamone, has our sensitive election data that was given to this company Sidus Group that was owned in large part by a Russian oligarch with close ties to Vladimir Putin, was that data actually moved from Sidus Group? Or my understanding is the testimony was that the sensitive election data that we had given them had been moved to this new company. But --

MS. LAMONE: No. It's the, it was the same physical --

COMPTROLLER FRANCHOT: It's the same company. The same employees. The same --

MS. LAMONE: No. No.

COMPTROLLER FRANCHOT: -- everything.

MS. LAMONE: It's not the same.

COMPTROLLER FRANCHOT: No?

MS. LAMONE: It's the same data center. It's a physical location where they have servers and cages and stuff like that.

COMPTROLLER FRANCHOT: Well my information is that election data was never actually moved after the sale --

MS. LAMONE: No it never --

COMPTROLLER FRANCHOT: -- to a Virginia based company. So how do we know that it has not been compromised recently?

MS. LAMONE: Because it's being monitored 24/7.

COMPTROLLER FRANCHOT: By whom?

MS. LAMONE: Cybraics.

COMPTROLLER FRANCHOT: By who?

MS. LAMONE: It's a company called Cybraics that we've used for a number of years to, and also the Department of Homeland Security has a presence out there as well.

COMPTROLLER FRANCHOT: Okay. So and there aren't any red flags that they have, or the FBI communicated to us?

MS. LAMONE: None. None.

COMPTROLLER FRANCHOT: Okay. Governor, following up on your testimony I would like to request that the staff of the Board of Public

works begin a process of drafting regulations with new mandatory language for State Board of Elections contracts requiring vendors to notify the Board of Public Works and the State Board of Elections at least 30 days before said companies are sold to a foreign entity. This regulatory change I think follows the logic of your questioning, but I think it also reflects the current relentless efforts by Russia to exert their influence in our political process. And I hope that any Russian linked firm in the future, or frankly for any procurement, would somehow be identified to us, be it in a master contract or not. Because these folks are using our own system to disrupt us. Not for good intentions, obviously. So I would move that, Governor, that our staff prepare something for us to look at down the road that would prevent future issues like this from existing.

TREASURER KOPP: Not just Russia.

COMPTROLLER FRANCHOT: Not just Russia, every, yeah --

GOVERNOR HOGAN: Yeah. I actually would go along with that idea and I think maybe even broaden it. I think we should work with the staff to take a look at when we're transferring ownership to any foreign entity on any procurement contract, we ought to be notified. Not just Board of Elections. Because there are other sensitive --

COMPTROLLER FRANCHOT: I agree with you.

GOVERNOR HOGAN: -- data contracts --

TREASURER KOPP: Yes.

GOVERNOR HOGAN: -- or through many of our agencies that --

MR. LEAHY: And Mr. Governor --

GOVERNOR HOGAN: -- if somebody, what happened here was an Annapolis based company originally, you know, sold partial interest to a Russian, somebody that a company that was owned by, you know, a Russian oligarch.

MS. LAMONE: Yes.

GOVERNOR HOGAN: You know, it was several steps removed.

MR. LEAHY: Right.

GOVERNOR HOGAN: But somehow there has to be a notification of that.

MR. LEAHY: And --

GOVERNOR HOGAN: And it's not that easy but I think our staff needs to study it together with our procurement task force, with BPW staff, with our administration, with DoIT, and DBM, and so why don't we --

COMPTROLLER FRANCHOT: Sure.

GOVERNOR HOGAN: -- why don't we just --

COMPTROLLER FRANCHOT: I'm happy to broaden it.

GOVERNOR HOGAN: -- agree that we'll broaden this, have all of our groups sit down and work on it and try to come back with a report to this Board about recommendations. Is that --

COMPTROLLER FRANCHOT: Yes. I don't whether that's an action item --

GOVERNOR HOGAN: So that, that's a long motion but you get the gist of it. And it's --

SECRETARY MCDONALD: Yeah. It's instructions --

GOVERNOR HOGAN: It was --

SECRETARY MCDONALD: -- we will --

GOVERNOR HOGAN: -- motion was seconded and passed unanimously, three-nothing.

TREASURER KOPP: Could I suggest that during this, you may not, that you also bring in consultation from the Legislature because it may require a legal change.

GOVERNOR HOGAN: Sure. Yes.

SECRETARY MCDONALD: Well yes. I think what --

GOVERNOR HOGAN: And from the Attorney General's Office.

TREASURER KOPP: Yeah.

SECRETARY MCDONALD: -- that would be going through --

TREASURER KOPP: Yeah.

GOVERNOR HOGAN: Yes.

SECRETARY MCDONALD: -- if there was a proposal.

TREASURER KOPP: But before that step.

SECRETARY MCDONALD: Absolutely.

GOVERNOR HOGAN: Sounds good. And then -- is that all on this topic? Thank you.

(Laughter.)

GOVERNOR HOGAN: And we have folks --

TREASURER KOPP: Well no, I did have another question. Is it --

GOVERNOR HOGAN: Oh, not so fast.

TREASURER KOPP: -- Linda, it's simply technologically impossible to separate out local races from statewide races and results?

MS. LAMONE: Yes.

TREASURER KOPP: And --

MS. LAMONE: Well it's just not possible with the current software. We certainly can look at it for the future to see --

GOVERNOR HOGAN: I think we ought to think about looking at it. Because if one person in one precinct screws something up, and you have to hold because there is a big line of people, they ran out of ballots, they don't have provisionals, they have something, the machine is malfunctioning, they don't have the scanners, millions of people are inconvenienced and nobody gets any results and, you know, it doesn't make sense. We've got to figure out a way to fix that.

MS. LAMONE: I agree.

GOVERNOR HOGAN: Okay. Thank you.

MS. LAMONE: Thank you.

GOVERNOR HOGAN: We have some folks signed up to speak on Item 10. I think we'll have our Wetlands Administrator Bill Morgante present the item and explain it to us, and then we'll allow the parties to come up who are wishing to comment.

COMPTROLLER FRANCHOT: Can I just interrupt for one minute, Governor? These, this box of Altoids was very valuable during my swearing in because I had, we had our three-year-old granddaughter on stage and she was about to engage in typical three-year-old behavior, which would have been very disruptive. So I suggested to her mother, give her an Altoid. And it proved to be unbelievable. And my daughter said to me, how did you get into Altoids? I said when I was first elected Comptroller I had to go as part of the office to the funeral of a very high ranking Marylander who passed away. And I was sitting on the row on the edge of the row there and I fell asleep during the service. Not very good. Bruce Bereano brought me over these Altoids. I see, I'm going to give --

GOVERNOR HOGAN: You might want --

COMPTROLLER FRANCHOT: -- I'm sending this up to Bruce right now.

(Laughter.)

TREASURER KOPP: He's got his own.

MR. BEREANO: -- have my Altoids.

(Laughter.)

GOVERNOR HOGAN: -- pop a few.

COMPTROLLER FRANCHOT: Yeah.

MR. MORGANTE: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Bill Morgante, Wetlands Administrator for the Board. Before us today is a wetlands item for the South Annapolis Yacht Center.

This project would configure an existing commercial marina on Spa Creek here in Annapolis. And the activities that are proposed as part of this project are removing bulkheads, removing boathouses in the existing marina, and putting in, constructing new bulkheads, a boathouse, a new marina, and also doing dredging.

MDE submitted a favorable report and recommendation to the Board in which I concur. The report and recommendation was distributed to the interested persons and posted on the Board's website. Three comments were received, two from adjacent Newport Condominium Association residents and one from another neighbor. These concerns included three things. First, whether the applicant had clear title to fastland or uplands that were created behind the eastern bulkhead part of the project. Second, whether discrepancies that showed up on the plans of the mooring piles at the eastern bulkhead might potentially

authorize activities beyond those allowed by the Port Wardens' 2018 decision, the Board of Port Wardens being the regulatory board for matters of waterways in Annapolis. And the last concern, whether to install shorter piers that would limit the pier extensions into Spa Creek.

When I requested the commenters and the applicant meet to try to reconcile differences, I was told by both sides actually that numerous meetings had already occurred and that there was no resolution. And just in response to the above three concerns I mentioned, concerning the shorter piers, this would not be an issue in terms of wetlands here because the shorter piers would actually create less of a wetland impact. And about the uplands that were created behind the bulkheads, the previous owner had clear title to the upland parcels and in 1972 was licensed to make improvements to that land. So the original parcels and their improvements were then transferred to the Yacht Center when they purchased the property in 2012. And regarding the mooring pile locations, MDE's R&R and the Board of Port Wardens' Order are in agreement on the boat slip layout. And the Port Wardens' offer specifically says in quotes, "replace in kind in their present location." So to clarify the importance of the requirement for in kind replacement, I recommend adding a special condition to the license that would include a stamped survey of the eastern bulkhead and the layout of the eight mooring piles in question. This would require the project to then reconstruct the features in kind and MDE concurs with the addition of this special condition.

