

this circumstance where she was found to be, her comments found to be utterly proper by the Court of Appeals --

GOVERNOR HOGAN: So the Court of Appeals ruled against you on paying her legal fees but you have the right to come before us to ask for it anyway?

MR. ANDREWS: Yes.

GOVERNOR HOGAN: Is that correct?

MR. ANDREWS: Yes, and the reason the Court of Appeals ruled against her, Governor, is because the standard is extremely, extremely high. And so this is --

GOVERNOR HOGAN: I'm not sure why we should have a different standard from the Court of Appeals. I trust their judgment.

MR. ANDREWS: Well I think it's a question of fairness and what public servants may expect, particularly a judge who is simply doing her job and finds herself at the end of this three-year process.

TREASURER KOPP: Could --

COMPTROLLER FRANCHOT: Yeah, well that's interesting. But I just come back to my original point. Wasn't this 17-year-old young woman standing before the Judge with a black eye?

MR. ANDREWS: But that's part of it. And she didn't say, I don't know where you got that black eye, that's one-half of what the burden of proof is.

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And that's, the Judge is a neutral arbiter. She's not the investigator. She's not the prosecutor. She's not the lawyer for the Petitioner. Remember, there's a Respondent there. He's got rights as well. So --

COMPTROLLER FRANCHOT: Well I appreciate that and, you know, obviously I have great respect for you and your partner who represent folks. I just think it's completely inappropriate, as I said, to use State tax dollars to pay for the legal expenses of Judge Reese, who got sanctioned by the Commission on Judicial Disabilities and then had that overturned by the Court, understanding that this is a two-step process. I just find it unbelievable that the defense is apparently they didn't explicitly prove that the person was going to come and punch her again.

MR. ANDREWS: That's what the statute --

COMPTROLLER FRANCHOT: What, in the other eye?

MR. ANDREWS: That's what the statute says. If the statute said anybody who wants a petition, anybody who wants a peace order just come on down, you can get one automatically, it would be a different, it would be a different situation.

GOVERNOR HOGAN: See, I don't want to argue the merits of the case and what she did or didn't do. I'm just stating the facts that we know. The Judicial Disabilities Commission ruled against her. The Court of Appeals ruled against you on legal fees. So now we have to make a determination but we

can't relitigate the entire case of whether we think she did something wrong or not. It's a question of whether or not we want to go beyond what the Court of Appeals did by granting you a special circumstance paying for these fees. And I tend to agree with the Comptroller. I mean, I'm going to vote no.

MR. ANDREWS: Well the Commission's ruling at this point is a nullity because the Court of Appeals, which has the ultimate authority, determined that the allegations were utterly, utterly without merit. And so you can leave a public servant to spend that amount of money, even at reduced hourly rates, to spend that amount of money after tax dollars, if I may Mr. Comptroller, of her own savings to defend herself in a proceeding that was determined to be absolutely without merit, the fairness of that, the message that sends to judges, and she was just doing her job, applying the statute the way it's written, not the way people might like it to be written, is beyond unfair.

TREASURER KOPP: Mr. Andrews?

MR. ANDREWS: Yes?

TREASURER KOPP: The, as I understand it, the Disabilities Commission found one thing.

MR. ANDREWS: Yes.

TREASURER KOPP: It was appealed to the Court of Special --

MR. ANDREWS: Court of Appeals.

TREASURER KOPP: -- Court of Appeals, and the Court of Appeals said that that was a mistake, that it was a wrong decision.

MR. ANDREWS: Yes.

TREASURER KOPP: Then the Judge appealed for reimbursement of expenses, essentially, in layman's language and the Court said no. Did they give a reason for saying no?

MR. ANDREWS: No. It was a, just a ruling denying the motion. And the thing to keep in mind, Madam Treasurer, is that the rule that allows for a Court to award attorney's fees is what's called sort of the bad faith rule. It's a very, very high standard, where the sorts of things that I'm talking to the Board about today, public servant, fairness, utterly meritless result finally, doesn't come into play. So there's just a limited, there's a limited avenue there that's, that was available. And as you pointed out, Madam Treasurer, as a result of this case and some others, the procedures, a lot of which were very unfair to Judge Reese, lack of discovery, ex parte communications with investigative counsel, those have been changed. So, this in a lot of ways is a one-off case but it really cries out --

TREASURER KOPP: And there is precedent for this Board in the past --

MR. ANDREWS: There is.

