
BOARD OF PUBLIC WORKS

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

February 12, 2025
10:15 a.m.

PRESENT

HONORABLE WES MOORE

Governor

HONORABLE BROOKE E. LIERMAN

Comptroller

HONORABLE DERECK E. DAVIS

Treasurer

JOHN GONTRUM

Secretary, Board of Public Works

ATIF CHAUDHRY

Secretary, Department of General Services

THOMAS HICKEY

Director of Procurement and Real Property Initiatives,
University System of Maryland

JOSH KURTZ

Secretary, Department of Natural Resources

SAMANTHA BIDDLE

Deputy Secretary, Department of Transportation

LISA GRIGSBY

Recording Secretary, Board of Public Works

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PROCEEDINGS

GOVERNOR MOORE: Good morning, everybody.

(Chorus of good morning.)

GOVERNOR MOORE: Good morning, please take a seat.

Good morning. Welcome to today's meeting of the Board of Public Works. We will -- go ahead and move the microphone back, and we'll get started with the business of the day.

Mr. Secretary, good morning. Good to see you.

MR. GONTRUM: Good morning, Governor. Good to see you, sir. And good morning, Mr. Treasurer and Madam Comptroller. There are 25 items on the Secretary's Agenda this morning and two reports of emergency procurements. I'm happy to assist answering any questions.

GOVERNOR MOORE: Great, thank you so much. I'd like to begin by calling up Item 4 and also Item 23, which provide compensation and housing benefits through The Walter Lomax Act to Mr. Marando Warthen for being wrongfully convicted and incarcerated for 28 years for a crime -- 29 years --

COMPTROLLER LIERMAN: 39.

GOVERNOR MOORE: 30 years?

COMPTROLLER LIERMAN: 39.

TREASURER DAVIS: 39.

GOVERNOR MOORE: I apologize

TREASURER DAVIS: Too long.

GOVERNOR MOORE: Too long.

COMPTROLLER LIERMAN: Yeah.

GOVERNOR MOORE: For a crime that he did not commit. In

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1984, Mr. Warthen was charged and convicted of two counts of second-degree murder, one count of use of a handgun in a crime of violence, and one count of wearing and transporting a handgun. He was sentenced to 103 years behind bars. And as he did when he was arrested and tried for these crimes, Mr. Warthen maintained his innocence throughout his decades of confinement. Over the course of nearly four decades, Mr. Warthen filed multiple appeals, petitions for post-conviction relief, and at least two petitions for writ of actual innocence -- all without success. Until 2023, when a Baltimore City Circuit Court judge granted his writ of innocence and the Baltimore City State's Attorney declined to retry Mr. Warthen.

On April 3rd, 2023, after spending 10,382 days behind bars for a crime he did not commit, he was finally released and set free. 10,382 days were stolen from him. 10,382 days were stolen from Mr. Warthen. Depriving him of the opportunity to start a family, to pursue a career, to utilize all of his God-given talents and skills to benefit his community and to benefit our state. He was 22 years old when he was arrested and incarcerated. Now 61, he's trying to navigate a world that is vastly different than the one that he lived in prior to his incarceration.

During his incarceration, both of Mr. Warthen parents passed away. And his parents never gave up in working towards delivering justice for their son. They never stopped believing in their son. They never stopped believing that he was telling the truth the entire time. They spent a great deal of their own financial resources towards legal representation to exonerate Mr. Warthen.

And while they are no longer here on Earth, I do know in (indiscernible) and they're smiling. And they're proud of the fact that their son, after nearly four decades, is finally receiving the vindication that he is owed and

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the vindication that he's been asking for. He's joined here this morning by a group of his attorneys to include our warrior lawyer, J. Wyndal Gordon, Mr. Raouf Abdullah, Ms. Pamela Daniels. And his brothers, Mr. James Warthen and Mr. James Kaih.

Mr. Warthen, as the Governor of this state, but most importantly as a father, as a husband, as a son, and as a fellow Marylander, there are no words that can be said or shared to tell you how sorry I am, but also how sorry this entire state is for the way that our justice system failed you repeatedly. And while no amount can undo the injustice to make up for what was taken from you and your wife and your family, I do hope that today's actions by this Board provides a measurable level of closure and relief for the completely unfair treatment that you have gone through. As-Salaam-Alaikum.

(Chorus of As-Salaam-Alaikum.)

GOVERNOR MOORE: And I want to let you know that this apology coming from me is not just long overdue, it's coming from the entire state of Maryland. God bless you.

MR. WARTHEN: Thank you.

GOVERNOR MOORE: With that, is there any further discussion on the Secretary's Agenda?

COMPTROLLER LIERMAN: No, I think I would just like add to what the Governor so eloquently stated. And the lawyer in me has to note the judge in her ruling -- she found, and I think this is a testament to you and to your team. She wrote, "Ultimately, I found the claimant to be tremendously credible. To the extent that I feel comfortable in saying he was one of the most credible witnesses I have observed in the 20 years I have been conducting hearings as an administrative law judge."

I think it just goes to show, you know, your integrity. And so I'm

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deeply sorry that our justice system failed you so deeply. And I'm gratified that the State can do some small thing to make up for it. Thank you.

MR. WARTHEN: Thank you.

COMPTROLLER LIERMAN: Thank you for being here.

GOVERNOR MOORE: May I have a motion to approve the Secretary's Agenda?

COMPTROLLER LIERMAN: Actually, I have one other question on an item. Is that okay?

GOVERNOR MOORE: Of course.

COMPTROLLER LIERMAN: It's Secretary's Agenda Item 20. This is on -- oh, a settlement from DPSCS. This is the settlement against -- or regarding Keston Whitehurst. And you know, we have a number of settlements. And often, we -- I've sort of consistently and the Treasurer and you have consistently asked where we are with these settlements in terms of improving the situation, so that there is not a need for the Department to settle immediately, when we are -- when the Department is in the right.

And I see that we have Assistant Secretary Sedtal with us -- so good morning. Last year at the October 2nd meeting, there was an extensive discussion around the Department's efforts to improve their camera infrastructure and their storage capacity relative to yet another settlement. I understand you might have an update. Been a few months, so would like to hear where things are. Thanks.

