

FOR THE CASE OF
DOL Elevator & Amusement Device

TRANSCRIPT OF

Dol

March 3, 2015

Stone & George

COURT REPORTING

2020 Fieldstone Pkwy

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Franklin, TN 37069

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STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
ELEVATOR & AMUSEMENT DEVICE SAFETY BOARD

QUARTERLY MEETING OF THE
STATE OF TENNESSEE
ELEVATOR & AMUSEMENT DEVICE SAFETY BOARD

March 3, 2015

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APPEARANCES:

Robbie Fix, Chairman
Fixed Amusement Device Representative

David Hale, Board Member
Tennessee Fair Association Representative

R. Perry Burch, Board Member
Manufacturer Representative

Mitch H. Rader, Board Member
Insurance Company Representative

Kelly O'Connor, Board Member
Public at Large Representative

Larry R. Moore, II, Board Member
Owner and Lessees Representative

Lewis Moorer, Jr., Board Member
Public at Large Representative

Charlie Edens, Board Member
Traveling Amusement Device Business Representative

Rod Sidler
Elevator Inspector
State of Tennessee

Kim Y. Jefferson, Esq.
Administrator
State of Tennessee

Mark Finks
Assistant Administrator
State of Tennessee

Dan Bailey, Esq.
Legal Counsel

Carlene Bennett
Board Secretary
State of Tennessee

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- II. Introductions and Announcements
- III. Chief Inspector's Report
- IV. Old Business
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- VI. Discussion Items
- VII. Announcement of Next Meeting
- VIII. Adjournment

1 CHAIRMAN FOX: Seeing that we have
2 a quorum in place, we'll call the March 3rd, 2015
3 meeting of the Elevator and Amusement Device
4 Safety Board to order. And if I could ask you to
5 please stand.

6 The first order of business is, if
7 you will, please turn off the cell phones. That
8 way you can get them out of your pocket.

9 And the second thing is, Mr. Moore,
10 would you lead us in the pledge, please.

11 (Pledge of Allegiance recited.)

12 CHAIRMAN FOX: Thank you.

13 Ms. Bennett, first of all, do we have
14 to sign the conflict of interest today? Have we
15 missed that or ...

16 MS. BENNETT: It's done annually
17 now in December. And we did all of that except
18 Mr. Edens wasn't here in December, so I've gotten
19 his.

20 CHAIRMAN FOX: Okay. So we've got
21 everybody administratively taken care of?

22 MS. BENNETT: Yes.

23 CHAIRMAN FOX: Very good.

24 Okay. If we could, we'll start with
25 introductions and we'll start with you.

1 MS. BENNETT: Okay. My name is
2 Carlene Bennett with the State of Tennessee
3 Department of Labor, and I'm the Board Secretary.

4 MR. SIDLER: I'm Ron Sidler, Chief
5 Elevator Inspector for the State of Tennessee.

6 MR. RADER: I'm Mitchell Rader.
7 I'm a new board member from Sevierville,
8 Tennessee, and represent the insurance company's
9 representative.

10 MS. O'CONNOR: I'm Kelly O'Connor.
11 I'm a board member from Franklin, and I represent
12 the public.

13 MR. HALE: I'm David Hale. I'm a
14 board member. I represent the Tennessee
15 Association of Fairs.

16 CHAIRMAN FOX: I'm Robbie Fox. I'm
17 a board member. I represent the fixed parks.

18 MR. BURCH: I'm Perry Burch. I'm a
19 board member and I represent the manufacturers of
20 elevators.

21 MR. MOORE: Larry Moore, board
22 member. I represent the owners.

23 MR. EDENS: Charles Edens, board
24 member. I'm representing traveling amusements.

25 MS. JEFFERSON: Kim Jefferson. I'm

1 the Administrator for Workplace Regulations and
2 Compliance Division. I represent the Department.

3 MR. FINK: I'm Mark Fink, the
4 Assistant Administrator for the Workplace
5 Regulations and Compliance Division.

6 MR. BAILEY: I'm Dan Bailey. I'm
7 an attorney with the Department of Labor.

8 MS. RHODES: Anita Rhodes. I'm the
9 office supervisor for Elevators and Amusements.

10 MS. SCOTT: I'm Sharon Scott and
11 I'm the administrative assistant and new in the
12 department.

13 MR. PISKIE: Scott Piskie
14 representing Home Lift Elevator Company.

15 MS. DOWER: Jan Dower. I'm in the
16 commissioner's office.

17 MS. KELSEY: Melinda Kelsey. I'm
18 the administrator of the communications,
19 government relations, commissioner's office,
20 Department of Labor.

21 MR. FISHER: Paul Fisher. I'm with
22 United Healthcare Services.

23 MR. CREWS: Adam Crews, National
24 Machine Elevator.

25 MR. FARMER: Chris Farmer,

1 Assistant Chief Elevator Inspector for the State.

2 MR. MCMILLAN: Mitch McMillan. I
3 represent KONE.

4 THE REPORTER: Cassandra Beiling,
5 court reporter with Stone & George Court
6 Reporting.

7 CHAIRMAN FOX: And you're going to
8 make sure you record everything that we say,
9 right? So as they approach the podium, they need
10 to speak loud.

11 Please understand that I speak fluent
12 hillbilly, so if you have trouble understanding
13 me, why, just let me know.

14 Next item is the Chief Inspector's
15 report.

16 Mr. Sidler?

17 MR. SIDLER: Well, first off,
18 before I forget, I'm going to ask -- HomeLift is
19 here. They weren't on the agenda, came in late.
20 They didn't get their application in in the 30-day
21 requirement period. They're here to ask if they
22 can be added to the agenda. It's a LULA request
23 which the board had already approved, but they've
24 still got to come before the board. And I've
25 looked at the prints. Everything is in order.

1 Theirs just was not in a timely manner. So I
2 didn't know if you would add them to the agenda.

3 CHAIRMAN FOX: Do any of the board
4 members have an objection to adding them to the
5 agenda today and disposing of this one way or the
6 other?

7 MR. BURCH: Do you need a motion to
8 add them to the agenda?

9 CHAIRMAN FOX: Let's do that.
10 Let's have a motion.

11 MR. BURCH: I make a motion we add
12 HomeLift to the agenda.

13 MR. MOORE: Second.

14 CHAIRMAN FOX: I have a motion and
15 a second. Any discussion?

16 (No verbal response.)

17 CHAIRMAN FOX: All in favor of the
18 motion, let it be known by saying "Aye."

19 (Affirmative response.)

20 CHAIRMAN FOX: All opposed by like
21 sign.

22 (No verbal response.)

23 MS. BENNETT: Can we identify it as
24 15-04, just for the record?

25 CHAIRMAN FOX: And you will make

1 that part of your motion, sir?

2 MR. BURCH: Yes. Is that what it
3 needs to be, 15-04?

4 MS. BENNETT: Please.

5 MR. BURCH: Okay.

6 CHAIRMAN FOX: A friendly
7 amendment. Okay.

8 MR. SIDLER: Thank you for your
9 consideration. As far as elevator permits, I can
10 give you kind of a synopsis of last year. We did
11 460 new permits which is about average for a good
12 economic state in our state. We've already done
13 70 new permits for the year in 2015.

14 We're operating at 96 percent of our
15 inspectors, as far as positions are concerned,
16 because of illness and open positions. Hope to --
17 by the next board meeting that we'll be at
18 100 percent of employees positions.

19 We will be holding our training, I
20 think -- I hope most everybody knows that -- for
21 recertification and for our elevators in April.
22 Mike Moran and Scott Holstrom are going to conduct
23 the continuing education for the work
24 preservation, is who we've hired to do that.

25 Philip Hampton with ThyssenKrupp, the

1 vice president, is going to be there as a courtesy
2 speaker in addition to this training. In the past
3 he had done some part of that, but he's going to
4 be here the day after that training class. And
5 Oscar Frederick with our mine unit is going to
6 provide the CPR training at our training session.

7 Of course this will be in -- this
8 spring, in April, in Gatlinburg. We do that in
9 combining the tram, ski, and skylift inspections.
10 We do all of that at one time up there in April.

11 So that's pretty much where we are.

12 CHAIRMAN FOX: Can you give us the
13 date of that --

14 MR. SIDLER: Oh, it's the week of
15 April the 16th. I think it's the 13th through the
16 16th. Let me look at my calendar and make sure,
17 but it's -- is that right, Chris?

18 MR. FARMER: I believe so. I think
19 the 13th is a Monday. I think Tuesday will be our
20 travel day up there.

21 MR. SIDLER: Right. And then our
22 meeting will be on the 16th, the actual QEI, but
23 we'll be up there.

24 MR. RADER: Where is it held?

25 MR. SIDLER: In Gatlinburg at

1 Creekside. It's right across the street from the
2 tram.

3 CHAIRMAN FOX: Please let the
4 record show Mr. Moorer has arrived. Is that the
5 Creekside Hotel or Motel?

6 MR. SIDLER: Creekside -- it's a
7 Quality Inn. It's kind of hidden. But it's
8 directly across the street from Ober Gatlinburg
9 tram stop. We've stayed there a few years for
10 convenience to the tram, actually. Plenty of
11 parking, as you know. Gatlinburg is a little
12 scarce on parking when you're trying to get
13 around, so staying that close is a plus.

14 CHAIRMAN FOX: But please don't let
15 that stop anyone from coming to the Great Smoky
16 Mountains.

17 MR. SIDLER: I'm talking about for
18 us old men that have to walk. See, we don't want
19 to have to walk.

20 CHAIRMAN FOX: We want all of God's
21 children coming to the Great Smoky Mountains.

22 MR. SIDLER: Unless you want to
23 send the tram by and pick us up. Could you do
24 that and take us? We could stay somewhere else.

25 CHAIRMAN FOX: We will send the

1 tram or trolley by to pick you up.

2 Anything else, sir?

3 MR. SIDLER: No, sir.

4 CHAIRMAN FOX: Okay. Item IV, Old
5 Business, there is none.

6 Item V, New Business. And I believe
7 we'll start with 15-01, KONE, Incorporated,
8 requests a variance for installation and use of a
9 retracting toe guard on a machine-room-less
10 MonoSpace elevator system located and at Nashville
11 Headquarters, State of Tennessee, Department of
12 Military, 3041 Sidco Drive, Nashville, Tennessee.