TREASURER KOPP: -- reimbursing, this was before even I was here --

MR. ANDREWS: Yes, it was Judge Clyburn.

TREASURER KOPP: -- Judge Clyburn.

MR. ANDREWS: It was 16 years ago. These cases don't come up very often. We believe this one for all the reasons I've said, and I appreciate the Board hearing me, merits the right message being sent to public servants like Judge Reese, who was just doing her job.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: So I would move to pull this item out and support the State Center legal fee allocation and not the --

TREASURER KOPP: Well it's, aren't these two different --

SECRETARY MCDONALD: Right. So --

GOVERNOR HOGAN: Totally different items.

COMPTROLLER FRANCHOT: Oh good. Great. Then I can just vote --

SECRETARY MCDONALD: Right. Item 17 is the one that Mr. Andrews was discussing.

GOVERNOR HOGAN: Just totally different --

COMPTROLLER FRANCHOT: Oh, great. So I can --

SECRETARY MCDONALD: Move for disapproval?

GOVERNOR HOGAN: -- second the motion to deny --

COMPTROLLER FRANCHOT: -- move that Item 17 be denied.

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GOVERNOR HOGAN: I'll second. All those in favor?

COMPTROLLER FRANCHOT: Aye.

GOVERNOR HOGAN: Okay. Opposed?

TREASURER KOPP: This is taking it out of what -- I can't, I can't agree with you. I do think there is an issue that the Judge should not, having defended herself, having been supported by the Court of Appeals, and the disciplinary commission recognizing their problems and having changed the procedures after this case, that she should be personally out of pocket almost \$90,000 doesn't seem to me right. I recognize what you're saying but it just doesn't seem right to me that a public servant like that should have to be out of pocket \$90,000 when her position in the end was upheld by the Court. So I can't go with that.

On the other hand, I do have a problem with 16.

SECRETARY MCDONALD: So can we vote on 17, though?

GOVERNOR HOGAN: So let's finish the vote --

TREASURER KOPP: I'm sorry. I just --

COMPTROLLER FRANCHOT: Yeah. I just want to add --

SECRETARY MCDONALD: Two to one. Two to one on 17?

GOVERNOR HOGAN: Yeah.

SECRETARY MCDONALD: Okay.

COMPTROLLER FRANCHOT: Yeah, but I also want to add, and I obviously respect the Treasurer. But I hear all the time of evidence, incidents of domestic abuse where the male spouse blames the female for causing and being the aggressor and I guess fomenting the violence somehow that he inflicts upon her. And that unfortunately is something I think our society needs to deal with much more aggressively. And so whatever changes were made in the process, I hope that the Women's Law Center and other advocates are monitoring all that very closely because proof positive that there's a, the second claim that's made is when you look at the young woman with a black eye. Really, to me. Because that inevitably is going to be repeated if there is any contact between those two people. So, you know, I am very comfortable saying that it's entirely appropriate in this instance to have the Judge pay her own legal fees. And I feel very strongly about that just because of the imbalance in power that exists out there.

TREASURER KOPP: Could I just say, I didn't think I had to say this, but I am opposed to domestic violence. And I recognize the inequities that women face. Trust me. I do. But I think we have to look not only at general concerns and problems but in a specific case with specific people and a specific set of circumstances. And that's what causes me to say in this instance it is not clear to me that the Judge should have to pay \$90,000 when even the Court of Appeals said she was essentially following the law and doing her duty.

On the other hand, with 16 I think it's quite clear, Governor, you had concerns with what the Legislature did in the budget --

GOVERNOR HOGAN: Can we, can we finish --

TREASURER KOPP: I thought we voted.

SECRETARY MCDONALD: -- Item 17 has been disapproved two to one.

GOVERNOR HOGAN: Two to one on Item 17 --

SECRETARY MCDONALD: We've got that. Now we've got the rest of the Agenda but you want to talk about 16.

GOVERNOR HOGAN: Now we're going to go back to the rest of the Agenda --

TREASURER KOPP: I was simply explaining that I had a social conscience.

GOVERNOR HOGAN: -- I think everybody understands.

TREASURER KOPP: But on 16, there was an issue earlier today about the use of the budget power and the Department of Education, as I recall.