MR. SEDTAL: Absolutely. For the record, my name is Joe Sedtal, Deputy Secretary of Administration. I have with me virtually -- a gaggle is probably not the right word, a billable of lawyers that can also answer questions.

As far as the static camera system, we are making substantial

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progress on improving the cameras that are up in the facility. Most excitingly, and I know we've talked about this at the Board before, where the Governor has put in his allowance of funding for a body camera program. We were actually scheduled today to do the initial pilot for that at our Patuxent facility, but due to the weather, we're pushing it back to next week. If you all will indulge me for a moment, my parents were teachers, so they love show and tell. I actually have a body camera with me that I'd be happy to show you all.

The concept is all of our officers will be able to two clicks, turn it on. 90 second feedbacks, so you can see what's actually leading up to the incident that might occur. Some of the settlements that we're discussing today, a body camera, I think would have prevented that and allowed us to show that evidence that we need to either, you know, show that we did something wrong or show that we did something right and hold people accountable one way or the other.

COMPTROLLER LIERMAN: And those are coming -- there's allowance in the budget, but those are coming when?

MR. SEDTAL: FY '26.

COMPTROLLER LIERMAN: Okay.

MR. SEDTAL: But we're starting the pilot program now. We've worked with AFSCME to develop a policy for the pilot program to ensure that this isn't some sort of a gotcha thing. We want to be able to hold our people accountable. We've seen in other states with body camera programs that you'll see violence reduction of up to 40 percent within facilities because people know they're being videoed, that there's audio there.

And so we're hoping to create a safer, better facility across the entire state. And ultimately, I think these pilot rollouts over the next couple of months will be able to allow us to work out all the kinks and have a fully functioning program. So that in FY '26, we can roll this out across the

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Department.

COMPTROLLER LIERMAN: Okay. That's great. And for storage, you'll store them? I mean, that's been an issue too.

MR. SEDTAL: One of the really exciting things is, as we've talked about before with the static cameras, we're working on upgrading for, I think, a four-year period for a retention policy. With the body cameras, it's unlimited retention.

COMPTROLLER LIERMAN: Oh, okay.

MR. SEDTAL: So the lawyers will hopefully be very happy.

COMPTROLLER LIERMAN: Great. Thank you. I'm a lawyer - I'm happy.

Thanks. Sorry about that.

GOVERNOR MOORE: No, no worries. Thank you, Deputy Secretary.

May I have a motion to approve the agenda?

COMPTROLLER LIERMAN: Motion to approve the Secretary's Agenda.

GOVERNOR MOORE: And is there a second?

TREASURER DAVIS: Second.

GOVERNOR MOORE: Outstanding, thank you so much.

We'll proceed with the DNR Agenda. Secretary Kurtz, good morning.

MR. KURTZ: Good morning, Mr. Governor, Madam Comptroller, Mr. Treasurer. For the record, Josh Kurtz, Secretary of the Department of Natural Resources. We have seven items for your consideration today. Two very exciting new acquisitions for our public land units. I'm happy to take any questions that you may have.

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GOVERNOR MOORE: Perfect, thank you so much. I would actually like to start by calling up Item 7A, which is a request to provide \$3.6 million for Program Open Space. The funds for Wicomico County to acquire 446 acres of Wetipquin Creek and turning the land into Wicomico County's first official State park. Which we're very, very excited about. For over 55 years, DNR has used Program Open Space statewide -- stateside to fund areas of -- natural areas, protect wildlife, protect watersheds, provide spaces for public recreation all throughout the state so the People of the state could use and enjoy.

And to date, Program Open Space stateside funding has preserved over 350,000 acres of natural land. And in the first fiscal year alone, the Board of Public Works approved roughly \$22 million in program awards. And that is the highest amount that we have seen since 2009. And we are pleased to add to both of those totals today. This park land acquired through this grant consists of a mixture of forestry and tidal wetlands, agricultural fields. And they'll all be managed by the Maryland Park Service to allow Marylanders to bird watch, or fish, or enjoy the recreational activities.

I look forward to get out there and hiking. I would love to have some Marylanders come out and join me. When we're out there, we're out there together, Secretary Kurtz. And this acquisition will also provide opportunities for Marylanders to visit the Long Hill property, which is an 18th-century plantation that is listed on the National Register of Historic Places.

For more on the significance of this acquisition and why we are so excited to have this come on board, we have the County Executive of Wicomico County Julie Giordano. Our friend who is here virtually, I believe. There she is. (Indiscernible), good morning.

MS. GIORDANO: How are you?

GOVERNOR MOORE: Great to --

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MS. GIORDANO: Good morning.

GOVERNOR MOORE: Great to see you virtually.

Congratulations.

MS. GIORDANO: Oh, thank you so much. I just wanted to say that this is definitely historic because Wicomico County is the last county to -- without a State park. And so that no longer will be the case, and so we are just so excited. I do want to tell you I don't hike, so Bunky will be there with you. I will designate him to go hiking with you, but we are really excited.

And one of our biggest pushes here, you know, with our administration is bringing people to our county, right? Bringing people to Maryland and bringing people to our county, and this is just one step in that direction. So thank you to DNR and thank you to everyone who made this possible. So we are really excited.

GOVERNOR MOORE: It's great. Great to see you my friend and listen, we're going to get you out there too. It is going to be great. And actually, you are right. While it's the last county in Maryland that does not have one, Baltimore City still does not have a State park. So --

MR. KURTZ: I know one, if you're interested, sir.

GOVERNOR MOORE: There we go.

MR. KURTZ: We are working to develop a partnership park right now. We have a working group that's been going on. It was created through statute. We have -- our focus groups are starting this spring. And so we're looking at creating a partnership park in Leakin Park, Gwynns Falls with the City of Baltimore to do just that. Make sure every jurisdiction has a state park.

GOVERNOR MOORE: Outstanding.

COMPTROLLER LIERMAN: Great.

GOVERNOR MOORE: So exciting, thank you. Thank you, Mr.

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Secretary.

County Executive, thank you so much. Stay warm and thank you and congratulations again. Your leadership --

MS. GIORDANO: Yeah, thank you.

GOVERNOR MOORE: Your leadership mattered in this.