13 Is there anyone here to speak to
14 that? If you would, please, come to the podium
15 there, state your name and who you represent. And
16 speak loudly so the lady can hear you. Just have
17 a seat.

18 MR. MCMILLAN: Sure. My name is
19 Mitch McMillan and I represent KONE. And I'm the
20 one who put in this request on behalf of our
21 company.

22 In this first building, they built an
23 elevator shaft sometime, I believe, in the '70s,
24 never installed an elevator, so it had a four-foot
25 existing pit. And now they're renovating that

1 part of the structure, and they're wanting to add
2 an elevator at this time.

3 And so the machine-room-less elevator
4 at this speed, we need a variance to have a
5 different type of toe guard. And I do want to
6 make this statement: I started with Montgomery
7 Elevator as a helper in 1978. I've been fortunate
8 to never have had an incident in this industry.
9 Safety is paramount to the companies I've worked
10 for, and I know it's paramount to all of you
11 folks. So we would not propose a solution that we
12 didn't feel was tested and met the intent of the
13 code.

14 CHAIRMAN FOX: Mr. Sidler, have you
15 reviewed this?

16 MR. SIDLER: Yes, I have. I can
17 elaborate on it from the State's point of view. A
18 traction elevator requires a minimum of an apron
19 or the toe guard. It's the guard that's in front
20 of your platform that you don't see when you enter
21 and exit the elevator. And it's required to have
22 a 48-inch apron or toe guard, as they call it.

23 And the reason being, it refers you
24 back to a section in the elevator code that is
25 "unintended car movement protection." And that's

1 the safety issue that's addressed in 2.19.2. And
2 so on further, in .2.2, it gives you that 48-inch
3 measurement for any elevator that has to adhere to
4 that unintended motion.

5 Now, a hydraulic elevator would not
6 be required to do that. It could have a minimum
7 of a 21-inch apron where the elevator is not
8 required to conform with the measurement of
9 21 inches plus 3, so it's 24. So that hoistway
10 was designed originally in the '70s, or a
11 hydraulic -- I think there's other hydraulic
12 elevators in that building?

13 MR. MCMILLAN: That I don't know.

14 MR. SIDLER: Okay. But anyway, it
15 was designed, evidently, for a hydraulic elevator.
16 And the code does not address a retractable toe
17 guard. There's nothing that we've adopted that
18 would allow that, or we wouldn't be here. So
19 there's not any way I can okay a device if it
20 doesn't meet A17.1-2010 or A17 -- if it was a
21 remod, but this is a new device anyway. So it
22 would have to adhere to A17.1-2010. And there's
23 nothing that we've ever adopted for that.

24 MR. MCMILLAN: We did get approval
25 to put one in the LRC building at MTSU University.

1 MR. SIDLER: No, you didn't.

2 MR. MCMILLAN: Okay.

3 MR. SIDLER: I'm sorry to correct
4 you. That was a test that has failed, as far as
5 I'm concerned. You wanted to bring that in. It
6 was before any switches or anything was allowed.
7 And that was a test that I allowed so we could see
8 what you were going to do. And it's not
9 completely functional at this time even. It's
10 never had, as far as I know, the additional
11 switches and all put on it.

12 But it was in the early days of it
13 and it was a test to see, since it was so new,
14 "Let's try one of these and see what's going on."
15 It was in a mod situation. It wasn't a new
16 elevator.

17 MR. BURCH: You've mentioned
18 switches, and nothing has been said at this point
19 about switches. If it had safety switches applied
20 to prevent movement of the car, these kinds of
21 things wouldn't be ...

22 MR. SIDLER: Well, it doesn't
23 apply -- it does have switches, the new ones,
24 right, the one you've designed now?

25 MR. MCMILLAN: Right.

1 MR. SIDLER: But the test that we
2 did was a few years ago, and we were going to see
3 what that actually did and how it would work to do
4 the measurements. And I felt like it was a
5 research to do, that we needed to do, to have a
6 full grasp of what they were trying to do.

7 And I understand what they're trying
8 to do. I just don't have a way to allow it within
9 the codes that we've got. It does not address
10 retractable toe guards in any of the codes that we
11 have. It doesn't have an exception for it.

12 MR. MCMILLAN: Ron, maybe you can
13 help me understand something. Isn't one of the
14 reasons for the longer toe guard for traction
15 elevators, is typically they run at a faster
16 speed? Would that be correct?

17 MR. SIDLER: Well, it doesn't
18 mention the additional length for the speed, but
19 it does mention the unintended motion. That's the
20 first reference back, if you read that back.

21 MR. MCMILLAN: Well, I'm just
22 trying to understand because I haven't been part
23 of code committees. And you made a good point
24 that there's a difference between a hydraulic
25 elevator and a traction elevator. And I'm trying

1 to understand what would have driven that
2 difference other than the fact that a traction
3 elevator is usually a faster speed.

4 MR. SIDLER: I don't know. I mean,
5 it gives you those two examples, and if you meet
6 the one, which puts you back to unintended
7 motion -- if it doesn't, it gives you a different
8 measurement. I don't know what their criteria was
9 when they developed that. I'm just a blue-collar
10 worker here as far as codes, and interpret what
11 they have in front of you, you know.

12 MR. MCMILLAN: I understand.

13 MR. SIDLER: Not that I maybe don't
14 agree that that's a good idea. You know, maybe
15 it's been tested. But if it's been tested and
16 approved, it would be in our codes and it's not
17 yet, so I can't extend -- I don't have the power
18 to extend that courtesy to do that. The board, of
19 course, has the power to do that. That's why
20 we're here.

21 They do have other alternatives. You
22 can trench the front of that pit a foot and you're
23 good to go. We've done that on many occasions in
24 this state. Or you can put in a hydraulic
25 elevator in that location as it was designed,

1 apparently. So it's not like there's not another
2 option, you know.

3 CHAIRMAN FOX: Any other discussion
4 on this? What is the pleasure of the board?

5 MR. EDENS: First, do you have an
6 opinion of --

7 MR. SIDLER: Well, my opinion -- I
8 can't do that, you know. I don't have a code to
9 support it. So in my position, I feel like the
10 State asks me to enforce the codes that they've
11 adopted. And to enforce the codes that they've
12 adopted, I can't be a nice guy and say, "Yes, I
13 think so." I don't want you to spend \$10,000
14 doing this. I can't put a price on an injury like
15 that, so I have to be hardline.

16 MR. EDENS: Right.

17 MR. SIDLER: So my opinion, other
18 than following the codes, it has to be that way.

19 MR. EDENS: Okay. Thanks.

20 MR. RADER: Mitch, why don't you
21 trench it, the other option?

22 MR. MCMILLAN: Well, this would be
23 on the contractor, and it's an option. It's just
24 this particular design -- and I began my
25 discussion by saying KONE would not put something

1 on an elevator that we didn't feel was safe. I
2 mean, we have tremendous liability as the
3 manufacturer, and I wouldn't be sitting here
4 asking for this if I didn't believe it was a safe
5 alternative.

6 I don't want to presume that the
7 board doesn't know lots and lots about elevators,
8 but basically, what you're trying to prevent is a
9 sheer point with the bottom of the elevator
10 platform. And so you've got to have something
11 that would deflect any part of somebody's body,
12 particularly a foot, back away from the elevator.
13 And this design does that very thing.

14 The one part of the code that it
15 doesn't meet to the letter is that it's not always
16 48 inches long because it has to retract once it
17 gets past that zone. Otherwise, it would bottom
18 out in the pit. But it meets the requirement of
19 deflection while there's the possibility that a
20 door would be open.

21 MR. SIDLER: You're correct.

22 There's one more part of the code.

23 MS. BENNETT: Can we break for just
24 a minute? She just needs to plug something in.

25 (Off the record.)

1 MR. SIDLER: Okay. There's one
2 other section of code that it does not need also.
3 You can go through and pick the code continuous to
4 find parts that reflect to something else. But in
5 the measurements of clearances for a pit, any pit,
6 it states that it can't at any time have any part
7 of the elevator touch anything when it comes down
8 to the first floor. Well, simple math is if
9 you've got a four-foot pit and you've got a
10 four-foot apron or toe guard, then it's going to
11 hit and then it's going to have a five-foot toe
12 guard coming in. So it's going to hit and
13 compress that toe guard at the bottom floor at
14 least a foot every time. So that's another part
15 that's not being addressed.

16 Now, you can get into designs
17 theories, which I like to do sometimes since I've
18 been in this business a long time. It could have
19 the switches and the electronics motor that rolled
20 that back up and got it out of the way every time
21 you come to the bottom floor, but it doesn't.
22 It's going to come to the bottom floor and go bang
23 and hit something every time it comes in.

24 The code specifically says you cannot
25 do that. So there again, that's another thing

1 that I can't approve because it hits every time it
2 comes in. That's what we had up there on the one
3 that we tried.

4 So to begin with, I don't think the
5 customer is going to like that "kerthunk" every
6 time it comes in. It's going to eventually beat
7 it to death. But that's just my opinion. I
8 shouldn't even get into that.

9 CHAIRMAN FOX: Okay.

10 MR. HALE: I have a question.

11 CHAIRMAN FOX: Go ahead.

12 MR. HALE: Well, first I want to
13 say I certainly appreciate that you would not come
14 here and present something that y'all didn't
15 believe was safe. I certainly believe that's a
16 true statement. However, in the litigious society
17 that we live in now, when we instruct the
18 inspectors to not follow the code as it's written,
19 we place the State in a position of jeopardy.

20 And so while I certainly appreciate
21 the situation that you're in, it appears to me
22 that there are alternatives that you can fall back
23 on to make the job still follow through, to be
24 able to complete the job.

25 MR. SIDLER: Well put.

1 CHAIRMAN FOX: What's the
2 pleasure --

3 MR. BURCH: Of course I have a
4 conflict of interest. I work for KONE as a
5 service technician, and I wouldn't get to vote on
6 it anyway, but I can talk a little bit on it.