I'm here to answer any questions you may have.

GOVERNOR HOGAN: Any questions?

COMPTROLLER FRANCHOT: Quick question. Did the square feet that needed to be dredged change from the initial public notice?

MR. MORGANTE: I'll defer to MDE on that.

COMPTROLLER FRANCHOT: No?

SECRETARY MCDONALD: You need to come to the dais. I think that's the 30,000 square feet that was advertised and then it turns out it's 43,000 square feet. But the explanation is that it is the same area that was always shown? The same dredging depth --

MR. MORGANTE: Yes I guess --

COMPTROLLER FRANCHOT: But it went from 30,000 --

GOVERNOR HOGAN: We didn't catch any of that.

SECRETARY MCDONALD: I know. Bill, you need to explain the 30,000 to 43,000.

MR. MORGANTE: So you know what? I think I would defer on MDE --

SECRETARY MCDONALD: All right. Well they need to come up to the --

MR. CURRY: Good morning. I'm Lee Curry with Maryland Department of the Environment. Good morning, Treasurer, Governor, and Comptroller.

GOVERNOR HOGAN: Good morning.

MR. CURRY: I'm going to defer to --

(Laughter.)

GOVERNOR HOGAN: Defer, defer --

MR. CURRY: -- I can answer any questions you may have on the project.

SECRETARY MCDONALD: Well then we need --

MR. CURRY: But I don't want to misspeak on something as technical as did the numbers change --

GOVERNOR HOGAN: Sure.

MR. CURRY: -- within this application.

SECRETARY MCDONALD: So then we need her up there.

MR. CURRY: So yes, Heather Hepburn on behalf of MDE can answer that question.

GOVERNOR HOGAN: Good morning.

MS. HEPBURN: Hello, I'm Heather Hepburn. I was the reviewer on this application. Between the public notice and the public hearing notice in the final report that MDE submitted, there was an increase in the square footage of

the dredging area. My understanding is that that was a miscalculation by the applicant. The square footage that was presented in the plan sheets has not changed. So those plan sheets were presented during the notice and the public hearing. So the footprint has remained the same. It was just a miscalculation.

GOVERNOR HOGAN: Okay.

MR. CURRY: Thank you.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: Thank you. All right. Now we're going to go to our list of speakers and we have two different groups. First of all, we have Ed Hartman, Gil Gildea, and Jonathan Hollander.

MR. HARTMAN: Good afternoon. Thank you for letting me speak. My name is Ed Hartman. I am here on behalf of all of those three.

GOVERNOR HOGAN: Okay.

MR. HARTMAN: It should make it a little quicker, I hope.

GOVERNOR HOGAN: Yes. Thank you.

MR. HARTMAN: And I will be quick. I am passing out in front of you, indirectly, a little folder. And I think it's important to understand a little bit about the history of the two properties that are adjacent. I represent the Newport Condominium property, which is directly to the east of the SAYC property. And first, allow me also to say that my clients are in favor of the SAYC project. They think it's a great thing that's going to happen. What they don't

want is for further encroachment of their riparian rights. My issues that I'm going to present today are not ones of discretion. They are ones of property rights, real property rights, which cannot be transferred by this or any other Board from my client to the applicant. And I can, what I have, if you would like in the right, just the right side of the folder, there are pictures, drawings, and I'm going to run through them quickly and explain why this application cannot be granted.

The very first picture says Developable Waterway Area. That is a picture of the shoreline dating basically from the last Ice Age until 1970. And that is the natural shoreline before anything happened. My clients' property is the one between those two arrows that goes down to the bottom. The applicants' property is the one off to the left. And this is before they were, either one was improved.

GOVERNOR HOGAN: I didn't even know they had surveys back in the Ice Age.

(Laughter.)

MR. HARTMAN: I remember, yes. And the interesting thing here is that the riparian rights of this property, my clients' property, the one that's dead center in this drawing, were established really when the earth was created. But they were defined specifically when this lot was created. And they go from the shoreline, straight out, towards the channel by law. Those are our riparian rights. They are real property rights that are conveyed and transferred and have actual

value and cannot be taken from us and cannot be transferred unless in writing, like a deed to land or an easement or something along those lines. But that has never happened, just so we're clear.

Now obviously things change. Annapolis grew up a little bit. I was, I grew up in Annapolis. I was a child, childish, when all this was going on. And the very next document you'll see is a license issued by this very Board. And I've just grabbed the first and last page, but you'll see this was one that allowed for Newport to build a bulkhead in front of its property, fill in behind it, and then they had to buy that land from the State. So they actually have clear title to that little piece of dirt in between the original shoreline and the bulkhead. And then that's what that License 71101 is.

You can put that aside and if you go to the very next drawing or survey you'll see what it looked like after Newport completed that construction. And you'll see on this drawing here that there is now in front of what used to be Newport's natural shoreline a bulkhead with land filled in. And Newport paid the State of Maryland and obtained a deed. It's recorded among the Land Records. We have clear, absolute title to that property because that's what was required.

At the same time our neighbor Mr. Petrini, who was predecessor to the applicant SAYC, did the same thing. He was about a year behind. And the very next document is his license issued by this Board. It's entitled 7296 to Edward J. Petrini. And I just grabbed the first and last page. If you look at the

second page you'll see on the left side of it that he was allowed to construct a similar concept, a bulkhead out into the water and fill behind it. That bulkhead was supposed to be an extension of the line, property line, between our two properties and go straight out directly from it.

And if you go to the very next drawing, you'll see that's what was supposed to have been built. This sort of red hatch marked area, that's what Mr. Petrini was authorized by this Board, some 47 or 48 years ago, to build. Unfortunately, that's not what he did build. The next drawing, which has a little orange area, is what he actually built. So he built out about six to eight feet in front of our somewhat small waterfront property and usurped our riparian rights, although actually he took property from the State. Because, as you know, the State owns the land underwater. They have to get a deed. And at that time pursuant to that license we looked at a few moments ago, Mr. Petrini was supposed to buy the property from the State that he was authorized to take. He never did that. I won't get into the title issues that were raised. They are a little more confusing. But this is a very simple concept. He was supposed to build a bulkhead that was a straight continuance from his property and the property line between our properties. And then he was supposed to buy this newly created land. He did neither. He built into our property, the waterfront area in front of our land, and he didn't even buy the property he was supposed to buy. So he has encroached onto the State property, which he is not authorized to do. There is no

adverse possession for State property. You can't acquire it by the passage of time. And he has never complied with the license that this honorable Board issued to him some 48 years ago.

Just so that you don't think this is my opinion, the very next document with the yellow on it is a survey. And you'll see at the southeastern corner of the property, instead of the line going straight as it should, it jags out to the right at about a 45-degree angle. This is the actual legal description of the deed by which SAYC acquired the property. It shows that their property line does not go straight in accordance with the license. It in fact jumps out into our property and takes away our riparian rights.

Now throughout we, SAYC and Newport fought for about a year in front of the Port Wardens of Annapolis and it was surreal in a sense to go to trial every month and fight back and forth. But there was great reliance by the applicant and to a degree by the Board on these very licenses that we're discussing, the 1971 and 1972 licenses declaring that they somehow establish the rights of the parties. But later, this is the next document, this Board issued another license to my client, and you will see the second to last page has a drawing on it which shows that you recognize that that entire basin in front of our property is ours because you told us we are the ones responsible to and paid for dredging it in 1990, some 20 years later after the other ones. And that is correct

and that is consistent. And that is the last license that was issued by this Board regarding either of these properties.

But now two more things about it. The bulkhead that is on the eastern side, that is the bulkhead of SAYC, which is essentially right next to our property and as I explained earlier is some 70 feet into our riparian rights, is crumbling and falling apart. And that's why SAYC wants to rebuild it. And we think that's great. But we don't think it should be on our backs. If you look at the last picture you will see, and you have to sort of turn it sideways so that the yellow is over on the right, the yellow hashed line, you can see that they are claiming rights that go right through the middle of our pier now. So they are not just six or seven feet into our riparian rights. Now they are going at a 45-degree angle directly across the middle of our existing pier and the boats that are tied to it. That little hash mark line over on the right side is what they have convinced the Port Wardens is the lateral line. Well there was no lateral line in 1970 when our riparian rights were established. Neither the Port Wardens nor this Board can take away our property rights, which are riparian in nature and come with ownership.