MS. GIORDANO: Yeah, we apologize for not being in-person. We just got a little bit more snow than what we were anticipating. So thank you for being so flexible.

GOVERNOR MOORE: You're doing the right thing. You're where you need to be. So God bless you. Thank you.

MS. GIORDANO: Yeah, thank you.

GOVERNOR MOORE: I would now like to turn it over to the Comptroller for comments on this item.

COMPTROLLER LIERMAN: Yeah, I just wanted to say congratulations. I do hike, so I'll come.

(Laughter.)

GOVERNOR MOORE: (Indiscernible).

COMPTROLLER LIERMAN: And Mr. Secretary, it's great to hear the update about Leakin Park as well. So I know you've worked with the legislators there and the city. So I think it's a great idea and I'm fully supportive of it. Thanks.

GOVERNOR MOORE: Outstanding. Is there any further discussion on the DNR Agenda?

COMPTROLLER LIERMAN: Nope.

GOVERNOR MOORE: May I have a motion to approve the DNR Agenda?

COMPTROLLER LIERMAN: Motion to approve the DNR

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Agenda.

GOVERNOR MOORE: And is there a second?

TREASURER DAVIS: Second.

GOVERNOR MOORE: Outstanding. Thank you so much.

Thanks, Mr. Secretary.

Next up, University System of Maryland. Mr. Hickey, good morning -- online. Good to see you.

MR. HICKEY: I'm online today. Good morning, Governor, Mr. Treasurer, Madam Comptroller. Tom Hickey representing University System of Maryland. There are six items for your consideration. And I'm happy to answer any questions you may have.

GOVERNOR MOORE: Beautiful. Thank you so much. Is there any discussion on the USM Agenda?

COMPTROLLER LIERMAN: I just briefly wanted to acknowledge and honor the life of Frostburg State University President Dr. Ronald Nowaczyk. I mean, he was a wonderful man and left a really profound impact on Mountain Maryland. And I was so sorry to see that he passed only 11 days after his retirement as President. So I had the pleasure of touring Frostburg State with him a couple of years ago, and he was so enthusiastic. And it's a real loss.

I also wanted to just quickly uplift the USM Towson and Salisbury Universities for in the intentionality and level of detail utilized to address sustainability and resiliency with respect to the projects in Items 3 and 6. I think these items are excellent examples demonstrating how sustainability and resiliency can be incorporated into agenda items so that we, as a state, can highlight the work being done for the general public and lead on this issue.

And I think, you know, following the Governor's lead, clearly the

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time is now. I do think that it's imperative that we more formally incorporate climate change and sustainability considerations into select items brought before the Board to ensure that those items align with the State's climate goals, increase sustainable practices and resiliency, and justly address the impacts of climate change on Marylanders. I know the Governor knows this, and the Treasurer, since last year, our teams have been working with Board staff and other partners in the executive branch to discuss updates to Board Advisory 2006-1 including the incorporation of sustainability and resiliency considerations.

We are dedicated to getting this done and working on it. And I applaud the University System for their work to always make sure that you include that type of information so that we can be confident in how this money is being spent and know that we're building structures that will stand the test of time despite the issues that climate change brings. So I look forward to having climate and resilience details on every applicable agenda item in the near future as well.

Thank you, Mr. Hickey. And thank you, Governor.

GOVERNOR MOORE: Amen. Thank you, Madam Comptroller.

MR. HICKEY: Thank you.

GOVERNOR MOORE: If there is no further discussion, may I have a motion to approve the USM Agenda?

COMPTROLLER LIERMAN: Motion to approve the USM Agenda.

GOVERNOR MOORE: And is there a second?

TREASURER DAVIS: Second.

GOVERNOR MOORE: Outstanding. Thank you so much.
Thanks, Mr. Secretary.

MR. HICKEY: Thank you, sir.

GOVERNOR MOORE: We'll proceed and we'll stay online to the

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Deputy Secretary, MDOT Deputy Secretary, Deputy Secretary Biddle. Samantha, good morning.

We got -- we've got you visually, but not audio.

MS. BIDDLE: Apologies. Is that any better?

GOVERNOR MOORE: Perfect.

MS. BIDDLE: Terrific.

GOVERNOR MOORE: Good morning.

MS. BIDDLE: Good morning, Governor, Madam Comptroller, Mr. Treasurer. For the record, my name is Samantha Biddle, Deputy Secretary of the Maryland Department of Transportation. Today, the Department is presenting seven items for your consideration. Happy to answer any questions.

GOVERNOR MOORE: Thank you so much. I'd like to start by calling up Item 7-GM, which is a request from MDOT to enter into a 23-year revenue-generating contract with Fraport Baltimore Partnership, LLC. And that's for the exclusive right to develop, to renovate, to lease and manage the retail, restaurant and commercial services at BWI Thurgood Marshall Airport.

In 2023, my Administration redirected the Maryland Department of Transportation to conduct a new solicitation of this crucially important and legacy-driving contract. I'm pleased that this recommended award is before this Board. And because it does feature such a significant amount of economic benefit to the state, an impressive development plan, and concessions program that is going to provide a wide range of amenities to our passengers, it will expand our economic opportunities to our ACDBE operators and protects the rights of workers at the airport.

Fraport has committed to more than \$31.5 million in capital improvements at the airport. And the State of Maryland will receive 90 percent of the revenues generated through the airport concessions program, which is a 20

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percent increase from the current contract. And we are projecting \$39.5 million in revenue to the State in its full first year of operations alone. In the area of economic equity and opportunity, Fraport has agreed to meet the 30 percent ACDBE goal, establish a \$10 million loan fund for ACDBE operators, and their proposed concessions development plan is expected to produce an ACDBE participation rate of 49.6 percent. And they have committed that 79 of the 118 concession spaces will be occupied by ACDBEs.

This commitment to ensure that ACDBEs have a robust presence in the airport concessions program is projected to generate over \$735 million in gross sales in the first five years alone of the program. And in addition, Fraport has pledged that their \$31.5 million capital improvement plan will feature local and minority contractors to develop the A/B Connector and capital improvements to Course C. So my Administration has directed that the new solicitation for this contract require that the successor offer agree to a labor peace agreement. Ensuring that workers at the airport's food and retail establishments are able to collectively bargain for higher wages and expanded benefits.