7 I don't believe I've ever heard you,
8 Ron, take as solid or tough stance against
9 something as you did on this. I generally think
10 that you say whether it's not code, it's got a
11 code violation, it's got some safety features and
12 some things, but it's up to the board. As far as
13 you're concerned, you're not going to accept it
14 even if the board -- from what I hear, even if the
15 board allowed it to happen, you're still not going
16 to approve it.

17 MR. SIDLER: No. I don't have that
18 option. The board can approve. That why we're
19 here. I just think I was asked what it violates,
20 and I wanted to make sure that you knew everything
21 I could tell you. And I did do the research on
22 this about five or six years ago. We tried this.
23 I mean, I was open to trying. I didn't think it
24 was successful for what we needed at that time.
25 It's been much improved, a much improved

1 situation, but we still don't have a way to
2 approve that on a new installation.

3 Now, in a mod --

4 MR. BURCH: It is a mod. It's not
5 a new installation.

6 MR. SIDLER: No, it's a new
7 installation. It's never been an elevator.

8 MR. BURCH: Well, sort of. It's in
9 an existing building, right.

10 MR. SIDLER: Well, no. It's a mod,
11 Perry. If you change the speed, stop, capacity,
12 or rise on an elevator, you go to A17.3. Well,
13 that's never had anything there, you're not
14 changing it. It has to be a new elevator.

15 MR. BURCH: That's right.

16 MR. SIDLER: I mean, that's what
17 we're locked into doing. I'm just trying to
18 explain myself.

19 And since we did have that
20 opportunity to test that -- I've tested a lot of
21 things that similar way over the years to see, you
22 know. Let's put it in, and if it doesn't work,
23 we're going to take it out. It's just what we've
24 got to do, you know. And that was agreeable at
25 the time.

1 And I've got to approve it if y'all
2 want to approve it. That's fine, you know. I
3 don't have a, you know -- all I can do is tell you
4 the code situations.

5 You know, I don't mean to be
6 aggressive. I'm just very straightforward when I
7 talk.

8 MR. BURCH: And if every time
9 something like that happened, they would have to
10 come here with another similar request. I mean,
11 every one --

12 MR. SIDLER: Oh, just like --

13 MR. BURCH: Every one stands on its
14 own, right?

15 MR. SIDLER: Exactly. It's an
16 exception or a variance for that particular one.

17 MR. MCMILLAN: Mr. Sidler, you
18 mentioned the fact that the design has been
19 improved since that test. Would it be acceptable
20 to try the new design, and then if you reject it,
21 then we put the trench in?

22 MR. SIDLER: Well, I don't know
23 what merit it changes. It's still going to hit
24 when it goes to the bottom floor every time. And
25 I could say electrically the things that you --

1 I'm not saying that it was designed after what we
2 came up with there that spring day in Murfreesboro
3 when we worked on this and tried it. I'm not
4 saying that those switches and all were by my
5 design in any way. But that was what I asked for
6 at that time.

7 MR. MCMILLAN: Right.

8 MR. SIDLER: And that is a better
9 situation for a retractable. It still just comes
10 down to I don't have a way to approve it myself.
11 If the board wants to ...

12 MR. MCMILLAN: I see.

13 MR. SIDLER: Now, when we get into
14 these modernizations, it's a little different
15 situation as far as I'm concerned. And we can get
16 into that later. But this is a new installation,
17 you know. And I don't know how it can -- it's
18 definitely better but it still doesn't meet any of
19 the code requirements at this time. That's the
20 bottom line to it, you know. It's not that I
21 could say it's unsafe or not. I don't have the
22 authority to say that, you know.

23 MR. MCMILLAN: I understand.

24 MR. BURCH: Mitch, are these other
25 two that are on the agenda, are they new elevators

1 or are they a modernization?

2 MR. MCMILLAN: Well, again, it's in
3 that in-between area. Technically, they'd be new
4 installations because we're completely removing
5 existing elevators and existing shafts.

6 MR. BURCH: So two --

7 MR. SIDLER: Are we -- well, we
8 don't have an -- I'm sorry.

9 MR. BURCH: He's got 15-01, 15-02,
10 and 15-03, and evidently they're all the same.

11 MR. SIDLER: No. He's applied --
12 the paperwork and the permits and the prints I've
13 received on this one. Now, the others are
14 existing elevators, but as far as receiving a
15 packet to make the judgment, has this been
16 changed, speed, stop, capacity, or rise, then is
17 it going to be a new elevator or is it going to be
18 a mod? I'm assuming it will be a mod that they're
19 not changing those four categories. I don't know
20 that because I don't have the paperwork yet. I
21 don't have the documents to look at.

22 MR. BURCH: So the only one we can
23 look at is 15-01.

24 MR. SIDLER: Technically, that's
25 the only one I've got any real documents on. And

1 if they went ahead with the others and it was
2 going to be a mod, then there's discussion. In
3 A17.3, it states that one situation not deemed an
4 imminent danger, we wouldn't want that to stop the
5 betterment of the whole improvement of the
6 elevator, something to that character.

7 It gives you a little wiggle room to
8 allow some small item that's insignificant in
9 reference to the big picture. But we don't have
10 that information yet, Perry. Or I don't, on
11 those.

12 MR. MCMILLAN: Well, I don't know
13 if it will work into the discussion or not. I can
14 very briefly summarize those other two projects.

15 CHAIRMAN FOX: Let's deal with
16 15-01 first, and then we'll come -- we'll just
17 take them in order.

18 MR. MCMILLAN: Okay.

19 MR. SIDLER: Right.

20 CHAIRMAN FOX: Is there a motion or
21 any discussion on 15-01?

22 MR. BURCH: Well, I would love to
23 make a motion to provide a variance but I just
24 don't feel good about it based on the stats that
25 the chief elevator inspector has taken. And I

1 just know that there's been variances, a lot of
2 variances, issued that have been more involved
3 than this over the years. And all of a sudden
4 this takes some real, you know, importance. And
5 so I just -- in my position, I cannot issue a
6 motion to accept it.

7 CHAIRMAN FOX: Any other board
8 member?

9 (No verbal response.)

10 CHAIRMAN FOX: Sir, your request
11 dies for lack of a motion at this point.

12 Let's move on to 15-02.

13 MR. MCMILLAN: Could I just get a
14 verification of what will be allowed? The trench
15 needs to be down to five foot?

16 MR. SIDLER: Right. The front part
17 of that, which we've done several times in -- now,
18 I don't know the measurements of that. We can
19 look at that afterwards instead of discussing it
20 now.

21 MR. BURCH: May I ask a question?

22 MR. SIDLER: Let's look at the
23 drawings. I have them here. We can talk about
24 what you should get those measurements to.

25 MR. MCMILLAN: Okay. Thank you.

1 MR. BURCH: You say that 48 inches
2 is what is minimum, right? I mean, we can go to
3 48 inches on the toe guard?

4 MR. SIDLER: The toe guard has to
5 be 48 inches.

6 MR. BURCH: So -- but we're looking
7 at a five footer? Is that --

8 MR. SIDLER: Uh-huh. Five foot --

9 MR. MCMILLAN: No, a five-foot
10 trench where the --

11 MR. BURCH: No. I'm talking about
12 the toe guard itself.

13 MR. SIDLER: No. The toe guard is
14 four foot. But it would hit at the bottom floor
15 every time it comes in.

16 MR. BURCH: Right. I understand.
17 But if we -- I thought I heard somebody say the
18 toe guard was five foot.

19 MR. SIDLER: No. If I said that, I
20 misspoke. The pit is five foot.

21 MR. BURCH: The pit needs to be --
22 right.

23 MR. SIDLER: And every time it goes
24 into a four-foot pit --

25 MR. BURCH: You would have to do a

1 foot-deep trench or more.

2 MR. SIDLER: Yeah. And what we'll
3 do is look at that ...

4 MR. FARMER: With the stroke of
5 your bumper and clearance past that. You've got
6 three inches past the compression of everything.

7 MR. SIDLER: Which five foot would
8 do.

9 CHAIRMAN FOX: Mr. McMillan, are
10 you representing 15-02 as well?

11 MR. MCMILLAN: Yes, sir.

12 CHAIRMAN FOX: Is there a
13 difference in it?

14 MR. MCMILLAN: Well, we began to
15 talk about it briefly. But in this case, there
16 are existing overhead traction for eight elevators
17 with shallow pits. Both -- this project is
18 downtown Nashville.

19 And they're in bedrock, and so the
20 question is how deep do we have to make these
21 pits. And so I think I have my answer now, that
22 it can be four foot except for where the toe guard
23 is, and that's going to have to be five foot.

24 MR. SIDLER: Yes. There will be
25 certain clearances, you know, around that, all the

1 way around so it's not a pinch point. That gets
2 into the pinch point situation and the braces.

3 MR. MCMILLAN: Now, what about the
4 fact that you've got two different levels in the
5 pit? Is there something else that you would like
6 us to do?

7 MR. SIDLER: Well, we can discuss
8 that, but there is red, yellow, and black markers
9 and signs that's required if you have an uneven
10 pit. It's in the code now.

11 MR. MCMILLAN: Okay. All right.

12 MR. SIDLER: So it's something we
13 would do. In other words, we would label that
14 edge in yellow and black like you do a caution on
15 the machine or whatever.

16 MR. MCMILLAN: Right. Okay.

17 MR. HALE: But I'm hearing that you
18 don't have all of the drawings paperwork for '02
19 or '03 either one.

20 MR. SIDLER: No. They haven't been
21 presented. It's just that it was brought up here.
22 I don't have the documents to look at that. I do
23 know from our records what they show they are now,
24 which are -- both of those two which, if you want
25 to talk about them one at a time, the existing

1 elevators there are five-stop hydraulics. Is that
2 right, on the two -- at the Robin Realty
3 Company -- it was one of those in question, excuse
4 me, that's a five-stop? And then a four-stop at
5 the Market Street Emporium?

6 MR. MCMILLAN: That's an overhead
7 traction freight. Maybe we've got the wrong
8 location for those other two cars, because it's my
9 understanding that those were traction elevators
10 as well.