And so by approving this application, you do two things which you cannot do. You condone and approve the clear and obvious and indisputable violation of a 1971 permit by the applicant's predecessors, because they are on our property and they have taken your land without compensation. And now an

even more interesting thing, you because at the Port Wardens the testimony was pretty consistent they were going to put the bulkhead in exactly the same place, which is difficult to do. You either usually encapsulate it or go inside and then remove it. But at this, at the hearing, the public hearing before the Maryland Department of the Environment, they admitted that they were going to encapsulate it, which means they are going to go another two feet, or maybe 18 inches, into our property and taking our riparian rights. So you approve an illegal and unconstitutional taking without compensation and without due process that occurred in 1971 and is still occurring, and you approve a further taking by the additional two feet into our property by the encapsulation of the existing illegally constructed bulkhead.

These are the issues over which this Board does in fact have jurisdiction. You cannot, because you are not authorized to take property rights from my client without compensation and without substantive due process. This is procedural due process. But substantive due process goes to the heart of taking a property away.

And lastly, this Board has a little bit of a unique power that's different than the Annapolis Port Wardens. Whenever you do something like this in Annapolis you have to go before the Annapolis Port Wardens and you have to go before the Board of Public Works. The Annapolis Port Wardens had the authority taken away by the City Code many years ago, I believe my father was

involved in the process, that they can now only approve or deny the application. And that's always the way it's been because essentially nobody wants the Port Wardens designing their marina because it's an expensive complicated process and it's now about if you don't like it, you say no, we'll go back and try again. And that's the way it's always been.

Oddly enough the Port Wardens this time didn't do that. They conditionally approved it and they changed the area that affects my client. They told them not to change it. Well, I don't even know what that means. I don't know how you can rebuild it and not change it. But what this Board does have the power to do is you can modify the application. The Code is clear that you are allowed to actually change the application or require that they change it to approve it.

So we want this project to go forward because we think it's great for the Town, the environment, for the Creek, and for everybody. Except the way they've got it done it's really, really bad for my client. It impacts, we probably won't even be able to use our piers. Our piers are falling apart as well. We need to rebuild them. I don't know that we're going to be able to. You will literally take away our waterfront, potentially, if we have to live by the rulings that are coming down on this.

But we can make this very simple. You, we would ask that you conditionally approve their application to require compliance with the 1972

license that you issued. In other words, they have to build it where it should have been all along and never has been. And you can do that. You build it inside and then you take out what's outside. They are going to be dredging anyway. The stuff is falling apart. You scoop it out, and you take it away, and you move it. It can be done. And that would be the right thing to do because it would be in compliance with the order that this Board has already issued and which has been blatantly disregarded and disrespected. It will remove any violation of my client's riparian rights and, goodness, it might actually end some litigation and allow this project to go forward. Which would be a win for everyone. Thank you very much.

COMPTROLLER FRANCHOT: Thank you. It's a pretty amazing presentation. Did everybody have one of these?

MR. HARTMAN: I passed around seven of them so --

GOVERNOR HOGAN: Can I ask you a few questions before you

--

MR. HARTMAN: Yes. Yes, sir, Mr. Governor.

GOVERNOR HOGAN: -- before you head out. So, I mean, it was a good presentation and I, you know, I think I followed everything that you were saying. I'm curious. This is not the first time you've presented all of these, all of this information. I mean --

MR. HARTMAN: That's correct.

GOVERNOR HOGAN: -- you've been before lots of bodies and lots of individuals for multiple hearings and at different levels. And for various, you know, approvals. And, you know, all of the experts at all of the levels have not agreed with you, right? I mean, you're trying to convince us of something that no one else agrees with. And what changed? Or why should we do something that all of the experts are telling, like so MDE, and our Wetlands Administrator, and the, you know, the folks, the Port folks, and the City, and you've been making these arguments, it sounds like, for 47 years. You told us the history since 1972. And, you know, it sounds like some logical stuff that you've put out there. But I mean, why did nobody buy it?

MR. HARTMAN: Well I wouldn't say that nobody buys it. But you're right. The Port Wardens, well the Port Wardens did I think what -- and this is pure speculation on my part. What the Port Wardens did by saying we approve everything but we are only conditionally approving the eastern bulkhead if you don't move it, I think they thought that was giving my clients what we wanted as far as that. And they did make them change their application. And I don't believe that the application for the project as approved by the Port Wardens is the same one that's before you. Because the one before you shows them going farther out and building different piers. But what I think, so I think they thought they were doing the right thing and recognizing the validity of some of my points.

Now what they also said is this isn't our area. We only have very limited jurisdiction because we are not going to decide whether or not the applicants are in compliance with the Board of Public Works licenses. We can't do that. We're not going to decide the title issues which I raised, which I didn't raise with you because they are not your jurisdiction either.

GOVERNOR HOGAN: And none of this came up in the title search when they, you know, transferred the property?

MR. HARTMAN: It does.

GOVERNOR HOGAN: It's been transferred several times, right?

MR. HARTMAN: Well the interesting thing about this property is that there's never been a bank involved. It has gone from the Petrini family to a trust for the Petrini family to an LLC for the Petrini family to the current owner without ever a bank or a title insurance policy, to my knowledge, ever being written. The title is clear that that yellow area that I told you was never conveyed. It's still owned by Petrinis. But that is not something that, again, falls under the jurisdiction of this Board. There are, unfortunately, there are a lot of agencies and boards and courts involved in this and each one has their own viewpoint. And understandably they like to stay within what their area is. Port Wardens, that's really the only one we've been in front of.

GOVERNOR HOGAN: So far all of them have been supportive --

MR. HARTMAN: There's only one.

GOVERNOR HOGAN: -- of moving the project forward.

MR. HARTMAN: The Port Wardens. That was the only one we've been in front of, and now you. That's it so far.

GOVERNOR HOGAN: Well I mean MDE and the Wetlands --

MR. HARTMAN: Right. But that's the same process we are here.

GOVERNOR HOGAN: The, and you say that you and your clients love the project --

MR. HARTMAN: We do.

GOVERNOR HOGAN: -- and support the project --

MR. HARTMAN: We do.

GOVERNOR HOGAN: -- and want the project to go forward. But you didn't really propose a solution or an alternative. I mean, you said what you thought was wrong. But what is it that you were asking for?

MR. HARTMAN: I specifically -- I did, actually. That was my closing argument, was very specific.

GOVERNOR HOGAN: Maybe I missed that part.

MR. HARTMAN: That's okay. I'm happy to repeat it. Is that the license that was issued by this Board in 1972 required that --

GOVERNOR HOGAN: Were you the Comptroller in 1972?

(Laughter.)

MR. HARTMAN: I think we know his father was and his son will be in 2072.

GOVERNOR HOGAN: Was Bereano lobbying on this in '72?

MR. HARTMAN: Yes, he was.

(Laughter.)

MR. BEREANO: (Indiscernible).

SECRETARY MCDONALD: -- Governor Mandel --

MR. HARTMAN: He slipped. He's under the chair.

(Laughter.)

MR. HARTMAN: So the, had the original license from this Board, which was issued shortly after the license that we obtained to build ours, and then theirs was here, they moved it over here. That's a big problem and now they want to move it further over here.

GOVERNOR HOGAN: Right.

MR. HARTMAN: My solution is that you can approve a modified application that puts it back where it's supposed to be. And that will actually solve all of our problems. It does take a few feet of their property away from them. I'm sure they would not be happy about that. But on the other hand, that is the solution. You have the authority to do that. Unlike the Port Wardens, they do not. Because they don't have the jurisdiction over this.

GOVERNOR HOGAN: Right.

MR. HARTMAN: This is the only other board I've been before. We do have an appeal before the Circuit Court but we're just in the beginnings of that.

GOVERNOR HOGAN: Okay. That's all the questions I have. Thank you.

MR. HARTMAN: I don't want to say that everybody disagrees with me.

GOVERNOR HOGAN: Yes. Thank you.

MR. HARTMAN: I'm over one. I admit it. But I think that the Port Wardens believed they were doing the right thing. I don't think they helped either one of us --

GOVERNOR HOGAN: Right.

MR. HARTMAN: -- with the ruling, to be honest with you.

GOVERNOR HOGAN: All right. Thank you very much.

MR. HARTMAN: You're welcome. Thank you.

GOVERNOR HOGAN: Next we're going to hear from Steven Hyatt and Brett Anderson.

MR. GILDEA: Hey, how are you doing? I'm sorry, Ed spoke prematurely. I'm Gil Gildea and --

GOVERNOR HOGAN: Oh, he said he was speaking for you but he's not.