GOVERNOR HOGAN: Yeah.

TREASURER KOPP: In this one it's quite clear, the Legislature was properly exerting its efforts to carry out its responsibilities in voting against this expenditure, both in a 2019 deficiency and 2020. And I don't think this

Board should be attempting to overturn that action by the Legislature. So I think it's probably going to be two to one --

GOVERNOR HOGAN: It's not quite that clear. This was a decision, a unanimous decision by the Board of Public Works several years ago to vote against the capital leases --

TREASURER KOPP: It was. And I regret that to this day.

GOVERNOR HOGAN: -- so we, this deal was dead. We have this failed developer that has not done anything with this site for 14 years. We're involved in a lawsuit. These expenses for legal fees were incurred from December of 2018 through February of 2019. After the fact, the Legislature inappropriately came back and tried to push a budget cut that would say, keep us from paying our responsibilities in the executive branch for expenses that already occurred, and attempted to unconstitutionally exert power they don't have to require another three to nothing vote of the Board of Public Works. Which the Attorney General has already ruled that they have no power to make that kind of a decision. So --

TREASURER KOPP: Governor, can I just say that --

GOVERNOR HOGAN: -- let me just say --

TREASURER KOPP: -- there are other funds than the contingency fund.

GOVERNOR HOGAN: There are – actually, since they deleted these monies out of the budget for money that we needed to spend to pay our lawyer’s fees, the only money remaining to pay our bills is out of this contingency fee, which there’s \$500,000 and most of this money. That’s what the contingency fee is for, so we can pay our bills in a case like this where the Legislature does something stupid and takes away the money that we needed to pay the bills with.

So I think that if you want to make a motion to pull that one out, I think --

TREASURER KOPP: Sure. I’d like to move to pull that one out.

GOVERNOR HOGAN: And if there’s a second? The motion fails to have a second. So --

SECRETARY MCDONALD: But she’s going to be voting against this item.

TREASURER KOPP: I’m going to --

SECRETARY MCDONALD: This is a --

GOVERNOR HOGAN: Yeah. I mean, we can pull it out. I’ll second the --

TREASURER KOPP: Right.

GOVERNOR HOGAN: -- her motion to pull it out and then we can vote on that item separately.

SECRETARY MCDONALD: Right.

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GOVERNOR HOGAN: I'm going to vote --

SECRETARY MCDONALD: So two to one.

GOVERNOR HOGAN: -- in favor of the motion. And --

COMPTROLLER FRANCHOT: The motion is to --

SECRETARY MCDONALD: To approve State Center --

COMPTROLLER FRANCHOT: Yes, I'm --

GOVERNOR HOGAN: The motion carries two to one.

TREASURER KOPP: That's right.

SECRETARY MCDONALD: Thank you. We are good on 16 and
17 now.

COMPTROLLER FRANCHOT: I will say the best way to deal with this issue that we're dancing around, and it comes beforehand, and it's come up in multiple, multiple instances, I would love to see a videotape of these conference committee votes where this language items fall out of the ceiling, I guess. Nobody takes credit for anything. I am probably never going to find the person that put the Towson language in. But I wish that in the future we would film the meetings in the back room where these little actions are taken so that at least we know from whence they come.

GOVERNOR HOGAN: Yeah, but on this last item, just I don't want to get into a he said, she said, but just the Legislature in trying to stop us from paying our legal bills to defend the State in this action potentially could cost

taxpayers up to \$100 million in lawsuits. So, it's just, it's total lack of regard for fiscal responsibility in my opinion, and an interference, and they don't have the power to do it.

TREASURER KOPP: Governor, can I just point out to the Comptroller that all these were approved on the floor in recorded vote. Who sponsors a bill or an amendment, who is not the question.

GOVERNOR HOGAN: I think his question is where it came from, you know, who influenced them to come up with an idea like that. Are there any other questions on the DBM Agenda? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing on the remainder of the Agenda. Now we're going to move on to the University System.

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

GOVERNOR HOGAN: Joe, we might give you a break while we clear the room. They are making a lot of noise back there and we want to make sure we can pay attention to you.

TREASURER KOPP: Don't take it personally. It's not that they don't love you.

GOVERNOR HOGAN: They're not walking out on you. It's just that we just cleared a whole lot of things off the Agenda. It's not a protest of the University System or you personally.