11 CHAIRMAN FOX: Let me interrupt
12 you. Let me get this on the record before we
13 proceed further.

14 MR. MCMILLAN: Yes, sir.

15 CHAIRMAN FOX: 15-02, KONE,
16 Incorporated, requests an exception for
17 installation and use of a retracting toe guard on
18 a machine-room-less MonoSpace elevator system
19 located at Market Street Emporium.

20 MR. MCMILLAN: Yes.

21 CHAIRMAN FOX: 112 Second Avenue
22 North, Nashville, Tennessee.

23 MR. MCMILLAN: That's correct.

24 CHAIRMAN FOX: I just wanted to get
25 that one on the record, and now y'all can discuss.

1 MR. SIDLER: Can I bring something
2 up that's -- since I don't have the records,
3 our -- what we have in our system now is
4 contradictory to what he's telling me is there.
5 So whether our records are wrong here, which this
6 is a 1989 on this one and -- let me see what the
7 others were -- it's an '87. So they're several
8 years old and the records have been changed over
9 several times.

10 I would like to look to see the
11 information on what they're proposing and actually
12 see the job. Because I'm just pulling -- here it
13 says it's a hydraulic elevator. He's saying it's
14 a traction elevator. I'm not disputing you. I've
15 just got -- this is what I've got in our system.
16 So, you know, I'd like to see, you know, what you
17 proposed, drawings and all of that.

18 MR. MCMILLAN: But if we showed
19 drawings with the five-foot trench, that would be
20 considered --

21 MR. SIDLER: Oh, yes.

22 MR. MCMILLAN: Okay. That's all I
23 need to know.

24 MR. HALE: So if he shows those, he
25 doesn't need the variance, right?

1 MR. SIDLER: No.

2 CHAIRMAN FOX: So in essence,
3 you're asking to withdraw this at this point?

4 MR. MCMILLAN: Yes, sir.

5 CHAIRMAN FOX: Okay. Consider it
6 done.

7 15-03 KONE Incorporated requests an
8 exception for installation and use of two
9 retracting toe guards on two machine-room-less
10 Mono-Space elevator system located at 110 Third
11 Avenue South, Nashville, Tennessee.

12 Is this the same situation?

13 MR. MCMILLAN: Yes, sir. And so I
14 would withdraw that request as well, and we will
15 submit drawings based on our discussion.

16 CHAIRMAN FOX: Okay.

17 MR. SIDLER: Are they traction
18 elevators also, at that location?

19 MR. MCMILLAN: The two that I saw,
20 yes.

21 MR. SIDLER: Okay. I mean, it's
22 indicating that we've got something that was
23 marked wrong back in the '80s on these in our
24 system, so ...

25 MR. MCMILLAN: These are -- all of

1 these elevators that I just mentioned are very old
2 freight elevators.

3 MR. SIDLER: Yeah. And probably,
4 when we go back, they were modernized in '87, so I
5 don't know how old they go back originally. All
6 of these have got old, old numbers that have been
7 modernized. So this would be the third time that
8 they've been done, so I could see how some records
9 could be wrong. So we need to clarify and get
10 that figured out.

11 MR. MCMILLAN: Okay.

12 CHAIRMAN FOX: Just to be clear,
13 you're asking us to remove these off of the
14 agenda, then, correct?

15 MR. MCMILLAN: Yes, sir.

16 CHAIRMAN FOX: Okay. All right.
17 Thank you very much.

18 MR. MCMILLAN: All right. Thank
19 you for your time.

20 MR. MOORE: One quick question: Is
21 this the only state where this has been proposed?

22 MR. MCMILLAN: No, sir.

23 MR. MOORE: And the other states,
24 what have they decided also?

25 MR. MCMILLAN: I can't report state

1 to state. I do know KONE is not manufacturing
2 hydraulic elevators anymore. They're not in that
3 business. And so when we go into a situation
4 where someone has an old elevator with a four-foot
5 pit, this is one of the options that we propose in
6 different states. And it has been approved. But
7 I can't tell you which specific states are on that
8 list.

9 MR. SIDLER: Can I speak on that?

10 CHAIRMAN FOX: Yes.

11 MR. SIDLER: There's some
12 clarification for both of you. We've only adopted
13 the A17.1 2010. There was a performance code that
14 a lot of states adopted, and we've stayed away
15 from the performance code. And it was done back
16 in '08, I think.

17 MR. FARMER: '08, '09.

18 MR. SIDLER: But we didn't do that
19 because this would -- in the performance code, you
20 could probably give all of the information and say
21 it equals to or better than, and we would have
22 to -- my thought was, and the board's thought at
23 that time, we would have to have engineers look at
24 that and see if it did. So they didn't get into
25 that code because the monies and the time that we

1 would spend disputing that -- this is kind of a
2 minor one, but some of them -- this would be more
3 really technical jargon.

4 In fact, I think we had one, this
5 board here. The windmill people came in on that
6 elevator in Chattanooga and brought their
7 performance code people in, and since we hadn't
8 adopted it -- it's the same situation we had two
9 years ago. So that code is not there and that's
10 how most states that have adopted that can allow
11 it. For new technology, all you've got to do is
12 prove it.

13 MR. MOORE: That was just my
14 question. So we're not the only people facing
15 this type of situation --

16 MR. SIDLER: Oh, yeah. And I'm
17 just trying to give you all of the information so
18 you --

19 MR. MOORE: Yeah -- and it just
20 seems rather simple to me to entrench it instead
21 of having to adopt that. But that's just my
22 perspective.

23 MR. SIDLER: Right. That's how
24 it's being done in adjoining states.

25 CHAIRMAN FOX: Good question.

1 MR. MCMILLAN: All right. Thank
2 you for your time.

3 CHAIRMAN FOX: Okay. Thank you,
4 sir.

5 Item 15-04. It's a LULA. I can't
6 remember who it is -- HomeLift?

7 MR. SIDLER: Yes, HomeLift.

8 MR. PISKIE: Thank y'all for
9 allowing me to come up here today on short notice.

10 CHAIRMAN FOX: You are, sir?

11 MR. PISKIE: I'm Scott with
12 HomeLift Elevator Company.

13 CHAIRMAN FOX: What's your last
14 name, sir?

15 MR. PISKIE: Piskie, P-I-S-K-I-E.

16 CHAIRMAN FOX: Thank you, sir.
17 Please proceed.

18 MR. PISKIE: As Ron said, I
19 proposed a LULA system in a new -- it's a new
20 structure, a new building in the Clarksville area.
21 And he has reviewed -- I think he has reviewed the
22 specs and everything and agrees that -- he said
23 that everything is in order. I'm not sure what
24 else y'all need from me as far as today, but I'm
25 proposing that you agree with Ron, that this meets

1 the specs and that I can move forward with this
2 project.

3 CHAIRMAN FOX: Mr. Sidler?

4 MR. SIDLER: Yes. He has presented
5 me with all of the prints and everything for the
6 application, and it's been reviewed. One of the
7 things in our discussion that Scott said --
8 because I said, "Well, you could go with a regular
9 elevator."

10 I think this Hoistway had been built
11 and designed, and he's limited. It's 14-3, and
12 that's three inches above what you would have a
13 wheelchair lift anyway. So we wouldn't be
14 allowing a wheelchair lift, so that's why he went
15 with the LULA, to meet the rise. The LULA's rise
16 is much higher. It's --

17 MR. PISKIE: 25 feet.

18 MR. SIDLER: 25 feet?

19 MR. PISKIE: Yeah.

20 MR. SIDLER: -- 20-something feet.

21 And so there were several reasons for him wanting
22 to put this in and wanting to satisfy the
23 customer, and that's why I asked y'all to hear him
24 so they could go forth and meet the building
25 deadlines.

1 But I don't have a problem -- it's
2 similar to ones y'all have approved before as far
3 as --

4 MR. PISKIE: They have all the
5 adequate machinery and space and everything like
6 that.

7 MR. SIDLER: Yeah, it's all up to
8 code.

9 MR. PISKIE: It all meets codes.

10 MR. SIDLER: And we have that code
11 now. Let me refresh everyone's memory. The code
12 is good, but by rule -- and we haven't changed the
13 rule yet -- it eliminated LULAs. And so until the
14 rule is changed, they've got to come in front of
15 us. So it is code. We do have a code for it, but
16 the rule is holding us back. I just wanted to
17 refresh your memory on that.

18 CHAIRMAN FOX: So aside from him
19 being tardy with his paperwork, everything else
20 meets the --

21 MR. SIDLER: I told him we'd have
22 to penalize him 15 yards, so ...

23 CHAIRMAN FOX: What's the pleasure
24 of the board?

25 MR. BURCH: I make a motion to

1 accept his variance, I guess. Are you asking for
2 a various or an acceptance?

3 MR. PISKIE: Just acceptance to
4 approve the specs that I've provided to Ron for
5 the project.

6 MR. HALE: Second.

7 CHAIRMAN FOX: We have a motion and
8 a second. Are there any conflicts of interest in
9 this particular case?

10 (No verbal response.)

11 CHAIRMAN FOX: Any discussion?

12 (No verbal response.)

13 CHAIRMAN FOX: All in favor of the
14 motion, let it be known by saying "Aye."

15 (Affirmative response.)

16 CHAIRMAN FOX: And all opposed by
17 like sign.

18 (No verbal response.)

19 CHAIRMAN FOX: Motion carries.

20 MR. PISKIE: Thank you. Thank you
21 very much.

22 CHAIRMAN FOX: Yes, sir.

23 MR. PISKIE: Appreciate it.

24 CHAIRMAN FOX: Okay.

25 Ms. Jefferson, I think you're up.

1 MS. JEFFERSON: Thank you. I want
2 to talk about the legislative update first. Our
3 legislative liaison was unable to appear today.
4 Her name is Leann Durham.

5 CHAIRMAN FOX: I'm sorry, who?

6 MS. JEFFERSON: Leann Durham.
7 Actually, you may remember working with our former
8 liaison last session, and his name is Jason Beard.
9 And Jason was recently promoted. He's now an
10 administrator for the adult education division.
11 And so Leanne will be serving as our legislative
12 liaison. However, she is over at the legislature
13 today because a lot is going on over there, so she
14 wants to make sure that she keeps the Department
15 apprised of what's going on over there. So she
16 asked me to report on her behalf, and she wanted
17 me to let you-all know that Senate Bill 235, House
18 Bill 252 extends the Elevator and Amusement Device
19 Safety Board until June the 30th, 2016.