And lastly, in the area of sustainability, Fraport has committed to working collaboratively with MDOT and MAA to create strategies that lead to a significant reduction in carbon emissions and support the State's climate commitments in alignment with international sustainability standards.

To make this happen, it took a lot of work and a lot of commitment. And I personally want to thank the Maryland Department of Transportation for the incredible hard work that you put into the many, many months to conduct and complete this solicitation. I look forward to the success of the program, but I know that this does not happen by accident. It happens because of intentionality. And so to everybody involved, to MDOT, to our partners on the Board, I want to say thank you.

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With that, I also want to recognize our friend, Ms. Roxie Herbekian, who is representing Unite Here, Local 7, who has signed up to speak in support of this item. We would ask that each speaker limit their remarks to three minutes.

Roxie, it is wonderful to see you.

MS. HERBEKIAN: Morning, Mr. Governor --

GOVERNOR MOORE: Good morning.

MS. HERBEKIAN: -- Madam Comptroller, Mr. Treasurer. Well, this has been a very long time coming. And I really want to applaud our State government for taking the time to get this right. It's a very big contract for the State. It's a major economic engine for the State. And the fact that it is going to meet incredible historic levels of minority participation, and rights for workers, and revenue to the State just makes me proud to be part of Maryland.

You mentioned a lot of people did a lot of work, it's so true. And I want to just recognize Manny Welsh and John Gontrum who, wearing various hats over the years, helped move this along. And of course, Mr. Governor, Madam Comptroller, and Mr. Treasurer. Thank you so much. This was a great pleasure that we endorsed this contract.

We have entered into a very fair agreement with Fraport that will protect the State's proprietary interests, the workers, and as there is -- part of the agreement also covers as there's transition in the different operators. There will be opportunities for people who maybe are displaced to have priority hiring. So we're looking forward to this being a great economic engine for the State, but also a great job creator for Marylanders. So thank you so much.

GOVERNOR MOORE: Amen, amen, amen. Thank you, Roxie.

First of all, thank you also for -- and we want to highlight praise for both Manny and Secretary Gontrum for their remarkable work in making this

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happen. And Roxie, I just want to say thank you to you. Not just for your year, not for your years, but for your decades of insistence on not just this issue, but many, many others. Congratulations.

MS. HERBEKIAN: Thank you.

GOVERNOR MOORE: And thank you so much.

COMPTROLLER LIERMAN: Thank you, Roxie.

GOVERNOR MOORE: Is there any further discussion on the rest of the MDOT Agenda?

TREASURER DAVIS: I do.

GOVERNOR MOORE: Please.

TREASURER DAVIS: Thank you, Governor. It's the Deputy Secretary that that I'm addressing?

GOVERNOR MOORE: Oh, yes.

TREASURER DAVIS: Good morning, Deputy Secretary. It's nice to be with you this morning.

MS. BIDDLE: Good morning, Treasurer. Apologies for not being there in person.

TREASURER DAVIS: Yeah, you're here. You are here.

I've got a few questions. I was going over some of the briefing materials and there were, quite frankly, some things within the briefing materials that MDOT produced that concern me. Let me start by saying a wise man once said we are -- Maryland is asset rich but strategy poor. Would you agree with that?

COMPTROLLER LIERMAN: Yeah.

TREASURER DAVIS: And I would be very careful about how I respond to that answer.

GOVERNOR MOORE: I don't know how wise that person is.

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TREASURER DAVIS: And the reason why I ask that -- or I phrase that is because when I was reading through briefing materials, it pretty clearly stated that the economic benefits to the State were more or less de minimis. That when you do the math, 2.5 percent of the overall goal was all we put to the economic benefits of this to the State. That other things were far more important.

And so that alarmed me in that as a state that's in a pretty significant financial situation, where you have the Governor and the members of the General Assembly having to make difficult choices, think of possible revenue enhancements, here we are, we have a revenue generating contract and we put a cap on the amount of money. I mean, literally is what it said. The amount of money that -- you know, that could be used to get this contract. I think the phrase was we didn't want this contract to be bought. But isn't that what a procurement is? By definition, someone's trying to buy the procurement. Is that an inaccurate statement?

MS. HERBEKIAN: You know, certainly, sir, there were, you know, a number of factors, you know, and -- both on the technical side and on the financial side. And ultimately, what was most important in the development of this, you know, solicitation was a balanced solicitation that really looked at what was going to deliver us the best partner over this extensive contract term. Certainly, there is an important financial component to that, but we need to look more broadly at the balance of what this proposed concessionaire is going to bring to the airport in terms of the capital investments that they will be making into the property.

Those are essential and will, you know, play out over the term of this. We're looking for a long-term partner. You know, and certainly looking at where we are currently versus the future revenue share of being the 90 percent

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revenue share along with that capital investment, we felt that the structure of this procurement and how it was evaluated allowed us to come away with the best long-term partner.

TREASURER DAVIS: Let me get to the structure. In your briefing materials, it says the RFP specified that the contract was recommended for award would be the one most advantageous to the State. And the recommendation would place three times more weight on technical ability than revenue generation, which is reflected in the 75 percent technical overall weight, versus the 25 percent overall financial weight.

So if we're saying one is -- those things don't have to be mutually exclusive. We can have a great technical weight or criterion and also maximize the revenue component of this. Because that's kind of what we're in the business of doing, I would think. So again, why the disincentive or the playing down of the revenue? This is, again, this is a revenue generating contract as described in the solicitation. So why would we downplay the revenue part of it, when we don't have to? And certainly, when this State, speaking as your as your Treasurer, I can assure you this State can use all the dollars that it can get.

MS. BIDDLE: Certainly, sir. I think we are really able to meet all of the objectives that we're looking to accomplish over the short, mid, and long-term at BWI Airport through the revenue structure of this contract. At the end of the day, what we're looking for is the best overall value. And technical ability to run airport operations is truly critical, when we're looking at the overall value of what we bring forward in this partnership, and feel that through the revenue that will be generated this financial piece fits in well with the overall package. We also need to think about the businesses that we have there. How they are running, and think about our customers as well. And looking through all of these pieces, we felt that the revenue package that we pulled together was the right one.