MR. EVANS: It usually happens when DBM --

GOVERNOR HOGAN: Every time you come up it seems like people walk out.

(Laughter.)

GOVERNOR HOGAN: We should probably reorder the thing so Joe doesn't always get walked out on. All right. Thank you.

MR. EVANS: Again, Joe Evans representing the University System of Maryland. We have eight items on the Agenda. We're here to answer any questions.

GOVERNOR HOGAN: Any questions on the University System Agenda?

COMPTROLLER FRANCHOT: I just wanted to ask an item about one of my favorite universities, Salisbury University. I call it the Yale University of Maryland because it's such an outstanding institution. But there's an item on the -- I don't quite know what item it is. Is it 1-C?

MR. EVANS: 1-C.

GOVERNOR HOGAN: The DNR Secretary just gave a little shout out because she's a --

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COMPTROLLER FRANCHOT: Yeah.

GOVERNOR HOGAN: -- graduate of the Yale University of Maryland.

(Laughter.)

COMPTROLLER FRANCHOT: Good. So the item is a very important item for not just the University but also Downtown Salisbury. And I understand that it's a single bid proposal you're putting before us, and could you just explain how that happened.

MR. EVANS: I'd like to bring up Bill Olen, who is the Executive Director for Design and Construction at University of Maryland College Park.

COMPTROLLER FRANCHOT: Great.

GOVERNOR HOGAN: Thank you.

MR. OLEN: Good morning, Governor --

GOVERNOR HOGAN: Good morning.

MR. OLEN: -- Comptroller, Treasurer. Bill Olen, Executive Director of College Park Service Center. Comptroller, to your question, we advertised the project, we requested technical proposals from qualified firms. We received them. And then after further review by the three firms before they were asked to give us a price, two of the firms decided not to participate in the price component of the project.

COMPTROLLER FRANCHOT: So that's why we have a single bid contract. Okay. So --

MR. OLEN: We got three technical proposals, just to be clear.

COMPTROLLER FRANCHOT: Right. But you have the wrong concept, with all due respect. I have been a huge advocate for design-bid-build, which would have been a perfect model for saving the State money and getting multiple competitive bids for this project. And instead you all decided to do a design-build for a relatively small, internal renovation of a building project. And let me just state for the record that design-build model that you used is completely inappropriate for that size project and particularly for one that's done internally. And the reason that you lost, I think, these other two companies is that you didn't spend an extra week doing the kind of design that would have allowed under design-bid-build multiple contractors and multiple competitors to find out exactly what it would cost from their subcontractors. And as a result, you know, we're faced, I'm obviously going to vote for this proposal, but the idea that this is what I've been talking about is ludicrous. This is exactly the opposite. And at least to the State taxpayers, spending unnecessary money through Salisbury University for this project and it directly results in only one bid. So, you guys get a grade of F for failure as far as the procurement and please would you communicate to the System membership that I'm interested in design-bid-build wherever possible.

MR. OLEN: Yes, sir. We do quite a bit of design-bid-build. We also use other tools in the toolbox, CM at risk and design-build. Because of this, we are finding right now because of what's happening in the market there isn't enough trade folks to go around. One of the advantages of design-build -- it didn't show in this one, I have to admit, it didn't show in this one, is there's not enough folks out there to work on our projects. And projects that are risky, you know, we're having issues with that. So we do all the different types of implementation. This may have been one that just didn't work out the way we wanted. Yes, sir. It didn't.

COMPTROLLER FRANCHOT: Yeah. My understanding is according to your documents the other two declined to submit a price due to the risk in providing a lump sum price for design and construction.

MR. OLEN: Correct.

COMPTROLLER FRANCHOT: And then market conditions, as you indicate, that where there are opportunities elsewhere available. All I'm suggesting is, please, take it. All you needed to do is take an extra five working days, very simple for an architect to complete the design so that other contractors could actually bid a reasonable price. And my opinion, and I could be completely wrong but I think I'm right, is that the State will profit, will benefit, by 15 to 20 percent cost savings and we will also benefit because there will be multiple bids. So thank you for letting me get down in the weeds on this. But please, design-

bid-build, wherever possible. Am I right, Nelson, that that's the process you all use which is --

MR. REICHART: General Services always uses design-bid-build.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: It wasn't fair teaming up with Nelson like that.