MR. GILDEA: He did. And anybody that knows me knows I like to talk. So I, and as you can tell, I'm not used to addressing an esteemed group like this. I thought it would be much more casual. So next time hopefully --

GOVERNOR HOGAN: You look comfortable. I would rather not have a tie on myself.

MR. GILDEA: Well hopefully there won't be a next time that I have to be here. But in any case --

GOVERNOR HOGAN: It's Annapolitan casual. That's the way I'd rather be dressed.

(Laughter.)

MR. GILDEA: That's the way my entire business is. So but in any case, I'm Gil Gildea. I live at 306 Burnside Street. I'm on the Board of Directors for them and we're next door neighbors to SAYC. And I'm here representing with Ed the 44 families that live there. And as a preliminary matter several of the people that live there wanted to make sure this was on the record that, you know, we were not given any real notice about this. I was told that there was a letter that was sent out on October 22nd, which I did read, and the letter states about two-thirds of the way down that notice would be given when this was going to be put on the Agenda. But we did not get an email or a telephone call. The only reason I found out about it is that I had called Bill, who has been very helpful, and he

mentioned to me, he told me it was not on the Agenda and then he did call me back the next day and tell me that it was on the Agenda. So that's one thing.

But this had started seven years ago when SAYC purchased the property and they came out with a design that had five --

GOVERNOR HOGAN: We do have public notices and we do send out notices. I mean we, I don't know, we don't call every person but --

MR. GILDEA: Well I didn't receive --

SECRETARY MCDONALD: Well actually we do in the wetlands cases so they were called.

GOVERNOR HOGAN: They were called?

MR. GILDEA: I did not receive an email and nobody that is associated with us received that in any case. But they had the five angled slips and they were protruding 24 feet into our waterway, into the waterway. And we met with them almost seven years ago, asked them if we could work with them and come up with a solution. We were told that they are not going to. That if they wanted to, they can park a 100-foot boat along that bulkhead and there's not a thing anybody can do about it.

So we realized at that point that this was not going to be a fast and easy thing. We ended up in front of the Port Wardens spending tens of thousands of dollars, hundreds and hundreds of hours of work to get there. And then after -- all along the way we've been asking for solutions to work to a negotiation. We

had all along the way approached SAYC through our attorney and other -- well, mostly through our attorney.

In any case, after the decision from the Port Wardens, which as Ed mentioned is under appeal, we tried to negotiate --

GOVERNOR HOGAN: Where is that under appeal?

SECRETARY MCDONALD: It's Anne Arundel Circuit Court.

MR. GILDEA: It's the Circuit Court.

SECRETARY MCDONALD: It's judicial review of an administrative decision of the City of Annapolis.

MR. GILDEA: Right. It's Circuit Court then. And I am not the attorney. In any case, after the negotiation with the Port Wardens' decision, we approached them as recently as two months ago with solutions, ones that would give them 50 to 60 percent of what they want, and ones that would accommodate us. We were told, no, we're just going to wait until this is all done and then we're going to reapply and we'll get what we want. And one of the reasons why we're continuing with the appeal is that we don't want to be in front of the Board of Public Works or the Port Wardens or anyone else. We want this done. We want it in writing. We want it precise and correct.

Which leads me to the next thing, is the permitting process. They, according to --

GOVERNOR HOGAN: And do you agree with your attorney? I mean, you like the project and the shorter piers and cleaning up the mess that's out there now? I mean, you want the project to move forward or you don't want the project to move forward?

MR. GILDEA: I want the project to move forward but not at the expense of Newport. And that's what it is right now. You know, in any case we went through, the Port Wardens' charter says that when you submit a permit, you're not supposed to change the permit. Well we had multiple drawings. We had three lateral lines. We had all kinds of changes to the thing, to the application. Then we come up with a solution from the Port Wardens, which goes to MDE. Well the solution from the Port Wardens has got direct contradictions in it. It has statements like we'll be placed exactly, or replaced in kind, and then it comes out and says, well, approximately 24 feet. There's all these different things.

GOVERNOR HOGAN: What's the 24 feet again?

MR. GILDEA: What's that?

GOVERNOR HOGAN: What are you saying, talking about 24 feet? What?

MR. GILDEA: That's where the pilings come out on the perpendicular slips. So right now there's one that's at 24 feet. There's another one that starts at 19, and they go out at an angle.

In any case, so we have all these drawings. We have all of this material. The Port Wardens move it over to MDE with their decision. Then MDE comes out with a decision and has a drawing that was not in the Port Wardens' decision. And we talked with Katherine Hepburn -- or I'm sorry. I know it's not Katherine. And she was also very helpful. She came out and met with us and was very helpful on that.

So we have this MDE decision that you can't, that has got this new drawing in it. And now that drawing goes to you. This is a drawing that we, that was not in any of these issues, were not with the Port Wardens decision, was not supplied to MDE through the Port Wardens' decision. And now Bill calls me up and says, hey, you guys like this? You want to approve this? And I'm like, no. The drawing is wrong. The first piling as an example is 19 feet. It shows it's 21.5 feet on the drawing. And you may say, well that's only a foot or a foot and a half. But in our tiny little area, if you take away a foot and a half, and I'm sure that everybody tends to want to get bigger. And they take away two and three feet from us, it's going to add to, dramatically to the safety and navigation of our little cove. If you look at it, people use ropes to pull their boats out of the slips in order to turn them around. We had video for them.

In any case, all of this being said, the thing that makes me crazy is I've worked hard on this. I've read a lot about this. But I can't follow this process to save my life. Drawings pop up, drawings are not there, I'm being told

I've got to make a decision, I've got to do this, we've got to do -- there's no transparency. And as Ms. Kopp? Is that it --

TREASURER KOPP: Like C-O-P only it's K-O-P-P.

MR. GILDEA: Oh, okay, there you go. Well I'm Gildea. Nobody gets that right either. But anyways, there's no transparency. There's a lot of, you know, I feel like we're playing a hide the shell game, you know, or the pea game with the shells, trying to get this done. So I, that's a personal issue on me and what I have.

But in any case, the permit and the drawing that we have right now is one that we did not see. It was given to us a short time ago. It's not correct. It's not correct according to the Board of Public Works. It's not in the Board of Public Works' decision. We haven't really had time to go over it. I do have copies of drawings that I will share with all of you. I will email everybody on the Board. Unfortunately I did not have time to do it this week.

COMPTROLLER FRANCHOT: But you agree with the previous speaker as to its action?

MR. GILDEA: The, I think that that is an action. I think that we, as I said before, we have gotten, we've offered solutions to SAYC and they just kind of go, well, you know, we've got deep pockets and we've got time so we'll just wait until we can, you know, get more legal fees and --

GOVERNOR HOGAN: We're not really here to relitigate everything that you've had, every conversation you've had.

MR. GILDEA: I understand. Well --

GOVERNOR HOGAN: We're going to make a decision today about what happens.

MR. GILDEA: Well my --

GOVERNOR HOGAN: So, you know --

MR. GILDEA: Well that takes me to the point. We have our appeal coming up. I believe it's on the 18th of next month. And I would like to ask that with the fact that it's under appeal not only from us but from the (indiscernible) that you hold off on granting the license until we get a result from the appeal, and then we can get started, or maybe we can come to a negotiated settlement. But right now they are, your charter, as I understand it, is to protect the property rights, the riparian rights, the navigation, and the safety of the community. And if you allow this to go through, you won't be meeting those goals, in my opinion.

But in any case, we do agree that their property is going to be beautiful. But we don't want to pay for it. And we don't want to lose our riparian rights, our slips, have it cost us money. It's wrong and, you know, we were there first, if nothing else.

GOVERNOR HOGAN: Thank you very much.

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MR. GILDEA: But thank you all. And any questions?

GOVERNOR HOGAN: No.

MR. GILDEA: And we have drawings and I'll have them all emailed to you.

GOVERNOR HOGAN: Thank you. Next up, we'll hear from Steven Hyatt and Bret Anderson. It looks like Alan Hyatt is here instead of Steven. Oh, Steven is here. And Alan is in the back. And Jonas Jacobson are all hanging out in the back.

MR. HYATT: Thank you, Governor Hogan, Madam Treasurer, Mr. Comptroller. I'll start by addressing everything that Mr. Hartman went through. Yes, a very passionate presentation. It's just that besides the fact that they support the project overall, none of it is true. It's not supported by any law and these are just assertions -- what you heard essentially was an abbreviated version of four nights of presentations to the Port Wardens. And the Port Wardens made their final decision and said that SAYC, we are well within our rights. We complied with the City Code. We're within what they call our developable waterway area. And MDE also supported that decision. The Army Corps of Engineers also supported that decision. And the Board's Wetlands Administrator also recommended support for that decision.