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TREASURER DAVIS: Are you saying that --

MS. BIDDLE: But I understand -- I do understand your comments, sir, and echo your understanding of the financial position of the Department.

TREASURER DAVIS: Let me stay there for a second. This is -- also in your briefing material, if you compare the existing contract to the proposed contract as to the reason why this Board should support the procurement. In light of your approach to the financial aspects of the contract, I think it would be more enlightening if the Department could provide us a comparison with not the proposed contract versus the existing contract, but the three or four bids that you got, how are they compared to what they proposed? We mentioned the percent that we would get in the financials, but what percent -- and I think the number was 90. That does not necessarily equate to the most overall dollars that you can have because if one is projecting a higher dollar amount, the percent may be lower but it will still ultimately generate more revenue.

So the issue is not the last contract versus the future contract, but all the bidders compared side by side. I think I read it in the -- in this -- in the package. Excuse me. I read in the package that there was a loan fund that was \$10 million, and that was touted as part of the minority business or the ACBEFG (sic). You know, as part of one of the highlights, but was that the largest loan fund?

So see, that's what I'm saying. We need -- it would probably be more informative if we can compare the information against, you know, all the bidders versus the last contract versus the current contract. I would assume that you all wouldn't bring to us a contract that's worse than the previous one, unless that's just the market that we're in. So it's the numbers comparison there. I guess I would also go on and ask, and this is not an easy question, but this is sort of

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where we are. I've known Fraport -- or I've worked with him since they were Airmall. And they've certainly been good citizens, so far as I know.

But that being said, did you all investigate the situation with Fraport USA and Philadelphia International Airport? I know a settlement was reached there. But the thing that jumps out to me was that that was a \$10.5 million settlement, and that the airport wanted to end the contract six years early. I don't know all the particulars in that. It happened -- when I was googling it, I found that. And so my question to you is did the Department -- did the agency look into that because I think those are material facts in terms of should we move forward or not. Why? What caused that that situation?

MS. BIDDLE: Okay.

TREASURER DAVIS: More specifically --

MS. BIDDLE: Certainly.

TREASURER DAVIS: -- have we insulated ourselves against a situation like that?

MS. BIDDLE: Sure. So if I could, I'll take a step back and address the financial piece first in regard to the comparison between previous contract, current contract, and the three proposals that we had in front of us. You know, as stated in the package in the briefing, the financial evaluation were set up by those benchmarks and ranges, which is why the rank is all listed the same. And we did discuss the caps, and that each of the proposals did fall within the same range, thus receiving the same score.

I understand the interest in looking at the financials between the three teams, but unfortunately, I'm only able to discuss the successful bidder with you here this morning. Discussing the other bidders' proposals could reveal confidential financial, proprietary, and other business information. But that loan fund for the ACDBEs that you referenced was not required by the RFP. So I just

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wanted to provide that level of clarification as well. Then in regard to --

TREASURER DAVIS: Let me stop you there. You said -- go back to that part about what wasn't required?

MS. BIDDLE: The loan fund that you referenced, the \$10 million loan fund. Certainly, it played into how the contracts were -- how the proposals were evaluated, but that was not a requirement of the RFP. Just wanted to --

TREASURER DAVIS: Why is it in our thing? If it's not materially relevant, then it shouldn't be presented to us as such.

MS. BIDDLE: We're presenting it to you as an advantageous -- offering part of their overall package. And just wanted to highlight that because of its importance to the overall commitment of Fraport to the ACDBE community that they'll be working with at the airport.

TREASURER DAVIS: And let me stay there. I'm not a lawyer, but since that door was opened, it sort of goes to my question. Was that then the best loan fund offered or package that was part of that? And not just on that, on several of the things as it relates to a ACDBE. That the winning -- and it's hard to make a decision when we don't have all of the information. It's considered proprietary.

You know it, but we don't know it, but we're expected to vote on it anyway without having the full details. And so that sort of prompted my question on that. And, you know, we're talking percentages versus raw dollar amount. How do we know it's the best? It was the best bid, when we can't get the full story? Just the one that you all selected.

MS. BIDDLE: Understood. I can assure you that a thorough evaluation process that compared the bidders for the financial and the technical components did occur. I did also, if you allow, provide some clarification on the -- I believe you referenced Philadelphia. But in the information in front of me

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is referenced to a Pittsburgh airport. So I just wanted to try to provide some clarification on how the references were done for this contract and for this proposal.

And to just also note that Fraport has been operating at BWI Marshall Airport for 21 years. They've had a long and successful partnership with the State. In addition, our contracting officer performed reference checks of Fraport with four different airports. Pittsburgh International was not listed as a reference and was not among those contacted. However, I'll also note that the Pennsylvania Superior Court did rule in favor of Fraport in the dispute over the early termination that you referenced of its master lease to manage concessions at that airport.

TREASURER DAVIS: And please understand the questions I'm asking. I'm 57 years old. By the time this contract comes up again, if I'm so fortunate to be alive, I'll be 80. This is a 23-year contract. We have to get it right. And so going back to the information that that you all can't provide -- let's say this. If we wanted to delay it and go find it ourselves, what would you say the impact would be on this?

MS. BIDDLE: Delay?

TREASURER DAVIS: If we needed to delay it to seek additional information, what type of impact would it have on the contract?

MS. BIDDLE: Yes. Certainly, we have been working on this contract for a number of months -- well over a year, at this point. We are at the point with many of our sublessees at the airport where they are on month-to-month arrangements with the master contractor. This is challenging for them. And I think further delays does provide additional challenges and uncertainty in their ability to kind of make the right decisions for their establishments. So in the short-term, I think mostly of our sublessees and what it does for them and

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providing them kind of the certainty that they're looking for moving forward.

As we look ahead, there are other challenges associated with delays. Especially, as you start to think about some of the scheduling of the capital improvements that will be coming online -- those fit outs associated with the A/B Connector and other things as you get further along into 2025. But certainly in the near term, I think the greatest impact is to just providing certainty on the sublessee community who are on those month-to-month arrangements currently at the airport.