20 This particular bill has not been
21 calendared for committee as of yet. During the
22 November 2000 legislative hearings -- I'm sure
23 that you-all remember we were over there for the
24 sunset hearings at that time -- they were trying
25 to determine whether or not to sunset the board or

1 not.

2 And at that time it was recommended
3 to extend the board for one year. They want to
4 review to ensure that the board is doing what it
5 should be doing pursuant to the statute.

6 Now, some of the concerns during that
7 time were that the amusement device unit was not
8 self-sufficient. That was one of their concerns.

9 Another concern was that the board
10 was not conducting regular meetings to discuss
11 issues relative to the amusement device unit.
12 That was the second concern.

13 The third concern was whether there
14 should be a separate board for the elevators
15 versus a separate board for the amusement device
16 unit. That was the third concern.

17 The fourth concern was whether the
18 program, the amusement device unit, should
19 instruct owners or operators to hire third-party
20 instructors and to allow the State to focus on the
21 administrative process of overseeing those
22 third-party inspectors. And during that -- that
23 actually occurred -- that was the actual fourth
24 concern.

25 And because we have these concerns,

1 because they proposed those concerns, introduced
2 those concerns, the Department has to respond to
3 those concerns. Our response will be completed
4 hopefully prior to the mid -- mid this month,
5 because if I'm not mistaken, we have to submit our
6 response to the auditors, the persons who audited
7 us in April -- it's either April or May.

8 But I've instructed our staff that we
9 have to review; we have to provide responses prior
10 to the end of this month. So what I'll be doing
11 is seeking your input as to all of those items.
12 Because those items address the board, so we want
13 to make sure that we received your input and your
14 feedback so that we can respond on behalf of the
15 department. And again, we do want to include your
16 input on those things.

17 So that's where we are as far as
18 Senate Bill 235, House Bill 232, which extends the
19 Elevator/Amusement Device Safety Board to
20 June 30th, 2016.

21 There's also another bill. It's
22 Senate Bill 24, House Bill 234. It removes
23 rock-climbing walls from under the Department's
24 jurisdiction. That bill has been passed in the
25 senate, commerce and labor committee. It was

1 passed last week and is currently on the senate
2 floor. It was on the senate floor last night,
3 according to Leanne's notes. So once I talk with
4 Leanne, I'll be able to find out the status of
5 that bill, because it's further along than the
6 first bill.

7 MR. BURCH: What was that, the
8 walls? What was the walls -- what is it?

9 MS. JEFFERSON: The climbing walls.
10 And if you-all remember, we spoke about climbing
11 walls at the last board meeting.

12 MR. BURCH: Yes.

13 MS. JEFFERSON: There was concern
14 as to whether or not the State would regulate all
15 climbing walls or should regulate all climbing
16 walls. And at that time, you-all actually
17 recommended that we put that on hold within our
18 division, and we've not sent our inspectors out to
19 inspect because we wanted to get some clear
20 definition and guidance as to how to pursue those
21 matters.

22 MR. HALE: Does that differentiate
23 between mobile climbing walls, the ones coming in,
24 versus fixed facility?

25 MS. JEFFERSON: Actually, I'm

1 looking at the legislation here, and it says here,
2 "As introduced, specifies that climbing walls are
3 not considered amusement devices and are not
4 subject to regulation by the Department of Labor
5 and Workforce Development."

6 So there's no distinction. It would
7 include all climbing walls if passed.

8 CHAIRMAN FOX: And if this board
9 went on record opposing that, would it carry any
10 weight?

11 MS. JEFFERSON: What do you mean,
12 specifically?

13 CHAIRMAN FOX: By including the
14 climbing walls as it is today, leaving it as is,
15 not passing that particular law.

16 MS. JEFFERSON: Right. And
17 you-all -- from what I understand, you did go on
18 the record previously, prior to the bill analysis
19 being prepared, as being opposed to that. That
20 information was submitted on your behalf to the
21 proper persons, and the bill analysis. So from
22 what I understand, the board has gone on record.

23 CHAIRMAN FOX: And may we ask who
24 is carrying the bill or who offered the bill?

25 MS. JEFFERSON: Sure. Senator Jack

1 Johnson and also McCormick.

2 CHAIRMAN FOX: Marshall McCormick?

3 MS. JEFFERSON: I believe so,
4 yes -- Gerald McCormick.

5 CHAIRMAN FOX: Okay. Thank you.

6 MR. HALE: Well, it particularly
7 concerns me that we would exclude mobile climbing
8 walls from inspection. I certainly understand the
9 folks that were here last time talking about their
10 sport facilities, as they called them, as opposed
11 to an amusement facility. But I certainly am
12 concerned about us exempting or legislation that
13 would exempt mobile climbing walls. I have a
14 concern about all of them but especially about the
15 mobile ones.

16 MS. JEFFERSON: And what I can do,
17 just to clarify it, it's my understanding, the way
18 that it's read -- I guess we can all just look at
19 that and have our own interpretation. It's my
20 understanding that it does include everything, but
21 I can check with our legislative liaison just to
22 be sure. And once I find out for sure, then I can
23 send an email to the chairman to distribute to
24 you-all. But that's my understanding.

25 And I understand your concern. And

1 that's all that I have, those two bills.

2 CHAIRMAN FOX: Is anyone presenting
3 the bill to include the go-karts?

4 MS. JEFFERSON: To my knowledge,
5 there's no bill for go-karts this year. I know we
6 had one last year. I wasn't with the division
7 prior to that. And from what I understand, there
8 was a bill previously. But I have not seen a bill
9 for go-karts this year.

10 CHAIRMAN FOX: Okay.

11 MS. JEFFERSON: And that is our
12 legislative update. Would you like to move ...

13 CHAIRMAN FOX: I have another
14 question. Has the Department of Labor or anyone
15 in your-all's, I guess, division group, whatever
16 it is, presented any bills to the contrary of the
17 climbing walls? Or have we done anything to be
18 more -- put more stringent rules in the inspection
19 process?

20 MS. JEFFERSON: Have we presented?
21 I'm sorry. We're mixing ...

22 CHAIRMAN FOX: Yes. I'm asking did
23 the Department of Labor or have you-all -- I don't
24 know exactly how you-all would present a law or a
25 rule. But have we changed any rules or have we

1 presented any legislation that would make for more
2 stringent rules and regulations on inspections for
3 these climbing walls?

4 MS. JEFFERSON: We have not. We
5 have not presented any rules.

6 CHAIRMAN FOX: All right.

7 MS. JEFFERSON: We have not changed
8 any rules. In fact, that's something that we need
9 to take a look at. And we're hoping to receive
10 and obtain your guidance, because we need to
11 change the rules. We're actually doing that. I'm
12 with one of the other boards, the boiler board.
13 The board is in the process now of looking at the
14 rules, reviewing everything, to see what needs to
15 be changed, what needs to be slightly modified, if
16 any, or what needs to stay the same. So we're
17 going to be looking for your guidance with the
18 rules as well.

19 CHAIRMAN FOX: The reason I asked
20 the question, just so I have a clear understanding
21 of the rule, you and I had spoken about the ACCT,
22 and if it's a rule, does that have to go before
23 the legislature?

24 MS. JEFFERSON: No, it's --

25 CHAIRMAN FOX: Or is that something

1 that the Department of Labor, the commissioner of
2 the Department of Labor can actually impose?

3 MS. JEFFERSON: If it's a rule,
4 then we can change it without going before the
5 legislature. Now, if it's a law, then we have to
6 go before the legislature to have that changed.
7 But if you're talking about a rule, a program
8 rule, then there's a process. It's not just a
9 matter of us changing it and that's it. It has to
10 go through a process where you-all review the
11 rules, we take a look, we actually make sure that
12 everything is in the best interest of the
13 Department.

14 After we do that, all the rules are
15 approved by the attorney general's office. And
16 after that, they go to the Secretary of State.
17 That's my understanding.

18 Do you-all have anything to add?

19 MR. BAILEY: They also go before
20 the government ops committee. And then the
21 operations committee has to approve -- they're the
22 final approval, as I understand.

23 MS. JEFFERSON: Okay. Very good.
24 Now, with ACCT, if that's what you're talking
25 about --

1 CHAIRMAN FOX: Yes.

2 MS. JEFFERSON: -- now, we have
3 taken a look at that. We have not -- I've
4 actually had a conversation about ACCT based on
5 the fact -- let me take a look here at the -- let
6 me look at this.

7 MR. BAILEY: I'm sorry. Can you
8 tell us what ACCT is.

9 MR. BURCH: I was going to suggest
10 that. We've had some correspondence this last
11 meeting. And you get into these acrostics and we
12 don't know what they mean when you --

13 MS. JEFFERSON: Sure. I'm sorry
14 about that.

15 CHAIRMAN FOX: Association for
16 Challenge Course Technology.

17 MS. JEFFERSON: Yes.

18 MR. BURCH: So we need to know what
19 they are.

20 MS. JEFFERSON: That's the
21 certifying agency that certifies and inspects zip
22 lines and other aerial courses, as they've
23 described it. Zip lines mainly. And so what they
24 have done, they've contacted our office. And
25 actually, that's something that came out of the

1 legislative hearing as well. During that meeting
2 in November, we were asked whether or not that
3 organization should be a qualified inspector
4 pursuant to the law.

5 The law, actually, in looking at
6 that -- let me look at this so I can give you the
7 definition of a qualified inspector pursuant to
8 the law.

9 CHAIRMAN FOX: When the law was
10 first written, it recognized NAARSO, National
11 Association of Amusement Ride Safety Officials,
12 and AIMS.

13 MS. JEFFERSON: And AIMS is --

14 MR. BAILEY: AIMS is Amusement
15 Industry Manufacturing and Suppliers.

16 MS. JEFFERSON: And the first --
17 actually, the definition starts by saying -- it
18 asks who is a person -- a qualified inspector
19 means any person who is -- and it has (a), (b), or
20 (c). And it says, "A person found by the
21 commissioner to possess the requisite training and
22 experience and respect to amusement devices to
23 perform competently the inspections required by
24 this chapter; (b) certified by the National
25 Association of Amusement Ride Safety Officials,

1 NAARSO, and have and maintain at least one level
2 of certification; or (c) is a member of and
3 certified by the Amusement Industry Manufacturing
4 and Suppliers, AIMS, and meets the qualifications
5 established by the board."