There is no requirement whatsoever that we obtain a deed to wetlands licenses, to the backfill of the bulkhead that Newport happened to

obtain, but there is no requirement for that. And frankly, what we are doing on the east side that's really Newport's area of concern is replacing exactly what's there. There was a comment about encapsulation being, you know, a couple feet further out. That's not true. We are replacing, as Mr. Morgante acknowledged, we have a survey that is going to be a condition to our license that we will replace everything as it's been for nearly 50 years. And again, that's going to be part of the license.

Speaking of that license, it was approved in 1972 and we complied with it. We have two letters from the Wetlands Administration from 1976, June and December of 1976, that confirm we complied with our license and no further regulatory action was required by the State. And to say that a newer 1990s license usurps or supersedes that is, again, totally unfounded.

There was comments about title issues and deed issues. Well, the State has a Code 16-201 of the Environment Article that says you own what you improve that is attached to your land, and that's what we have. We understand that the State owns what's beneath that, but we own the physical improvement and we're allowed to replace that and the Port Wardens acknowledged that and gave us a final approval for that.

You know, again, these assertions, they are just, they are delay tactics. As you heard Mr. Gildea say that they want to negotiate with us. Well, we are doing everything within our developable waterway area, what the Port

Wardens determined to be ours. Frankly, we have more water frontage, which is what determines, that combined with the City Code, where you can develop. We have more than Newport and they want more than they have today and there's no negotiating that. I mean, it's been finally determined.

In regards to the appeals, there were two. We had a hearing on Monday in front of the Circuit Court and they determined that two of those appellants did not have standing. The Newport folks, that is on the 18th of March and nothing that they can raise is likely to overcome what is known as the fairly debatable standard. And that basically means that unless the Court finds that the Port Wardens decision is not fairly debatable, then they are going to let them move forward. The Port Wardens had four nights of hearings. There was total transparency. We presented everything, I mean, I don't know how many experts we had. And the opposition, they presented their experts. There was substantial evidence and we ended up with a 40-page decision from the Port Wardens, which is very unique, where they addressed, they went over every single one of those elements saying that, yes, this complies with everything in the City Code.

This process is, has been, transparent all the way through. There was adequate public notice sent at all stages. Public input and comment every step of the way. The, Heather Hepburn with MDE and I spoke several times and she acknowledged that they have the authority to approve what's within a developable waterway area. That has been determined by the Port Wardens. So

we are well within our rights. And I just want to highlight a couple of things from an environmental perspective.

Madam Treasurer mentioned, you know, there's climate concerns and it's a big deal today. This project is going to be unprecedented. Currently there is no stormwater management in place and essentially a one-inch rain event results in 55,000 gallons of untreated, unfiltered stormwater that goes right into Spa Creek. And last year in 2018 we had about 70 inches of rain. That equates to about 4 million gallons of water entering into Spa Creek unfiltered and untreated. What we propose is adding, the City requires only for us to address ten percent of that. We're going above and beyond that voluntarily to address 65 percent of the stormwater management. There's going to be thousands of plants planted in the hundred-foot buffer that will account for this. Several dozen stormwater facilities. We're removing over 20,000 square feet of covered boat slips that will promote submerged aquatic vegetation habitats and allow for spawning of local perch and other marine wildlife. We are reducing the impervious coverage area in the critical area, the 100-foot buffer, by nearly 10,000 feet. And we are reducing the number of slips, which I think is one of the reasons why, besides this is a 112-year old plus marina, Newport supports this. We're removing boats from Spa Creek. So, there will be less boats on the Creek. That's going to help improve navigation to and from SAYC and along Spa Creek. And when all is said and done, this final product at SAYC is going to raise the bar in terms of what is

expected for future development on the Chesapeake Bay. And we have successfully navigated the development process. We have received endorsements from the Port Wardens, MDE, the Army Corps, and this Board's Wetlands Administrators. Every step of the way, this is a fantastic project, and it's going to make a serious difference on, to the environment on Spa Creek.

COMPTROLLER FRANCHOT: Can I just ask a question?

MR. HYATT: Sure.

COMPTROLLER FRANCHOT: Apparently the previous opponents of this, supporters of it but opponents of it without conditions, I think their argument was that the people that sold you the land didn't really own it.

MR. HYATT: That's not true. They owned it.

COMPTROLLER FRANCHOT: How do you know that?

MR. HYATT: We've had title searches. We have financing in place. There was a comment that no banks had been involved. We currently have financing in place. There was a title commitment and policy approved by a national title insurance company that we went through with them through the whole chain of title and I mean they weren't going to lend us the money, you know, multimillion dollars, many millions of dollars, without accepting that we own what we purport to own. And we do and they have accepted that.

COMPTROLLER FRANCHOT: So you have some kind of evidence that compensation was paid to the State in return for the ownership of that to sell to you guys?

MR. HYATT: No, no. Are you talking about the 1972 wetlands license?

COMPTROLLER FRANCHOT: Yeah.

MR. HYATT: There, I worked with --

SECRETARY MCDONALD: Yeah, okay, let me address that point, Mr. Comptroller. The statute Environment Article 16-201, which Mr. Hyatt already referred to, does specifically say statute after an improvement has been constructed, the improvement is the property of the owner of the land to which the improvement is attached. So in the 1972 wetlands license, it said you can create this fastland and it did say at the very end you will pay compensation for that once we figure out how much that appraisal is. What we have been unable to find in Board records, we find the license and all that, we not been able to find the 1972 proof of payment, the proof of --

COMPTROLLER FRANCHOT: By the previous owner?

SECRETARY MCDONALD: By the previous owner. But that doesn't, and that's what they've been asking and saying that there's no proof that they did pay it. I don't have proof that they didn't pay either. And in effect the statute does give it to them anyway. We have never issued these deeds of title

that they are talking about. The Board has not, the Board not often but occasionally, has let licensees create fastland out of our wetlands. And when they do, they owe us compensation. But then it's fastland that belongs to them. Traditionally the Board has not prepared a deed to give it to them. They just did the license exactly like they are talking about. So what we don't have is we don't have proof that they paid or didn't pay in 1972.

MR. HYATT: But Mr. Comptroller, what we do have is a letter from Mr. Joseph Lewandowsky on December 17, 1976 stating that no enforcement action or revocation of the subject license is required because they have complied with all physical requirements of that license, recognizing that they still need to pay the compensation to the State as the Secretary just said, can't find, or can't prove or deny that occurred. But there is no action necessary and the State recognized that in 1976. And --

COMPTROLLER FRANCHOT: Thank you, Governor.

MR. HYATT: -- there was just one more thing. Mr. Comptroller, you raised in question, in regards to the dredging area. And the difference between the 30,000 feet and the 40,000-some feet today. The calculation, it was a miscalculation. But the physical area has not changed. Those plans have not changed whatsoever. There is a hashed area on the set of plans. And it was a, basically a clerical error based on an actual human miscalculation. So the information is still the same.

You know, with all that said we respectfully request that the Board recognize that SAYC is well within their rights and grant the wetlands license so we can begin restoring SAYC into the thriving environmentally sound maritime center in the heart of this great State's capital. And I thank you for your time and your consideration, and I'm going to have Mr. Anderson say a few words if he'd like.

MR. ANDERSON: Thank you for the opportunity to speak, Governor, Treasurer, Mr. Comptroller. I'm the owner of SAYC, a lifelong Maryland resident. I've been a --

COMPTROLLER FRANCHOT: What's your name, please?

MR. ANDERSON: Pardon me?

COMPTROLLER FRANCHOT: Your name, just for the record.

MR. ANDERSON: Bret Anderson.

COMPTROLLER FRANCHOT: Great.

MR. ANDERSON: Yes. So I'm the owner of the property. I've been working on this project now for seven years. We've probably had over 1,000 meetings with the community. We've stuck through all kinds of variations. But I had basically three guiding principles for this project. One was that the environmental aspect had to be paramount, had to be. The second was that I wanted it to look like it belonged in Annapolis architecturally and that it would

provide great maritime benefits. And lastly, I did not want to ask for special exceptions. And basically we've adhered to those three basic principles.

The environmental aspect of this project is huge. We had a paddleboard company has operated there for six years. They did water testing every single day. The quality of water in Spa Creek has been horrendous, nothing short of horrendous. This project will have the single largest environmental impact of any project ever to hit the Annapolis Harbor. We're talking about 55,000 gallons of untreated water every one-inch rain storm. We've had close to 4 million gallons of water flow into Spa Creek from this site. We're going to do six times what we're mandated to do.