TREASURER DAVIS: I ask that question for this reason. I remember when we did this. It was -- when we first decided to hold off and do a new solicitation, I believe it was March of '23. And at this very meeting, I asked the question about the impact it would have on the sublessee and I was assured by the Department that that wasn't an issue. And so we proceeded to take 22 months to get back to this point. From the last meeting in January, it was 22 months.

We've only had it for two weeks. And so see, that that brings up a couple of other issues. So, you know, when I hear people voiced concern about how long it takes to do a procurement, oftentimes the Board of Public Works, me, the Governor, and the Comptroller, bear the brunt of that. But the reality is we're the last stop. And it's about two weeks, when we get the vote. No one accounts for the prior, in this case, 22 months to get prepared, to get comfortable, to know what's going on. But when it gets to this point, now it's a problem.

And I ask that question because when you look at the 23-year contract, it doesn't start producing anything until year four or three years after we've done it. The first year is the development phase, and then the next two years are the renovation phase. So we're not losing any money or anything like that because of the development and the renovation phase. It doesn't start producing new money until year four. Is that accurate because I got it from the

package?

MS. BIDDLE: Yes, sir. That is when the new contract will be starting to generate money. I think that there is value lost in not taking advantage of bringing on the new capital investments to best align with the A/B Connector coming online. And I think that there is a lot of great work that will occur over that fit-out period on the onboarding in that period of time that will benefit not only our customers and our user experience, but also that sublessee community.

So your points are well taken in, but I just wanted to reiterate that while the benefits financially do not come online with this new contract until year four, there are still many other benefits that are actualized by both the capital investments along with the user experience that we wish to improve as well.

TREASURER DAVIS: Last question, there was mention of the labor peace agreement. Have we had labor discord at the airport?

MS. BIDDLE: I would need to perhaps defer to Executive Director Smith or Ms. Radomsky, if they are available, but not to my knowledge.

TREASURER DAVIS: Thank you, Governor.

COMPTROLLER LIERMAN: Thank you. I'll say there used to be a lot of labor discord. When I was on the Appropriations Committee, this came up over and over and over again. And I think Roxie was in our committee, every year. And it was a lot, and it was a real mess. So I am very grateful that there is a labor peace agreement and I salute Unite Here 7 for persisting in this and for MDOT for putting this out there.

Thank you, Mr. Treasurer. Great questions. I also have a few questions. This is a really long contract, as the Treasurer noted. I will not be in elected office when this is done. I will not be Louis Goldstein. And so I appreciate -- first, I want to just say I appreciate Valerie, who may be somewhere on the screen, and her colleagues for meeting with me multiple times over the

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course of the last months to go over this item in great detail. And for sending extremely detailed follow-up answers to many of my questions.

This is a very complicated procurement. And you know, I also want to note our role. I see our role in -- our role is not evaluating all of the options and picking the winner. I think that is up to the agency. Our role is to ensure that through the procurement process, there was a fair process and that we are achieving best value. And I do believe, after having many questions answered, that we are there. But this is a really important contract, it offers a chance to generate revenue for the State.

First, for these payments that the Treasurer was referencing and that you were talking about Deputy Secretary, but also in sales taxes, which is something I care a lot about. And even though here you note -- and in our materials it notes, we won't see these additional shares to MAA until year four. In fact, every day we're generating sales tax at the airport. Right, Deputy Secretary?

MS. BIDDLE: Correct.

COMPTROLLER LIERMAN: And, you know, one way to generate additional sales tax is to have more capital investment in these small ACDBE -- was I close? ACDBE businesses so that they can generate more income and hence more sales tax; is that correct? Would you agree with that --

MS. BIDDLE: Correct

COMPTROLLER LIERMAN: -- Deputy Secretary?

So I feel you know strongly about making sure that we're investing in these businesses, so that they can generate the sales tax that the State really needs. And of course, this is important because BWI is our State's front door for many visitors around the world. And we want to put our best foot forward when visitors arrive so they come again and again and pay sales tax again and again.

So just a few questions for you, Deputy Secretary. My first

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question is about the evaluation process. As we all know, sometimes after bidders submit proposals, the State may ask for a best and final offer before assessing those financial proposals. But here through my conversations with Valerie, I realized the State did not do a BAFO, that's my understanding, because they didn't want people to hold things back from the first offer, and so they told all the teams to put their best offer out because there wouldn't be a BAFO.

Could you explain that? Is that correct?

MS. BIDDLE: Yes, that's correct. At the pre-proposal conference that we held at the onset of the solicitation, the contracting officer made it very clear to all proposers that, kind of as you referenced, we were really looking for teams to sharpen their pencils and submit their very best proposals at the onset. We issued no new addendums after receiving proposals that will require new technical proposals or new financials, so you know a BAFO is not required.

COMPTROLLER LIERMAN: Got it, okay. And similarly, concerns about the decision to not interview the bidders. Could you talk about why you didn't interview the bidders?

MS. BIDDLE: Right. And similarly, also at the pre-proposal conference, our contracting officer informed all of the potential proposers that they may or may not be called in. The solicitation stated that if contractors or the contracting officer needed to clarify, they may be asked to come in. So very few clarifying questions needed to be asked. One letter was sent to each proposer with both the technical and financial proposals, and our evaluators agreed that they did not need further clarifications following that kind of back and forth.

You know, what we see in many cases and has been confirmed by many of the procurement kind of experts who really assisted us throughout this process is that those oral interviews do open up a level of risk. Proposers can highlight new offerings that were not included in their original technical proposal,

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and that brings difficulty in our ability to factor into the evaluations in a fair process, unless we go through an addendum.

And then in that case, we would be then requiring new technical and financial proposals fulfilling any new requirements stated out in an addendum. So with this solicitation, we did bring on board to the Department on a kind of a contractual basis a retired state chief procurement officer to assist us in this. And their feedback was in alignment with the ultimate decision to ensure the integrity of this procurement. And we did therefore decide not to move forward with any oral presentations or interviews.

COMPTROLLER LIERMAN: Okay. I understand. That's helpful. And could you just -- you know, the Treasurer asked a number of good questions about the scoring. And could you just answer, is scoring this model and doing it this way, was this based on best practices from airports contracts around the country? Is this how it's done?