COMPTROLLER FRANCHOT: Yeah.

(Laughter.)

GOVERNOR HOGAN: Thank you, Bill. Any other questions on the University System? Is there a --

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing on University System. Next move on to Department of Information Technology.

MR. LEAHY: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, I'm Mike Leahy, Secretary of the Department of Information Technology. Today we have nine items on your Agenda. One is supplemental, and there are agency representatives here to answer any questions.

GOVERNOR HOGAN: Questions on DoIT?

COMPTROLLER FRANCHOT: Move approval.

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GOVERNOR HOGAN: Second? Three-nothing. We're going to move on to the Department of Transportation Agenda.

TREASURER KOPP: Despite all the sole source.

MR. RAHN: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, my name is Pete Rahn, Secretary of the Maryland Department of Transportation. MDOT has 21 items before you today. The Item 22 is a supplemental to the Agenda. And at this time we are withdrawing Item 9-RP. And I would add that any problems we have are clearly the fault of Mr. Newgent.

(Laughter.)

GOVERNOR HOGAN: Clearly the fault of what? I missed that.

COMPTROLLER FRANCHOT: Mr. Newgent.

GOVERNOR HOGAN: Oh, it's Newgent's fault. Yeah. Good idea.

(Laughter.)

GOVERNOR HOGAN: It's going to take him a while to get up to speed. We understand.

TREASURER KOPP: I have a question with Item 1, the EZ Pass.

MR. RAHN: Yes?

TREASURER KOPP: And a couple of others. It seems as though we have a problem making sure that all of our spending is in synch with the

specific item that the Board sees and approves. And that's in general, and it seems to be more in MDOT than other places. In this one, with you've got both retroactive and then you're piling on more money, in part I suppose to make up for people like me getting a free transponder. So it turns out there's nothing that's free. It's just being paid for differently. But what about the rest of the story?

GOVERNOR HOGAN: Can I answer that one before you jump in?

TREASURER KOPP: Yes.

MR. RAHN: Yes.

GOVERNOR HOGAN: This is a tremendous success story for the State.

TREASURER KOPP: Oh, I just used it --

GOVERNOR HOGAN: We, not only did we eliminate the monthly fees of \$1.50 a month on the EZ Pass, but then we eliminated the up-front expense of the EZ Pass to try to encourage more usage of it because it saves the State money and the cashless tolls is the eventual goal. And the burgeoning demand has been incredible and far more than anybody could have possibly anticipated. And the demand for transponders doubled in the first four months after I announced the change in our policy. And so therefore, we have to, the contract, the existing contracts could not handle all of the huge demand for Marylanders that are dying to get their EZ Passes. But I'll let the experts tell you. That was just my fluff part of the answer.

COMPTROLLER FRANCHOT: Yeah, very impressive.

GOVERNOR HOGAN: But we're really proud of it. I mean, that's one of the things people --

TREASURER KOPP: No, I just drove up and back to Connecticut using EZ Pass and it was terrific.

GOVERNOR HOGAN: Well. With your --

TREASURER KOPP: No question about it.

GOVERNOR HOGAN: -- we should have you do a testimonial.

TREASURER KOPP: It is. It's wonderful. It's a great system.

MR. O'NEILL: Good morning, Mr. Governor, Mr. Comptroller, Madam Treasurer. I'm John O'Neill. I'm the Acting Executive Director for the Maryland Transportation Authority. And this retroactive item is to cover the transponders. As the Governor stated, we had estimates of how many transponders we were going to be selling. And the price of those transponders per our vendor in 2016 came down. So we came in 2016, lowered the amount of the contract by \$2 million. Then we rolled out the free transponder program. Which instead of 21,000 transponders in that same time frame, we sold 173,000 transponders.

GOVERNOR HOGAN: Wow.

MR. O'NEILL: So and we --

GOVERNOR HOGAN: I said doubled. That's like --

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(Laughter.)

MR. O'NEILL: So a very successful program. We have over 1.2 million active accounts and each of those accounts has multiple transponders.

Also, during this time period when we --

GOVERNOR HOGAN: The other thing by the way we did --

MR. O'NEILL: Sorry.

GOVERNOR HOGAN: -- besides eliminating the monthly fee and the up-front fee was cutting the tolls for everybody that's using them --

MR. O'NEILL: That is --

GOVERNOR HOGAN: -- at every facility in the State. So people, it would encourage people to say, well, we'd better go get an EZ Pass.