In regards to the piers and drawings, the drawing that they are referring to, the additional drawing, was nothing more than taking the drawing that was submitted and put metes, bounds, and coordinates on the pilings and the bulkhead so no one could ever come back and dispute that it wasn't built back in its original place. To say that there wasn't transparency, the Port Wardens had closed the actual review process, reopened it to allow them to testify one more time and to present drawings for the developable waterway. The Port Wardens looked at their drawings and said they didn't abide by any of the standards. We're not going to accept those drawings.

So this is a great project for the City. It's a great project for the residents of the State of Maryland. This has been nothing more than a delay tactic

that I've battled for the last two years and we need to have this project to improve the water quality so we can all benefit. Not to mention the marine aspects and the benefits that Annapolis City will gain from taxes, jobs, and a state of the art facility. So I hope I have your support here today and I really appreciate the opportunity to speak in front of you.

GOVERNOR HOGAN: Thank you. Any questions? Is there a motion?

COMPTROLLER FRANCHOT: Well I would normally side with the citizens that are opposing this. But it's very confusing and it's got a lot of detail attached to it. As I understood from their testimony, they are going to court. But I would urge, I'm going to move favorable on the permit, but I hope that you can if all of their efforts fail and fall into flames somewhere in the court, etcetera, I hope that there is some ability to adjust what you are doing where it makes sense to meet their concern about the ownership of the riparian area in front of them. And I'm not quite sure how you would do that, and it may be impossible given all the emotion, but I'm an expert at being a mediator, if you haven't noticed. But you might, don't channel me, but try to channel the Governor, maybe, and you can come up with some, you know, some adjustments for the other side. I know it's very heated right now. But I would move, with that, I would move that we pull this out of the Agenda and I would move favorable unless –

TREASURER KOPP: Second.

GOVERNOR HOGAN: Very good. And there is a second. I'm also going to vote in favor of it. Look, I think, you know, I appreciate the fact that you've gone through this long process. It sounds like an incredible project and you've done so much to work on it to make sure that it's going to be a positive for Annapolis and the work that you've done from an environmental standpoint is incredible. And I understand the concerns of some of the citizens adjacent, but it sounds like you've done a heck of a lot to work with the neighbors. But the fact that it's been approved by the Army Corps of Engineers, you've gone through the Board, MDE supports it, and they have studied it in depth, and the Wetlands Administrator. And I mean, you answered all of the questions. And so I'm going to support it as well. So thank you very much for coming in.

MR. ANDERSON: Thank you all. Thank you.

GOVERNOR HOGAN: Thank you. And I understand you have another item you want to --

TREASURER KOPP: I do have one other question, Governor, referring to what I mentioned in the beginning. An example is Item 7, Department of MDE, I'm sorry.

SECRETARY MCDONALD: I think Mr. Curry is back up to the podium. This is Item 7, the treatment plan in Montgomery County.

TREASURER KOPP: This is, this could be raised about a number of items. It's just this one is a very significant and large one. And my question is, first of all, this is authorizing general obligation bond proceeds to be used as a required match for federal funds in the Montgomery County Municipal separate storm sewer system development, which is something we all want. I remember the days in Montgomery County when we had combined sewage and water and we don't want that. No question at all. And I understand that the county uses modern techniques and presumably up to date numbers. I'm not quite sure what the role of the State is in reviewing the ongoing plans and the reason I'm asking this is my concern about climate change impact and adaptation to assure resilience of our infrastructure. And I understand that you incorporate best management practices and all these other things. But I don't see anywhere where it's written that, yes, we analyzed the impact of projected climate change impact and this project addresses it in this way. And this is just an example. Can you either today or come back, because I know it's a big question, but help us understand how in this project and in the range of projects, some of which are obviously undertaken by other State agencies so you may not be the person to ask, but how you all, how you all look in an integrated way at addressing this climate change impact question when you look at infrastructure improvement?

MR. CURRY: Sure. Absolutely. Lee Curry again with Maryland Department of the Environment. I'm not going to defer this question. So

thinking about climate resiliency and building it into our systems, the stormwater practices that you speak to in general, almost all of those practices are beneficial to us in terms of climate resiliency. And let me just name a few for example.

So, some of that funding and the money will go towards additional tree planting. And that reduces or helps mitigate carbon, so we have carbon sequestration, it captures rainfall. My point is that many of these practices play a very important role to our local communities. So in that when MDE is looking at these stormwater permits, one thing we do is work to incentivize climate resiliency. So we're actually building that into, it's already built into our current permit and we're building it in more detail into our next permit to say how do we find and use those more climate resilient practices? And we want to better educate our local jurisdictions in terms of what those practices are, so we have some work with our colleagues from DNR with the Climate Leadership Academy, and we want to make sure projects like stream restoration, which helps stabilize our streams and prepare them for these large storm events, are funded. We want to make sure there's additional tree planting. And then you'll also see in there there's some outfall restoration. And I think that's another important project also because outfall restoration, what that does is help saves infrastructure. And we've seen that with our State Highway Administration.

TREASURER KOPP: So I guess my question is all of these things work towards --

MR. CURRY: Right.

TREASURER KOPP: -- resiliency. But where is there a place that says here's what our goal is, here's how we know we're achieving it, here's how this fits in with it? Not that they do good --

MR. CURRY: Okay.

TREASURER KOPP: -- but they do good specifically to meet these goals in this point of time.

MR. CURRY: Yes. We don't have that --

TREASURER KOPP: That's not a new discussion.

MR. CURRY: No, no, that's a good point. We don't specifically say this is to reach these certain climate goals, these are part of a larger climate adaptation strategy.

TREASURER KOPP: I think to help people understand the situation we're in you really need to spell it out --

MR. CURRY: Okay.

TREASURER KOPP: -- and repeat it over and over.

MR. CURRY: I agree.

TREASURER KOPP: Thank you.

MR. CURRY: And that's one of our goals is to continue to spell it out.

TREASURER KOPP: And the same is true of transportation projects and State capital, all across the board. My two cents.

GOVERNOR HOGAN: Thank you.

MR. CURRY: Thank you.

GOVERNOR HOGAN: Any other questions on the Secretary's Agenda? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Second. Three-nothing. We're going to move on to the DNR Real Property Agenda. I was going to now do my big welcome but we've already done that. So --

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: -- Madam Secretary?

(Laughter.)

MS. HADDAWAY-RICCIO: They say you should be quiet when you are winning. Maybe I should --

GOVERNOR HOGAN: Might as well quit while you are ahead.

MS. HADDAWAY-RICCIO: I would just like to quickly take a point of personal privilege, if I may. My name is Jeannie Haddaway-Riccio. I'm now the Acting Secretary of the Department of Natural Resources. I just want to thank everyone for being so welcoming this morning. Specifically I would like to

thank the Governor and the Treasurer and the Comptroller for your kind words. And with that, we do have six items on the Department of Natural Resources Real Property Agenda today for which we are seeking approval.

GOVERNOR HOGAN: And I'm going to make a motion we deny all of them.

(Laughter.)

GOVERNOR HOGAN: Just kidding. Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. Don't expect that every time.

(Laughter.)

MS. HADDAWAY-RICCIO: Yes, sir.

GOVERNOR HOGAN: We'll move on to the, I guess we're going to move on to the Department of Budget and Management.

MR. BRINKLEY: Good afternoon, Governor, Mr. Comptroller, Madam Treasurer. For the record, David Brinkley, the Secretary of the Department of Budget and Management. We've brought five items for your consideration and Item 5-S is a supplemental item.

GOVERNOR HOGAN: I've got a couple of questions on Items 3 and 4.

MR. BRINKLEY: Three and 4. I have Donna DiCerberbo, is that right? Did I pronounce it correctly?

MS. DICERBO: Yes, sir.

MR. BRINKLEY: It's handwritten in here so I couldn't --

GOVERNOR HOGAN: It's really kind of a broad question. I'm not going to grill you too much. But these are both requests to extend current contracts to provide more time to do procurements for new contracts. One is for inmate legal services at the Department of Public Safety and Corrections. The other one is for armored car services at the Maryland Transportation Authority. And I'm just commenting on the fact that we're, I've noticed a few of these types of requests lately for extensions on what appear to be relatively straightforward contracts. And we don't like it. It goes against what we're trying to do here. And I'm curious as to why these agencies are unable to complete procurements on time. Why are we doing extensions of existing contracts? You know, why aren't we, you know, I'm not arguing about these two vendors or these two particular contracts or services. But I'm not a fan of arbitrary extensions in lieu of procurements. And I think we need to do a better job of managing the contracts to ensure that we're getting the procurements done on time because we don't like just doing extensions. So maybe you can address it, or maybe we'll have the Secretary of Budget and Management address it. But it's something that we want all of our cabinet secretaries to start working on, kind of like we don't like single

bid contracts. We don't like random extensions. So maybe you can explain to me why you didn't get the procurement done on time, Mr. Secretary?