6 I've had two conflicting views on how
7 this should be interpreted. But I contacted a
8 legislative attorney who verified that this should
9 be interpreted to mean you could either meet it by
10 accomplishing (a), (b), or (c).

11 If it was meant to have -- if it was
12 meant for us to qualify by having (a) and (b),
13 then the legislature would have put an "and"
14 between the first two. So it's our understanding
15 that you can qualify by meeting (a), (b), or (c).
16 That's our understanding.

17 And with that said, that means that
18 the commissioner can find on this new organization
19 we're talking about to possess the requisite
20 training and experience and respect to amusement
21 devices. That's ACCT, the other company that
22 inspects zip lines. So that would also be a
23 qualified inspector if the commissioner chooses
24 that that is a qualified inspector. But I would
25 like to receive you-all's input on it.

1 CHAIRMAN FOX: I'll be happy to
2 address that. In my opinion -- and I don't speak
3 for anyone else but me -- in my opinion, the ACCT,
4 Association for Challenge Course Technology,
5 should not be inspecting amusement rides per se.
6 I don't think they have the expertise in that
7 area.

8 However, under ASTM F 2959-14, there
9 are five things that are set out: Zip lines,
10 ropes courses, challenge courses, aerial trekking
11 courses, and canopy tours. But that does not
12 include roller coasters and the like.

13 MS. JEFFERSON: Right. And they
14 would not inspect.

15 CHAIRMAN FOX: Okay.

16 MS. JEFFERSON: If we were to
17 pursue that option, that's why we have the NAARSO
18 and we have the AIMS.

19 CHAIRMAN FOX: Yes.

20 MS. JEFFERSON: This other
21 organization, ACCT, would be limited to those zip
22 lines and those aerial concourses that is in their
23 specs and their classification.

24 CHAIRMAN FOX: Let me also say that
25 in my opinion, the NAARSO-certified inspectors and

1 the AIMS-certified inspectors could in fact
2 inspect the zip lines, ropes courses, challenge
3 courses, aerial trekking courses, and canopy
4 tours, but not vice versa.

5 MS. JEFFERSON: Right. I agree.

6 CHAIRMAN FOX: Okay. Now, again,
7 that is my opinion and I speak for no one else.

8 MS. JEFFERSON: Well, I agree with
9 that. After reviewing the information, it does
10 appear that AIMS and NAARSO inspectors, they do
11 have more knowledge, skills, expertise. So they
12 can inspect everything. Whereas ACCT, the other
13 organization, would be limited to zip lines. So I
14 agree with that.

15 CHAIRMAN FOX: And if my memory is
16 correct -- which it may be bad. I won't certify
17 it -- but we had asked in 2012, I believe --
18 Mr. Hale asked that the ACCT be included in the
19 inspection process. At that time, we were told
20 that we had to go before the legislature to change
21 the law.

22 MS. JEFFERSON: And what year was
23 that?

24 MR. HALE: 2012.

25 MS. JEFFERSON: '12? That's

1 interesting. I'm not sure who told you that. I
2 wasn't here in 2012.

3 CHAIRMAN FOX: Oh, I understand.
4 We had actually talked about that in a meeting.

5 MS. JEFFERSON: And Mr. Bailey is
6 here.

7 I'm not sure if you interpret that
8 statute ...

9 MR. BAILEY: I interpret it the way
10 you explained it. And given that, that
11 subparagraph (a) would give the commissioner the
12 authority to recognize this ACCT as a valid
13 inspecting service for the zip lines.

14 CHAIRMAN FOX: For the five things
15 listed in the --

16 MR. BAILEY: Yes.

17 CHAIRMAN FOX: Okay.

18 MR. SIDLER: Can I ask a
19 question --

20 CHAIRMAN FOX: Yes, sir.

21 MR. SIDLER: -- of Mr. Bailey?

22 Of course we're dealing with laws,
23 trying to -- like I said, we've got laws and
24 codes. And that interpretation, when it has the
25 semicolon or a comma, is that not "and"

1 understood?

2 MR. BAILEY: Is that not what?

3 MR. SIDLER: An understood "and"?

4 MR. BAILEY: No.

5 MR. SIDLER: And then when you have
6 a period, it's stopped. I mean, that's the way I
7 was interpreting it. That's what I'm trying to
8 get in my head. You know, when they don't put a
9 period there, I would consider that one statement
10 and the next one being one statement. But then
11 they give a -- I'm just trying to understand so
12 when I read over this section, what I should, you
13 know ...

14 MR. BAILEY: Well, I think, like
15 Kim had said when she checked on it, if they
16 intended for (a) and (b) to meet both
17 qualifications, they would have put an "and" after
18 the semicolon. But they did -- and they did put
19 an "or" after --

20 MR. SIDLER: Right, on the other
21 two, which is very definite there. But I'm just
22 saying that was my understanding from early 1960s
23 English classes, I guess, that the "and" would be
24 understood if it didn't have a period. That's why
25 I was -- I'm just trying to get clarification. So

1 that has nothing to do with it, as far as a period
2 or a comma or --

3 MR. BAILEY: No. Not when it comes
4 to interpreting legislative language like that.

5 MR. SIDLER: Thank you.

6 MR. HALE: But I do believe that
7 those of us that worked on passing that
8 legislation in the very beginning intended for
9 there to be an "and." I think we always intended
10 for those inspectors to be NAARSO or AIMS
11 certified.

12 MR. BAILEY: Well, I'm just --

13 MR. HALE: And I'm not trying to
14 argue whether -- on the semicolon or "and" or
15 whatever. I'm just stating that my personal
16 opinion is that those that worked pretty
17 diligently to get the ride laws passed to begin
18 with intended for the inspectors to be NAARSO or
19 AIMS certified.

20 MR. BAILEY: It just seems to me
21 that if that were the case, then the
22 subparagraph (a) has no use. It shouldn't even be
23 in there, regarding the commissioner having
24 authority. If the intent was just for them to be
25 NAARSO and AIMS-qualified only, then I would say

1 subparagraph (a) would have never been put in.

2 MR. HALE: I do follow your logic
3 somewhat; however, I think that the intent was
4 that if I'm the commissioner, I want some input
5 into the quality of employees that work for me.
6 And I think that the intent was to allow the
7 commissioner to review the quality of the person
8 that was being proposed for that job as well as
9 his qualifications. So I certainly see what
10 you're saying from a legal aspect, why is it
11 there; but from a management perspective, I think,
12 if I'm the commissioner, I want to be able to say,
13 you know, "I don't approve of that person right
14 there working for me, carrying the banner on my
15 behalf."

16 MR. BAILEY: Understood.

17 CHAIRMAN FOX: Any other comments
18 on legislative update or any questions?

19 (No verbal response.)

20 CHAIRMAN FOX: Ms. Jefferson, would
21 you talk to us about the proposed fee list,
22 please.

23 MS. JEFFERSON: The proposed fee
24 list was sent to the Chair -- it was either the
25 end of December or the beginning of January. And

1 it basically set out the proposed fees to be used
2 as we go forth. At the last board meeting, we
3 discussed some of the difficulty that we had with
4 establishing fees. One of the difficulties was
5 the inflatables, and the board helped us to
6 identify a specific fee for that which we now
7 assess a fee for \$25 for inflatables.

8 And we took a look at all of the
9 different devices, tried to assess a fee towards
10 each device, and this is what we came up with.
11 And so we ask the board to consider these. This
12 information does not change the way that the rules
13 are currently written because, of course, this
14 information is not listed in the law. This is
15 based on our rule. But we wanted to stay within
16 the confines of our rules because to do something
17 different would require us to have to go through
18 rule changes. And so that's what we're trying to
19 avoid at this point.

20 So we're asking for the board's
21 approval, comments, suggestions as to this
22 document so that we can post this document on our
23 website and so that we can prepare this document
24 and provide it to owners/operators so that they'll
25 know exactly how much a device costs. A fee

1 should be assessed for a particular device.

2 CHAIRMAN FOX: One of the questions
3 I think we asked -- well, what I would like better
4 understanding on -- in the scenario that the
5 gentleman proposed a climbing wall and along that
6 wall, the one wall, he had "X" number of ropes.
7 Okay. Which one of these under the climbing
8 wall -- is it \$100 per device or \$50 or \$25?

9 MS. JEFFERSON: It depends. If we
10 take a look at the second one. Because it's \$150
11 per company.

12 CHAIRMAN FOX: Yes.

13 MS. JEFFERSON: That's for every
14 company, every device. Okay. And then we get
15 into device fees. If it's designed for passengers
16 42-inches or more in height than the \$200 per --
17 we have \$200 per facility. And I think that the
18 climbing wall is the one that we needed guidance
19 with, because the last time we talked we had
20 people to actually testify and say that it depends
21 on whether or not it's one wall. Does it depend
22 on whether or not it's the whole facility? Do we
23 want to say per company?

24 And so that's what we need your
25 guidance on. We want to look to some

1 alternatives, different ways to kind of handle
2 this, just basically discuss it so that we can
3 come to a conclusion as to how to charge for
4 climbing walls. But this is our suggestion at
5 this point. Do you-all have any suggestions?

6 MR. HALE: Well, maybe we need to
7 define it by the number of riders that can be
8 participating simultaneously. If I've got a
9 mobile climbing wall and four people can go up it
10 at one time, it certainly takes less time to
11 inspect than if I have this entire wall right here
12 with 20 people climbing, with 20 devices for
13 people to climb at the same time. So I think from
14 a time versus cost-type situation, it -- maybe we
15 should look at defining it by the number of points
16 that riders could be on simultaneously.

17 MS. JEFFERSON: Would you be
18 considering ropes?

19 MR. RADER: Harnesses.

20 MR. HALE: Harnesses, ropes, and
21 the belay devices, connection points, all of those
22 types of things. To me, if you've got this gym
23 and it's got a hundred places for people to be
24 climbing at one time, it should be more expensive
25 to inspect that than a mobile device that has four

1 or six people climbing it. Obviously, it's going
2 to take more time, so that should be more costly.
3 It costs the State more to do it.