MS. BIDDLE: Yes, we certainly we had our -- the retired state procurement officer. And we also consulted with industry experts in the development of this solicitation to ensure that we were coming up with a framework that came out with the best value overall in looking to balance the technical and the financial. So yes, I would say that this is based on industry best practices.

COMPTROLLER LIERMAN: All right. And the Treasurer mentioned the March 2023 meeting where he pointed out that month-to-month contracts meant that businesses might leave BWI for other airports due to the uncertainty of these extremely short-term leases. So if Fraport has been month-to-month, I just want to clarify and make sure that means that all of the ACDBE vendors are also month-to-month, correct?

MS. BIDDLE: Correct. Our sublessees are month-to-month.

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COMPTROLLER LIERMAN: Right. And so there aren't any new capital investments or upgrades underway by the vendors or Fraport right now and there haven't been since March 23? Okay. And why are they not putting in any investment or capital or upgrades now, when they're on month-to-month?

MS. BIDDLE: So from their perspective, they are looking to kind of manage their own revenues and financials. And so therefore for their business model, there's too much uncertainty for them to move forward with capital investments at this point. So knowledge that this contract were to be approved would allow them the ability to kind of reconsider those investments and then provide knowledge that they'll have more time to invest and reinvest in the spaces within the airport.

I'll note that back in 2023, I think, I believe we had 129 concession spaces that were occupied. We currently have ten vacancies today. And we would hope to retain at that level and not accrue any additional vacancies. It's not part of the user experience and the vitality of the airport that we really want to advance and bring forward.

COMPTROLLER LIERMAN: Right, so we -- if this were not passed today and we went -- you would have to issue a whole new RFP, is that correct, if this does not pass the Board of Public Works?

MS. BIDDLE: Certainly, if the Board were to not approve this recommendation and if we were to be asked to re-solicit, we would be looking at a delay of approximately 18 to 24 months to bring forth a new recommendation. And then, all the schedules and clocks associated with the transition period, the build out period, the capital investments would follow two years after that.

COMPTROLLER LIERMAN: Yeah, and so that's -- right now, you have ten vacancies where we're not bringing in sales tax. So two more years of a month-to-month lease, I can only imagine, would lead to many, many, many

more vacancies and less and less sales tax and no investment in the airport. I go to BWI a lot. I'm really excited for the A/B Connector. I feel like it's taking forever. But when is the A/B Connector opening?

MS. BIDDLE: So the bulk of those capital improvements are scheduled to be complete by the end of this calendar year.

COMPTROLLER LIERMAN: So we would be potentially opening the A/B Connector -- if we didn't approve this contract and it had to go back to RFP, we would be opening a brand-new section of the airport without any vendors; is that correct?

MS. BIDDLE: Correct, in those spaces. And then we would also be missing out on the capital investments that are built into this proposal that are part of that kind of enabling and fit-out work. The value of those is approximately \$8 million. So we would need to make the determination, if those improvements would need to be taken on through the Transportation Trust Fund. Those funds are not currently allocated for those improvements.

COMPTROLLER LIERMAN: And compared to the current or the past contract, comparing the financial benefits to the previous contract, this is a much, much, much better value and you expect to bring in much more revenue, correct?

MS. BIDDLE: That is the expectation, yes.

COMPTROLLER LIERMAN: Okay. Thanks. Those are all my questions. You know, I think in this it feels to me, or from what I have read, the extensive conversations, they have put together their best proposals. And often, just like here today, an award decision comes down to a very slight point differentials. It's always easier when there's a greater separation between the competition, but just because the scoring is close doesn't mean that the evaluation process was flawed. If a lawsuit had been filed with the circuit court challenging

this award and presenting new information, it might be different.

But I am confident that several of the bidders could have rolled out a very successful BWI concessions program, and we're lucky to have -- to be able, as a State, to choose from multiple able (indiscernible). But this is the one that MDOT chose based on the score. And it has a very sound plan that will generate needed revenue and support ACDBE businesses. And not only is there a time crunch that BWI is under with the A/B Connector opening soon, but we are also at real risk as a state because our vendors are leaving and we are not generating sales tax. And we will not put our best foot forward for visitors, if we have an empty airport with no vendors.

So I do believe, based on what I have read, that we will achieve solid returns here. The plans are creative and inviting for Maryland visitors, and those of us coming home or flying out. And I just think remaining in a month-to-month contract means empty food and retail spaces in a brand-new concession space, and that is a huge risk to the State. Nearly 30 million people travel through BWI annually, and it would not only be embarrassing to not have any concessions in a new space to offer travelers, but we would be losing millions of much needed sales tax dollars brought to us often by people from other states.

I appreciate the ACDBE vendors who are there and have been patient and are waiting for us to get this done. I look forward to getting updates from you, Deputy Secretary, and from Administrator Smith, on the final plans, including updates on the ACDBE loan fund that will provide access to capital for small and minority owned vendors. I hope that more of our HBCUs are also able to have an opportunity to work with BWI, like Coppin and Bowie State and others. And I will support this contract. Thank you.

Thank you, Governor.

TREASURER DAVIS: Thank you. Let me clarify a couple of

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things. Let me ask you. The initial solicitation, you said it took, what, 18 months to 24 months? Why would it take equally as long? Because part of that, I assume, was procurement development. You now have all of that done. So all you would need to really do is re-solicit, put the same contract back on the street, and wait for the bidders to submit bids.

And so you're already -- what I'm saying is that you're already ahead of the game versus where you were before because you won't be starting from scratch. You would already have the procurement you want. You're just basically asking for a new bid. Am I incorrect or would you need to go back from square one? All the information that you all have to get that procurement together, you would throw it in the trash and you would have to start from ground zero?

MS. BIDDLE: Certainly, sir, we do have a good framework to build upon. I believe that the team that developed this solicitation did a lot of terrific research and made adjustments to previous solicitations. That, ultimately, we felt that this one did bring forward a good balance and best value for the State. So we would not be starting from scratch, but we would need to take a look and do a careful analysis of certainly any feedback from this body and to make sure that we're making any amendments or adjustments. So could we have it back out --

TREASURER DAVIS: Is that a bad thing. It's more -- I would think it's more important to get it done right than to get it done fast.