MR. O'NEILL: That is correct. And with the Governor's press release that day, we actually saw quite a, at least a ten percent increase in individuals coming in, signing up for EZ Pass. And as we moved more and more individuals to EZ pass, because we're giving them a 25 percent discount over the cash rate. And in some cases, such as the Bay Bridge, a 37.5 percent incentive to use EZ Pass as opposed to cash, as well as reducing the emissions, near roadway emissions, reducing crashes by 70 percent at our plazas, at our toll plazas, and reducing congestion. Because when you need to stop to pay a toll and accelerate, it slows traffic down and also results in more collisions.

Another part of this story, there is one part of this story that we have to admit to at the Transportation Authority. We were in the middle of upgrading our Maximo inventory management system at the time that we rolled out the free transponder program. And there was a delay in the accounting for the increase in sales in the inventory system. So that resulted in a lag where we were in the contract and we continued to sell them, which is a great story. Because 173,000 additional accounts, after that announcement, within a year that was our most successful year ever on getting people signed up for EZ Pass. So with that small system upgrade, there was a little delay and that was a human issue.

TREASURER KOPP: So, what are you doing to change the system, so you don't have that problem --

MR. O'NEILL: The system has been upgraded. It was in the, it was actually in the middle of the migration when the free transponder program rolled out. And that caused some delay because there was a manual process. Now the system is in production and working as it should. It was just the timing of it was during the migration. It was just the timing of the system and the paper process took longer than the electronic process.

TREASURER KOPP: So actually you're saying that your statement to us here that it was due to human error and staff changes managing your systems, and you weren't aware of it, is not so?

MR. O'NEILL: Well the staff changes, there were staff changes, as well as the system change. And that's where --

TREASURER KOPP: I understand staff changes.

MR. O'NEILL: Okay.

TREASURER KOPP: I understand glitches. What I want to understand is what you've changed so that -- everyone has staff changes all the time and it's a real problem. And I get that. But you still have to be on top of it.

MR. O'NEILL: Understood. And the staff changes are part of the story. The rest of the story -- sorry.

MR. RAHN: I'm sorry. So John, explain Maximo --

MR. O'NEILL: Okay.

MR. RAHN: -- so that it's clear that it's the inventorying system and with the migration to the new inventory system, it was within the period --

TREASURER KOPP: Okay.

MR. RAHN: -- that we missed it --

TREASURER KOPP: I'm only reading what you told us and trying to understand.

MR. O'NEILL: I understand. And I think there was probably more that should have been in that explanation. During that inventory system upgrade we also had some staff changes and people who were very aware of how they managed these inventory systems. And so during the migration the system

should have told people that we were using more of these at a faster pace. The individuals that were the staffers that would have known this had moved on. So, trying to, so it was two issues. One was the system that would have caught it otherwise. But also at the same time you had some staffing changes that also resulted in the individual that would have known this information without the system, without looking in the system, you understand there's a lot of people with the institutional knowledge that just know everything that's going on without having to refer to the system. The system wasn't there for the new people to refer to until later because it was being upgraded, and the individual that had all the institutional knowledge was gone. So that was, it was a unique period --

TREASURER KOPP: I get that.

MR. O'NEILL: -- and a series of unfortunate events right there during the, during our ramp up for the free transponders.

TREASURER KOPP: Thank you. I appreciate that. And knowing that there are going to be these changes in the future --

MR. O'NEILL: Yes.

TREASURER KOPP: -- since there are generational changes going on in all our agencies, you have made also, or you were on top of making changes to make sure that that sort of information is captured before people leave and --

MR. O'NEILL: Yes. It's having more than one individual. Because unfortunately a lot of times you end up with a single point of failure. And we've come to rely on individuals --

TREASURER KOPP: Yes.

MR. O'NEILL: -- at all agencies, on one person, hey, they've been there 20 years, they know what's going on. Well, we're working with succession planning to make sure that there's multiple individuals that know that information and the next time we have a major initiative such as this, we will delay our system upgrade --

TREASURER KOPP: That's what I wanted to hear.

MR. O'NEILL: -- or make sure that's completed first.

GOVERNOR HOGAN: Great. Thank you.