MR. MOYER: Thank you, Governor.

(Laughter.)

GOVERNOR HOGAN: I'm going to take you off the hook. I'm going to kick it up to the --

(Laughter.)

MR. MOYER: I went 12 months without this so, Governor, Madam Treasurer, Mr. Comptroller --

GOVERNOR HOGAN: Then we'll drag in the MTA after that.

MR. MOYER: -- my responsibility. We monitor. We thought we had enough funds left on this contract for the extension. The RFP goes out Friday and it's my fault.

GOVERNOR HOGAN: Well we're not going to beat you up too much. But it really, I mean, it's, it just happens a lot. It's like, hey, we need an extension, we need an extension. It's kind of like the dog ate my homework. I can't get my stuff in time. You know, we like to have stuff done on time.

MR. MOYER: You remind me often, sir.

(Laughter.)

GOVERNOR HOGAN: All right. Thank you.

MR. MOYER: All right. Thank you.

MR. RAHN: And so, Governor, may I comment on --

GOVERNOR HOGAN: Yeah, would you please?

MR. RAHN: -- on the Authority's, in which --

COMPTROLLER FRANCHOT: His answer was pretty good.

GOVERNOR HOGAN: Yeah.

(Laughter.)

GOVERNOR HOGAN: I like the, I like the, yeah, we just screwed up. Sorry.

MR. RAHN: Actually, some of these modifications are necessary because the procurement gets drug out when we get single bids and we go back out.

GOVERNOR HOGAN: Well that's a good answer.

MR. RAHN: And, yes, and so actually some of the goals that the BPW desires actually --

GOVERNOR HOGAN: You send them back and say we have to get more bids.

MR. RAHN: We say we are not going to bring something to the Board if we can avoid it. In the case of this particular one, there was a threat of a protest to the procurement. And so we had to wait a particular length of time to see if there was going to actually be a filed procurement. And we have gotten to that point where they didn't utilize it within their timeframe. We just need the

modification. It's, while it has multiple in there, we think we can have this under contract in March. But again, there are circumstances like this that just happen --

GOVERNOR HOGAN: Yeah.

MR. RAHN: -- and we don't like them.

GOVERNOR HOGAN: Yeah. I understand occasionally these circumstances happen. We're just seeing it a little too often, that's all. Thank you. That's a good explanation. Better than we screwed up.

(Laughter.)

GOVERNOR HOGAN: Well he gets an A for honesty, though. The University System has no Agenda so they are completely off the hook.

SECRETARY MCDONALD: They are not here, so --

GOVERNOR HOGAN: And we're going to move on to Information Technology.

MR. LEAHY: Good morning, Governor, Madam Treasurer, and Mr. Comptroller. For the record, I'm Michael Leahy, Secretary of the Department of Information Technology. Today we have --

GOVERNOR HOGAN: First of all, let me congratulate Secretary Leahy on his unanimous confirmation through the Senate.

(Applause.)

MR. LEAHY: Thank you, Mr. Governor.

GOVERNOR HOGAN: He's done a terrific job with the leadership of this agency and we want to congratulate you and look forward to your continued leadership.

MR. LEAHY: Thank you so much, sir. Today we have four items on the Agenda. We are withdrawing Item 3-IT. And I do have agency representatives available to answer any questions.

GOVERNOR HOGAN: Any questions on DoIT? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Second? Now we're going to move on to the Department of Transportation, the ones that had that slow --

MR. RAHN: Thank you, Governor, Madam Treasurer, Mr. Comptroller. For the record, Pete Rahn, Secretary of the Maryland Department of Transportation. Today MDOT has 11 items for your consideration. And I need to make one comment. And I know everyone wants to get out of here. Last BPW meeting I pleaded with the Board for a single bid item for maintenance on the, at the Port, including the World Trade Center. I can -- and thank you for that approval. Last week, we had a water break at the World Trade Center that flooded ten floors. So that contract was desperately needed and we were able to

utilize it and we only had the building closed for a few days. So we weren't, we did not abuse our request in asking for that approval.

GOVERNOR HOGAN: Okay. Anyway --

TREASURER KOPP: Too bad about the World Trade Center, though.

GOVERNOR HOGAN: Any --

TREASURER KOPP: I have a question about Item 3. Did you take Item 3 off the, Item 3 is still on the Agenda? The paratransit?

MR. RAHN: Yes.

TREASURER KOPP: It's the same thing again. I understand that you want to make a major change in the way you're delivering the services. But this thing has got two renewals, two modifications, and now another renewal. How, I mean, you didn't decide yesterday to change it. Why --

MR. RAHN: Well this is another one that had a potential protest. But this whole area --

TREASURER KOPP: Paratransit is very difficult. I get it.

MR. RAHN: Yeah, it's incredibly difficult and complicated and the players within it tend to be quite contentious as we attempt to deliver the service. And it is hugely expensive. And so we are continuing to explore ways to try to reduce our costs there, and what you're seeing is the pain that we have gone

through to try to come up with a solution to reduce our costs and still provide a really good service to the people who need this. It's --

TREASURER KOPP: Do you think we're going to see another modification before we see --

MR. RAHN: I don't believe so. I do not believe you will see another one. Even though this is requesting I think up to three, but no. I do not believe you will see another modification on this contract.

TREASURER KOPP: This goes to May 20.

MR. RAHN: Yes. Yes. Yes. And if we need another modification, my Deputy will be here --

(Laughter.)

TREASURER KOPP: We know him well.

GOVERNOR HOGAN: He may be the Secretary.

(Laughter.)

GOVERNOR HOGAN: Any other questions on the Transportation

--

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Just one other, just to repeat. Item 10 and 11.

GOVERNOR HOGAN: Let me go back to one thing. Sorry to interrupt.

TREASURER KOPP: No, that's okay.

GOVERNOR HOGAN: On the, you said -- on two things you said we delayed it because there was a protest. If you and your procurement team believe that you're in the right, I couldn't give a damn if there's a protest. You know, move forward with the procurement and let them go through the protest process and take it before the Board of Contract Appeals or go to court. But we don't want to slow down the wheels of government because somebody has a protest. Keep, you know, keep moving forward.

TREASURER KOPP: Because it's part of the process.

MR. RAHN: And we have done that. In fact, I think you may remember a few months ago we brought a contract to the Board that was under protest and the Board did approve it.

GOVERNOR HOGAN: Yeah.

MR. RAHN: There was a lot of conversation about it and --

GOVERNOR HOGAN: If you think there's legitimate concerns and you want to review it or go back and take another look, that's great. But if you think it's a frivolous protest, don't slow down.

MR. RAHN: Thank you. I appreciate that license.

GOVERNOR HOGAN: It's all right.

TREASURER KOPP: It's difficult to know sometimes --

GOVERNOR HOGAN: Yeah.

TREASURER KOPP: -- whether the protest is going to be frivolous or not. I understand that.

MR. RAHN: But it's a game by some as a way to hold onto their contract for another year or so.

GOVERNOR HOGAN: Yeah. I don't want to do that.

MR. RAHN: And we've seen that. And it's been a practice, and we try to plow through that.

GOVERNOR HOGAN: We're into getting the best services for the best money for the taxpayers. We're not in the incumbent protection service.

COMPTROLLER FRANCHOT: I don't even have to be here anymore. This is music to my ears.

GOVERNOR HOGAN: I learned well --

COMPTROLLER FRANCHOT: Yeah. Yeah.

(Laughter.)

MR. RAHN: So Madam Treasurer, you had something on Item 10.

COMPTROLLER FRANCHOT: Incumbent, is that your incumbent vendor protection program?

GOVERNOR HOGAN: Incumbent protection could go a lot of ways. You know. Not partisan redistricting.

COMPTROLLER FRANCHOT: Yeah.

(Laughter.)

TREASURER KOPP: I think this actually is one. You do want to observe everyone's rights and there has to be a reason in the face of a protest to award it. But this question of incumbents spinning out their contracts absolutely is a concern to the Board.

MR. RAHN: Mm-hmm.

TREASURER KOPP: Items 10 and 11?

MR. RAHN: Mm-hmm.

TREASURER KOPP: I would hope that you all would come in every time explaining why we use diesel or LNG instead of electricity. I mean, just again, the same question of how these procurements fit into our goals and your department is taking a leading role in addressing climate change impact by saying we have to go to electrification. One answer I keep hearing is we have to see whether we get the use of the Volkswagen settlement money. But that, I mean it's good to have Volkswagen money, but the question is what are your priorities?

MR. RAHN: Mm-hmm.