MS. BIDDLE: No, certainly. I am doing a little bit of mental math to just make sure that any estimate that I provide is accurate, based upon my knowledge of the hard work that went into, certainly, this solicitation. And while we could have something back out on the street in a relatively short time frame, we do need to be mindful of the market and be mindful of the marketplace and

team's appetite to come back to us again with an interest in this contract.

So certainly, we would hope to see the same level of interest. But, you know, it is possible that we could lose bidders. Certainly, it's possible we could attract new bidders. I don't, unfortunately, have the ability to look into the future, but 18 to 24 months is a realistic estimate of what it would take.

TREASURER DAVIS: Let me go on two more things and then I'll be done. Again, for me, it wasn't who won or who didn't win. It was actually the Department's approach in terms of placing more emphasis on the technical aspects of it than the financial aspects of it. I think I spent the bulk of what I was saying, that I had a fundamental disagreement that one had to be judged greater than the other. And not just greater, it was three times greater than technical aspects, things of that nature, versus the revenue generation part.

That was the part that I had consternation regarding that the contract, not who actually won. Like I said, I've known Fraport since they were Airmall and had great relationships with them. So it's not the company, it's the approach to the procurement. And then finally, as was mentioned by me and the Comptroller, concern for the vendors -- I had that two years ago. I'm not late to that party. And it took us two years to get to this point. And now it's a problem that we're here. Leading up to this point, that wasn't an issue or it wasn't -- it doesn't appear to be as great an issue as we were leading up to it as it is here today.

So I won't ask you to comment on that. I would just say I recognized a couple of years ago the impact on both Fraport and its sublessees, but we thought it was best or more appropriate to get it right and to get it to this point. But now that, at least for me, there's still more questions, getting it right is taking a back seat to getting it done quicker. So that's -- you know, I'll let that be my final word on it. But I wanted to be clear where I was coming from. That I

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had issues with the development of the procurement and not who won it.

MS. BIDDLE: Thank you, sir.

GOVERNOR MOORE: So Mr. Secretary, I think -- let's go ahead and separate out Item 7. And so we'll take up that item first. On that item, on Item 7, may I have a motion to approve the item?

COMPTROLLER LIERMAN: Motion to approve Item 7.

GOVERNOR MOORE: And I will go ahead and second that. So the item passes two to one with the Treasurer voting in the negative.

On the remainder of the MDOT Agenda, excluding Item 7, may I have a motion to approve that agenda?

COMPTROLLER LIERMAN: Motion to approve the MDOT Agenda.

GOVERNOR MOORE: Okay. May I have a second?

TREASURER DAVIS: Second.

GOVERNOR MOORE: Great. Thank you so much.

We will conclude with the DGS Agenda. Secretary Chaudhry, good morning.

MR. CHAUDHRY: Good morning, sir -- Mr. Governor, Madam Comptroller, and Mr. Treasurer. For the record, I am Atif Chaudhry, Secretary of the Maryland Department of General Services. Today, the Department is presenting a little bit of a light agenda for you today. 26 items on our agenda. We are withdrawing three items, Item 11-IT, Item 20-EX and Item A1-EX.

Our agenda does feature six capital grants and loans totaling more than \$2.8 million. I want to highlight one item in particular. And it's Item 6-CGL, which does feature \$1.2 million in State support to Wicomico County for improvements to their Mason-Dixon Athletic Complex in Delmar. This overall project will increase public safety at the facility by adding walking and safer

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pathways throughout the site. The park development will also include reorientation of their ball fields, field lighting, new concession stand, new restrooms, public trails, and courts throughout for the public use.

As we continue to keep an eye on minority business participation in our contracting, our agenda does feature eight contract awards and modifications to certified minority businesses totaling more than \$11 million. And we have agency representatives here to answer any questions you may have.

GOVERNOR MOORE: Great. Item 6. Another great project in Wicomico.

COMPTROLLER LIERMAN: Mr. Secretary, I am just hurt that you didn't want to highlight my audit contract.

(Laughter.)

COMPTROLLER LIERMAN: Everybody wants to talk about being audited, but --

MR. CHAUDHRY: The most unfavored things in government are in auditing.

(Laughter.)

COMPTROLLER LIERMAN: This is our statewide audit service. Really delighted, it has a 35 percent MBE. It's going to a small business in Owings Mills, and it's great.

GOVERNOR MOORE: Great. Is there any other discussion besides the audit?

COMPTROLLER LIERMAN: No.

GOVERNOR MOORE: Are you sure?

COMPTROLLER LIERMAN: No.

GOVERNOR MOORE: May I have a motion to approve the DGS Agenda?

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COMPTROLLER LIERMAN: Motion to approve the DGS

Agenda.

GOVERNOR MOORE: And is there a second?

TREASURER DAVIS: Second.

GOVERNOR MOORE: Great. Thank you so much. Our next meeting will be on February 26th, but I'd be remiss if I didn't take a moment to say that that on Friday will be the Comptroller's birthday. So since our next meeting will be (indiscernible) her birthday, I want to wish her a happy birthday.

(Chorus of Applause.)

COMPTROLLER LIERMAN: Thank you, thank you. I appreciate it.

And my birthday twin, your Appointment Secretary --

GOVERNOR MOORE: That's right.

COMPTROLLER LIERMAN: -- is not here.

And also, before we close, I thought I would just take a moment to recognize the passing of a legend in Maryland, Bev Byron. Congresswoman Beverly Byron passed last weekend. Not only is she the amazing grandmother of Molly, but an incredible Congresswoman, a leader for women and Americans.

You know, after she served 12 years in Congress, she served on BRAC and the -- you know, to realign our bases across the country. And she was just an incredible force of nature to the very end. And even involved in this year's Congressional race to make sure the Democrats held it. So we mourn her passing and are so grateful to have known her.

GOVERNOR MOORE: Amen.

COMPTROLLER LIERMAN: Yeah.

GOVERNOR MOORE: Amen. Amazing life, amazing legacy. God bless her and the family.

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COMPTROLLER LIERMAN: Yeah.

GOVERNOR MOORE: So thank you all. We'll see you on February 26th. The meeting is adjourned.

(Whereupon, at 11:18 a.m., the meeting was concluded.)