MR. O'NEILL: Thank you.

GOVERNOR HOGAN: Any other questions?

COMPTROLLER FRANCHOT: Yes. Item 6, please. I'm not sure if Administrator Quinn is here. So this is a \$1.6 million retroactive approval sought for a contract with New Flyer Industries for the 140 40-foot diesel buses. This was an \$81.4 million contract we approved in 2017. According to the background materials an employee of MTA went up to Canada to the vendor's facility and agreed to move forward with \$1.6 million worth of upgrades, thereby

bypassing the proper procurement process. And I'm just wondering what the administrator has as a comment, if any, on this employee's actions.

MR. QUINN: Sure. Well, good morning.

COMPTROLLER FRANCHOT: Yeah.

MR. QUINN: Madam Treasurer, Mr. Comptroller, Mr. Governor, thank you for having me. So first and foremost, I just want to put out there that MDOT MTA, myself, the agency completely understands that we do not have the authority to modify contracts. That is an authority that rests solely with the Board of Public Works. I also want to convey that personally I am absolutely committed to ensuring that MTA adheres to State procurement guidelines. And this is a point that I make to my staff regularly in executive staff meetings, individual meetings, something that I stress tremendously.

So since this error occurred, we've focused a lot on training. And so, MTA is offering, we've put together a professional contract management training. Also the Secretary's office has created an Office of Project Quality Assurance that's been tremendously helpful. It's overseeing a 40-hour professional contract management training class. So we have 12 MTA participants. Seven have completed that to date. So we're really committed to getting our folks trained up on this.

With regard to this specific item, you're right. This was approved in June 2017 for the purchase of buses and during the pre-production meeting

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with the vendor an employee approved several items that were out of scope. And while these upgrades were safety and they were very customer service focused, they were outside of the scope of the contract and they were not approved by the Board of Public Works prior to that modification. I will just note that that MTA employee is no longer employed by the agency and the seriousness of this error has certainly been conveyed to all staff.

So lastly, just as a, and you're asking for my comment, I agree with you. It's inexcusable and I will continue to demand that the agency follow all proper procurement laws.

GOVERNOR HOGAN: Kevin, let me ask you this.

MR. QUINN: Sure.

GOVERNOR HOGAN: I'm --

COMPTROLLER FRANCHOT: No, please.

GOVERNOR HOGAN: -- I think it's great that you, you know, owned up and accept the responsibility, and that you've taken, been very proactive and are training people so that they don't make a mistake like this. But aren't there some, shouldn't we have some checks and balances so that some random employee should not be able to just arbitrarily spend the State's money when they don't have the authority to do so? I mean, how do we stop that from happening in the future? You know, rather than just making sure they are trained well --

MR. QUINN: Yeah.

GOVERNOR HOGAN: -- even if somebody is very well trained, they should never be able to commit us to spending money when they don't have the authority to do so.

MR. QUINN: Yeah. So I think, you know, part of it is putting in place that checks and balances, being sure that that approval has to go up a couple levels before that's done. And I think training is a key piece of this. This isn't something that we really had at the agency before. And so, you know, my thinking about it is, you know, when we have new employees come on board that we know are going to be overseeing contracts, they've got to undergo this training. This can't just be an every year, and then someone joins, and 12 months later than they get the training. No. They need it right when they come in the front door.

MR. RAHN: Kevin, would you have Mike explain the checks and balances --

MR. QUINN: Sure.

MR. RAHN: -- that we are putting in place? And I would also add that this occurred prior to my action as Secretary taking the procurement from MTA and moving it to the Secretary's office for oversight. And so since that has occurred, a lot of changes have been made in the procurement process. And of course, Mike Zimmerman has been leading an overhaul here, and I have to say

GOVERNOR HOGAN: Is there a second on --

COMPTROLLER FRANCHOT: Yes.

GOVERNOR HOGAN: -- Transportation? Three-nothing. Last but not least we have Department of General Services.

MR. REICHART: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, I'm Nelson Reichart, Deputy Secretary of General Services. The department has 30 items on our Agenda, including two supplementals. We are withdrawing Items 15-CGL and 26-CGL. I'll be glad to answer any questions you have at this time.

GOVERNOR HOGAN: Questions on DGS? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. We are adjourned. Thank you.

(Whereupon, at 11:55 a.m., the meeting was concluded.)