TREASURER KOPP: And I would like to see from now on a little more clear, transparent, simple language evidence of having gone through the process of weighing that before it comes to us.

MR. RAHN: Madam Treasurer, I believe we are on the cusp of seeing electric technology for propulsion to really come into its own. We're not

quite there yet on buses. And we've looked at these in a number of areas. You need to have the ability because what we're looking for is the ability to charge these in place and be able to keep them continuously operating. If they have limited ranges and have to be taken out of service frequently to be charged, then they are not being useful and --

TREASURER KOPP: All I'm saying is when we see the items, we don't see that discussion usually.

MR. RAHN: Yes, ma'am. Understood.

GOVERNOR HOGAN: Great. Is there, are there any other questions?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Motion, second, three-nothing. Move on to Department of General Services.

MR. CHURCHILL: Good afternoon, Governor, Madam Treasurer, and Mr. Comptroller. For the record, I'm Ellington Churchill, Secretary for the Department of General Services. The department has 16 items on our Agenda today, including two supplementals, and we are withdrawing Items 8 and 14, and we are available to answer any questions you have at this time.

GOVERNOR HOGAN: Questions on DGS?

COMPTROLLER FRANCHOT: Yes. Item 15, Mr. Secretary.

MR. CHURCHILL: Item 15, architectural and engineering services for the Department of Health's master plan. We do have Dennis Schrader, Chief Operating Officer --

COMPTROLLER FRANCHOT: Good.

MR. CHURCHILL: -- for the Department of Health here.

COMPTROLLER FRANCHOT: Yeah.

MR. CHURCHILL: And we also have our procurement team if you have a particular --

COMPTROLLER FRANCHOT: Yeah, just if Mr. Schrader could come up because --

GOVERNOR HOGAN: I didn't even see Mr. Schrader out there in the audience. He's very quiet today.

MR. SCHRADER: Governor --

COMPTROLLER FRANCHOT: Yeah.

MR. SCHRADER: -- Treasurer --

GOVERNOR HOGAN: Welcome.

MR. SCHRADER: -- Mr. Comptroller, glad to be here, thank you.

COMPTROLLER FRANCHOT: Well I have no problem with the contract. It's for \$1.3 million to Marshall Craft Associates up in Baltimore, I believe, to develop a facilities master plan for the Department of Health's 16 locations across the State. I just want to importune the Secretary and the agency

to be very careful with this because these public health facilities play a real role. Some of them I know are not currently in operation, but I just want to make sure that we don't go overboard in the rush to privatization and that we're going to balance the, some of the public hospital needs with the private trends that are out there. Yeah, please.

MR. SCHRADER: Yeah, if I might offer, our priority in this is privatization is not on the agenda. What we're really looking to do is we're going to start by addressing patient population forecasts for what we need in the State. As part, one of the consultants, which is we have about 40 to 45 percent of the contract, is actually a healthcare planner. So those two things are linked. And that will be the first thing we do, is try and project those volumes.

The second thing we're looking to do is to modernize our facilities. We may want to do some consolidation and look at multipurpose facilities. Some of our facilities are obsolete in terms of their current use. So privatization is not the agenda. We're really looking to modernize our physical plant and make sure that we have the capacity to deal with patient requirements.

COMPTROLLER FRANCHOT: And the Treasurer and I were on the Board when we closed the, over my objection, the Upper Shore Community Mental Health Center in Chestertown.

MR. SCHRADER: Yes, sir.

COMPTROLLER FRANCHOT: Is that one of the items you're going to be studying? One of the, or this group is doing to study?

MR. SCHRADER: We would but right now to be, they currently have a 40-year lease. It was a 20-year first term that started in 1997. They have about 48 beds providing community mental health services. There were two ten-year extensions which we just issued. So the current extension goes till 2027 and then there will be a second extension till 2037. So we'll be looking at this facility but not in the same level of detail as some of our others. Because the department is tied up for at least the next 20 years.

COMPTROLLER FRANCHOT: So that's your contract with the, who has the contract? I didn't --

MR. SCHRADER: It's with the Kent County Health Department and they operate the A.F. Woods Center there, and there's 48 beds. Four of them are crisis beds, but they are all mental health beds.

COMPTROLLER FRANCHOT: Well that's interesting because I didn't realize that it was quite, do you view that as a replacement for what was there before, the Upper Shore Community Mental Health Center?

MR. SCHRADER: I'd have to go back to look at what, how it was being used back in the nineties. But it's, at the moment it's being used for community mental health, which is a priority in the State.

COMPTROLLER FRANCHOT: Okay. Well if you could go back to 2009 and just because I, we voted to close that facility. I understand there's a lease with the county, as you testify. But I still hear from people in the Kent County area that that was one of the --

MR. SCHRADER: Okay.

COMPTROLLER FRANCHOT: -- losses that they really regret. And I'm not disputing the county health lease that they've got. But I hope that that experience is never, ever before the Board again. Because it was a travesty that we shut it in the first place. And also if I could just ask you to take a look also at the Chestertown Hospital, which I hear a lot of complaints about from the, really the leaders of the community down there saying the hospital is just being bled to death slowly. And you know, we're, I don't dispute the fact that acute care hospitals are going out of style and we're going to enter into all these new health models. I'm all for that. I'd like to keep people much weller than they are, I guess before we get them to an acute care hospital. But the transition can just be devastating for a community like Chestertown. So I hope, Governor, maybe when you're down there you could listen to some of the really leading people of stature in the community, the college president and the mayor and the owner of the biggest private sector business and the owner of the senior center there where Nina Houghton, who Treasurer Kopp and I know, is a, you know, very upscale senior center, all of them are apoplectic that the hospital is just going to dwindle

down to an urgent care center. And some of it is inevitable. I'm not trying to stand in the way of progress. But if there is some way you could speak to UMMS, the owner, and negotiate some kind of more comfortable transition, I'd be grateful.

MR. SCHRADER: Yes, sir.

GOVERNOR HOGAN: I know that our former Deputy Chief of Staff, who is from the Eastern Shore, worked on this issue for years and is very familiar with it. Now that she's deserted us --

COMPTROLLER FRANCHOT: Yeah. Yeah.

GOVERNOR HOGAN: -- and gone to DNR, we're going to have to pick up the slack and find somebody new to pick that up. But we were well aware and we'll work with Mr. Schrader and I'm sure --

COMPTROLLER FRANCHOT: I mean, there are --

GOVERNOR HOGAN: -- Jeannie will pass some of that knowledge on to the rest of our team.

COMPTROLLER FRANCHOT: Yeah, no, that's terrific.

GOVERNOR HOGAN: Yeah.

COMPTROLLER FRANCHOT: They are feeling that they are just going to be subsumed and it's such a big entity, UMMS, that it's hard to get any response from them. But to the extent you could consult with Jeannie perhaps and come up with a concept of wellness and centers of excellence and something

that would actually benefit people who are not acutely ill but the citizens in that area, to adult daycare, new nurses being trained for whatever the new healthcare system looks like. But something that they can advertise down there is special. The hospital is very special, but it's disappearing, apparently. And, or moving over to Easton. And it's very traumatic. Everybody is like we don't know how we're going to recruit new businesses and new people to come here if our hospital disappears. So I don't, that's a, I don't have any solution. But thank you, Governor, for you know, just paying attention, and Jeannie, please give me your file on it, if you could. Because everyone is very concerned.

GOVERNOR HOGAN: Thank you. Any other questions on --
thank you. Any other questions on DGS?

TREASURER KOPP: I would just like to make a note on two items. One is 2-C, the Baltimore Community College chiller replacement. I noticed the remarks. And if you are responsible for those remarks, Mr. Secretary, I thank you.

MR. CHURCHILL: Mm-hmm.

TREASURER KOPP: Noting that replacing the chiller instead of repairing it provides better long term value to the State and it's good to see those sorts of explanations there, with which you know I agree very strongly.

MR. CHURCHILL: Yes. Yes, thank you.

TREASURER KOPP: And the other simply is to note that we did receive correspondence from Senator Eckardt in support of Item 12, which looks like a terrific cost effective way of continuing the Richardson Museum --

MR. CHURCHILL: Yes.

TREASURER KOPP: -- and all of its projects and all of its activities in one centralized place --

MR. CHURCHILL: Mm-hmm.

TREASURER KOPP: -- in the county. Thank you for that.

GOVERNOR HOGAN: Thank you for mentioning that.

MR. CHURCHILL: Thank you. Yes.

GOVERNOR HOGAN: Very good. Is there a motion on DGS?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Second? Three-nothing. That concludes the Board of Public Works. Thank you.

(Whereupon, at 1:14 p.m., the meeting was concluded.)