4 MS. O'CONNOR: So are you
5 suggesting that it's a question of looking at the
6 facility and the number of climbers or the number
7 of riders per facility? Because what I'm
8 recalling from that last meeting is there was one
9 gentleman representing an organization that had an
10 entire wall that were continuous around the
11 perimeter of the room, and then there was another
12 gentleman talking about, well, he had 25 walls
13 because there were breaks between it.

14 MR. HALE: Right.

15 MS. O'CONNOR: So if they each
16 accommodated a hundred riders, we would be
17 charging the same amount per each facility. Am I
18 understanding you correctly?

19 MR. HALE: I'm just throwing that
20 out as maybe a way to define it, that we do it by
21 the number of inspections that we have to make for
22 connection points, rope, harness, that maybe
23 that's an alternative. Instead of trying to, you
24 know, "Well, I'm going to get a single price
25 because I have this facility and I've got" -- so

1 in order to circumvent the cost, I just tore out
2 four foot of section and said, "No, that's another
3 wall right there," as opposed to, you know, "Well,
4 I've got this long, continuous wall."

5 Maybe we should define it by the
6 number of riders that can be in that facility
7 simultaneously.

8 MR. FINK: I think the way the
9 proposed fees are stated, in response to your
10 question, I think that would be \$200 per facility
11 because there would be amusement devices designed
12 for passengers 42 inches or more in height and the
13 manufacturer's recommended assembly time is more
14 than 40 work hours.

15 That would be different from -- but
16 what you're saying is different from what we've
17 got here in the proposed fees.

18 MR. HALE: So is your
19 interpretation that they'll pay \$200 for the
20 facility and \$25 for every rope because that's a
21 miscellaneous device?

22 CHAIRMAN FOX: For a hand-powered
23 device?

24 MR. FINK: I think we were talking
25 about \$200 per facility for the device fee and the

1 \$150 for the permit fee, so it would be a total of
2 \$350 for -- is what we were -- what the thinking
3 was on that.

4 MR. HALE: So --

5 CHAIRMAN FOX: Let me understand.

6 So if this is Fox's Climbing Walls right there,
7 that entire wall, I'm going to pay you, the State
8 of Tennessee, or whoever is inspecting, a \$150
9 fee, and I can have as many ropes as I want
10 hanging on that wall, and then I pay you an
11 additional \$200, so a total of \$350, and Fox
12 Climbing Walls is then certified.

13 MR. FINK: Yes, sir. That's what
14 we were thinking about based on the last meeting
15 that we had. Mr. Hale is talking about bringing
16 up some different points, and we would defer to
17 the board for the wisdom of the board on those
18 points.

19 MR. HALE: Well, it just sort of
20 occurred to me that if Fox Climbing Wall has got a
21 hundred and Hale's Climbing Wall has got eight, it
22 certainly doesn't take the State as long to
23 inspect mine as it does his.

24 MS. JEFFERSON: Right. And
25 we're --

1 CHAIRMAN FOX: It's not a
2 challenge. We're just looking for a better
3 understanding, because there's an issue here. It
4 says you have a hand-powered -- that's a
5 hand-powered device. It's a miscellaneous -- each
6 rope is a hand-powered device, so to speak, and
7 it's \$25. And that was what was confusing to me.
8 I did not understand.

9 MR. SIDLER: Can I ask something
10 that I don't -- maybe it would help everyone
11 understand. With these rules, are these proposed
12 within the rules that we have now?

13 MS. JEFFERSON: Yes.

14 MR. SIDLER: So you're taking the
15 rules that have been in place since 2008 or '9 or
16 '10, whenever it was, that structure, and you're
17 trying to help the industry know what your fees
18 are going to be. We're not changing the rules
19 yet.

20 MS. JEFFERSON: We're not changing
21 the rules.

22 MR. SIDLER: You're going to change
23 the rules to do whatever you figure out later, but
24 this is to better explain to the public what their
25 fees are in advance so that they know what to

1 expect when the inspector shows up.

2 MS. JEFFERSON: That's exactly
3 right.

4 MR. FINK: These proposed fees,
5 permit and device fees, are policy which we've
6 tried to develop within the existing rules.

7 MR. SIDLER: Right. And then
8 you're going to develop possibly some rule changes
9 at some point to better spread out the amount.
10 You can't do that now --

11 MS. JEFFERSON: Right.

12 MR. SIDLER: -- because of what
13 fees we've got in there, right?

14 MS. JEFFERSON: Exactly. That's
15 what I -- when I started off by saying that we
16 have to do what's within the confines of the
17 rules, we can't just create things -- we want the
18 board's assistance to let us know whether or not
19 what we're proposing is reasonable at this time or
20 to provide suggestions as to how we can provide
21 the service to the public and allow them to pay
22 their inspection fees, device fees, and not step
23 outside of the rules. We have to act within the
24 confines of the rules at this point.

25 MR. RADER: What are the rules?

1 MR. BURCH: May I ask a question?
2 Because we are elevator people and we don't
3 understand this stuff. I would like to know on
4 climbing walls, on Mr. Fox's facility -- and he's
5 got how many climbing --

6 CHAIRMAN FOX: We'll pick a number.
7 Let's say that we have 20 ropes along this wall
8 right here.

9 MR. BURCH: How much fee would you
10 have to pay under this scenario for 20 ropes
11 hanging on your wall?

12 CHAIRMAN FOX: Well, of course, me
13 being the cheap guy I am, I would take the \$350
14 fee.

15 MR. BURCH: So that would be the
16 \$150 per company and \$200 would be \$350. And you
17 wouldn't be involved at all with the individual
18 ropes or individual hanging points?

19 MR. HALE: Well, they would all be
20 inspected.

21 CHAIRMAN FOX: They would all be
22 inspected, but again, I would -- the way this
23 looks, I would pay \$350 to the State for all
24 25 ropes in the Fox Climbing Wall.

25 MR. BURCH: It makes no difference

1 how many ropes you have.

2 CHAIRMAN FOX: That's correct.

3 MR. BURCH: Well, why has it got a
4 \$25 per device and \$50 per device? Is that
5 something different?

6 MS. JEFFERSON: The \$25, also in
7 the rules, the way the rules are currently
8 written, we wanted to take into consideration --
9 see where the second bullet says 40 work hours, 42
10 or more in height; less than 40 hours on the third
11 bullet; and then on the fourth bullet it says
12 42 inches or less in height. So it has three
13 different categories as established in the current
14 rules.

15 So we were trying to determine which
16 fee should be accessed based on the information
17 that already exists in the rules. This is the way
18 the rules look now.

19 The rules also address this, a
20 miscellaneous fee for \$25. It also addresses
21 reinspection fees. Reinspection fee and the
22 permit application fee are the same, regardless of
23 what type of device. The only thing that's
24 different would be the second bullet through the
25 fifth bullet.

1 So if this particular amount is not
2 correct or if we should say \$200 per something
3 else, then we're asking your advice as to how to
4 structure that, or if it should be \$300 per
5 facility. Do we have room to -- we don't have
6 room. It has to be \$200 based on the current
7 rules.

8 MR. SIDLER: That first section
9 there, carnivals and themes, that's the original
10 fee structure that we had and we're locked into.
11 Taking that -- from the way I'm understanding
12 Ms. Jefferson -- taking that and applying it to
13 everything else so the public will know what we
14 can do now.

15 We can't deviate from those monies
16 and those lists, and so they're taking the 42 and
17 above and the hours it takes to build it to try
18 and break it all down into graduated sections.

19 MR. BURCH: Well, I'm still
20 thick-headed. I don't know -- he said he's going
21 to get by for \$350.

22 CHAIRMAN FOX: Okay. If you
23 disagree with me, let me know. But if I'm looking
24 at this schedule here, I'm paying \$150 because I
25 am the Fox Climbing Wall Company.

1 MS. JEFFERSON: The company, yes.

2 CHAIRMAN FOX: And then where it
3 says on the recommended assembly time, it took me
4 or my team or my crew more than 40 hours to either
5 put that up, erect it, or manufacture it, whatever
6 the case may be. So that tells me I'm paying \$200
7 plus the \$150 permit fee. Do you agree with that?

8 MS. JEFFERSON: Well, that's the
9 way it's written.

10 CHAIRMAN FOX: Right.

11 MS. JEFFERSON: But we're wanting
12 your guidance as to whether or not that's
13 reasonable. If it's not reasonable, we just need
14 to fix it.

15 CHAIRMAN FOX: Okay.

16 MS. JEFFERSON: So we wanted your
17 expertise to fix this.

18 CHAIRMAN FOX: Okay. So I want to
19 talk to Mr. Hale about his four-position climbing
20 wall.

21 MR. HALE: Right.

22 CHAIRMAN FOX: So this is Hale's
23 Four Climbing Wall Company. Okay? So he would
24 pay --

25 MS. JEFFERSON: \$150.

1 CHAIRMAN FOX: -- \$150 plus he is
2 going to pay \$100 because it took 40 hours or less
3 to assemble that. Okay? Now --

4 MR. HALE: So I'm going to pay
5 \$250?

6 MS. JEFFERSON: \$250.

7 CHAIRMAN FOX: You're going to pay
8 \$250.

9 MS. JEFFERSON: Right.

10 CHAIRMAN FOX: Okay. Again, I've
11 got 25 lines. And he has four. So that's
12 equitable.

13 MS. JEFFERSON: And that's what we
14 plan to do.

15 CHAIRMAN FOX: Okay.

16 MR. HALE: And if I have a mobile
17 device, I'm going to pay \$150, and I'm going to
18 pay \$100 because it takes me less than 40 hours to
19 set that mobile device up, so I'm going to pay
20 \$250 for inspecting my mobile device.

21 MS. JEFFERSON: Right.

22 MR. HALE: One thing I want to
23 clarify, if I own a climbing wall and trackless
24 train and an inflatable, I'm only going to pay one
25 \$150 company fee.

1 MS. JEFFERSON: Per application,
2 yes.

3 MR. HALE: For the application.
4 And then from there I would pay additionally for
5 the devices.

6 MS. JEFFERSON: Exactly.

7 MR. HALE: All right. So moving
8 forward from that, tell me what a jumping gym is.

9 MS. JEFFERSON: Okay. That's one
10 of those inflatables? Is that --

11 MR. RADER: A jumping gym is an
12 inflatable.

13 MS. JEFFERSON: -- like Monkey
14 Joe's? I'm not sure if you-all are familiar with
15 that.

16 MR. HALE: Okay. So why would it
17 cost me more to have my inflatable sitting inside
18 of a building, inspected, than it does if I can
19 carry it out here and set it out in the parking
20 lot?

21 CHAIRMAN FOX: I think the jumping
22 gym is --

23 MS. JEFFERSON: Is that like in
24 McDonald's where they have those little balls in
25 there and the little kids are jumping around on

1 them? I believe so. Trampoline-type devices?

2 CHAIRMAN FOX: That's what I'm
3 thinking it is, a trampoline-type device.

4 MS. JEFFERSON: Because it was
5 separate -- do we have a separate item for
6 inflatables?

7 MR. HALE: As long as we define
8 jumping gym doesn't include inflatable devices.

9 MS. JEFFERSON: I'm sorry. Yes.

10 MR. HALE: If it's trampolines --

11 MR. SIDLER: No. You've got a
12 bracket for inflatables.

13 MR. HALE: Right.

14 MR. SIDLER: And then the jumping
15 gyms are -- they would be better termed as a
16 trampoline.

17 MR. HALE: Right. I was just
18 trying to understand what we were going to define
19 as being a jumping gym, whether --

20 MR. SIDLER: For us old people,
21 it's trampolines.

22 MR. HALE: Yeah. Places that have
23 a large number of inflatables indoors, they're not
24 a jumping gym.

25 MS. JEFFERSON: You're right.

1 Yeah, I'm sorry --

2 MR. HALE: Okay. A jumping gym is
3 a trampoline or a -- whatever.

4 MR. SIDLER: Would this not be --
5 if you don't mind me speaking -- the trampoline,
6 don't they have those walls that you can bounce
7 off of onto the trampoline?

8 MR. HALE: Yeah.

9 MR. SIDLER: You know, it's
10 actually a trampoline against the wall. That's
11 the new version of those.

12 MR. HALE: Right. I just wanted us
13 to officially say that jumping gyms doesn't
14 include inflatables.

15 MR. SIDLER: Right.

16 MR. EDENS: Ron, do you have any
17 information from any other states as far as permit
18 fees are concerned?

19 MR. SIDLER: No, sir, not at this
20 point. We did originally when -- when we were
21 tasked with this back in 2008-2009, we did a
22 survey, you know -- we were tasked with being
23 compatible with what the other states charged. So
24 the commissioner at that time, that was one of the
25 requirements.

1 So we did a survey in calling all the
2 states, but that was compatible at the time for
3 the basic fees that we -- you know, what we were
4 doing. It was compatible with -- comparable, I
5 mean, with the adjoining states that touched us.
6 But I don't have that information anymore.

7 MS. JEFFERSON: And in reviewing
8 the rules as we go forth, when the board reviews,
9 that can be something that we actually look at,
10 that type of information. We want to look at what
11 other states are doing. Because in Kentucky, the
12 fees may be higher. I'm not sure. Or they may be
13 lower in the surrounding states. So we definitely
14 want to take a look to see if these fees are
15 reasonable or not.

16 But for right now, since the rules
17 are constructed in such a way that we're limited
18 to these amounts, then we have to go with them for
19 right now.

20 MR. SIDLER: It's been at least six
21 years since they were contacted.

22 CHAIRMAN FOX: Okay. Any -- I
23 guess you're asking for us to make a determination
24 of whether we modify these or delete them, change
25 them? That's what you're asking this board to do?

1 Or leave it as is?

2 MS. JEFFERSON: Well, no. We're
3 asking your suggestions, your comments as to the
4 wording on this particular document. Because we
5 understand that we're confined to what the rules
6 are today. We can't do anything. We can't, of
7 course, ask the board to come up with different
8 dollar amounts today. Because if we did that,
9 then the public wouldn't know what to pay. So
10 we're not asking that.

11 We wanted you-all to approve this
12 document or to provide suggestions as to how we
13 can alter it, make it better for the public,
14 because if you-all have questions about it, then
15 the public is going to have questions about it
16 when they receive this information.

17 MR. MOORE: The one suggestion I
18 would like to make would be, especially since
19 we've had some confusion on what a jumping gym is,
20 would it be possible to add a small definition out
21 to the side beside zip line, trackless trains,
22 inflatables, bumper cars, things of that nature,
23 just so there is no confusion?

24 If an equipment owner says, "Well, is
25 this this," he should be able to look under that

1 particular category and say yes, this falls
2 directly here, or no, it does not.

3 MS. JEFFERSON: I think that's an
4 excellent idea.

5 MR. BURCH: And that won't change
6 the rules, right?

7 MS. JEFFERSON: Right.

8 MR. HALE: Why did we separate out
9 bumper cars from the rest of amusement rides?

10 MS. JEFFERSON: What do you mean
11 separate them?

12 MR. HALE: Well, we've developed a
13 category for bumper cars, and I'm not really sure
14 why we separated those from the roller coasters
15 and Ferris wheels.

16 MS. JEFFERSON: Well, actually, the
17 first -- it should be identical. I think the
18 reason we did that is because when people call, we
19 wanted to provide our staff and we wanted to
20 provide the public an easy way to find the
21 information. If we weren't to identify bumper
22 cars, they may not know where to go, which fee
23 would apply. We just thought it would make it
24 simplistic. That's why we did it that way.

25 MR. HALE: But if you followed that

1 same logic, we'd end up listing every ride
2 individually.

3 MS. JEFFERSON: Well, we list the
4 most common ones, the ones we receive questions
5 on. We receive questions about bumper cars on a
6 regular basis. We receive questions about, you
7 know, the carnivals, fairs, and theme parks on a
8 regular basis, inflatables, and these other items.
9 So that's why we did it that way.

10 MR. EDENS: I believe this is a
11 situation where we should take this and everybody
12 review it and go through it and bring it up at the
13 next meeting.

14 MS. JEFFERSON: And when is our
15 next meeting?

16 MR. EDENS: June, I believe.

17 CHAIRMAN FOX: June 2nd.

18 MR. EDENS: There's too much to do
19 here in one sitting to just have this in front of
20 you now.

21 MR. BURCH: Could we have an
22 outline like he suggested with a little better
23 description of what these things are pretty soon
24 so that we could, you know, have that to look at?

25 MS. JEFFERSON: We'll resend the

1 Word document. Again, we sent this back in
2 December-January. But we'll resend this and what
3 we'll do, we'll go in and edit the document, and
4 we'll -- underneath each device we'll define it or
5 put examples. Did you-all want examples of the
6 device or --

7 MR. MOORE: That would be good.

8 MR. EDENS: Yeah, that would be
9 helpful.

10 MS. JEFFERSON: Okay. So that's
11 what we'll do.

12 MR. MOORE: And limitations, if
13 there is some. Such as a trackless train, you
14 know, are there -- is two cars a trackless train
15 or is it three or could you have a one-car
16 trackless train, just so there are no confusing
17 points moving forward.

18 MS. JEFFERSON: Okay.

19 MS. O'CONNOR: Well, my big
20 question still goes back to climbing walls and the
21 hand-powered devices for 25. Personally, reading
22 this, I find it somewhat confusing because if I
23 were looking at -- if I were an owner, I would be
24 wondering, "Well, does that mean every pulley is a
25 hand device?" So I personally would suggest if we

1 can delete that fee reasonably, it might be
2 something worth considering.

3 MS. JEFFERSON: The \$25 fee?
4 Because we do have an option to do that.

5 MS. O'CONNOR: Okay. Because if
6 we're charging based on the facilities anyway and
7 the permitting, I can't foresee -- and you
8 gentlemen certainly know better than I do -- but I
9 can't foresee a \$25 fee for a hand-powered device
10 in that same climbing wall inspection, unless they
11 were pulleys.

12 MR. BURCH: I didn't think Mr. Fox
13 identified a \$25 fee in any scenario.

14 MS. O'CONNOR: He didn't.

15 MR. BURCH: And so that's why I was
16 trying to ask when does the \$25 fee come in? I
17 just don't -- Mr. Fox is pretty generous and he
18 would pay it that quick if he thought he needed
19 to.

20 MS. JEFFERSON: Yes. We will just
21 realign the document and we'll send it to you-all.
22 If you have more suggestions, it would be perfect
23 if you would just return those to the Chair and he
24 can forward that information on to us.

25 CHAIRMAN FOX: Okay.

1 MR. MOORE: One quick question.
2 Getting back to the climbing wall -- and we've
3 had, you know, how many belay devices or how many
4 pulleys or whatnot -- could this fee not be set in
5 accordance with the square footage measurement of
6 the wall and, say, per square footage you're going
7 to pay this amount, if it's a nickel or a dollar
8 or whatever?

9 MS. JEFFERSON: And, you know,
10 since we're listing per company, per device now,
11 which is not necessarily in the rule -- I don't
12 believe that per company is in the rule, per
13 device is in the rule; is that right, Ron?

14 MR. SIDLER: The --

15 MS. JEFFERSON: The rules don't say
16 per device, per company either.

17 MR. SIDLER: Well, yeah. I mean,
18 your company has got to pay the permit to enter --

19 MS. JEFFERSON: I understand that.
20 But I'm talking about the specific wording. So
21 would we -- and this is probably a legal
22 question -- could we specify under the current
23 rules per footage without running into a problem?

24 MR. BAILEY: I would have to read
25 the rules.

1 MS. JEFFERSON: We would need to
2 read the rules just to be sure. We just want to
3 make sure we don't step outside the rules and do
4 something --

5 MR. MOORE: Yeah. And the reason I
6 mention it, you know, it depends on whether your
7 wall is 100-foot long, 2-foot long, 60-foot high,
8 4-foot high, whatever is best. To me that seems
9 like that would be fair across the board, whether
10 you're a mom-and-pops or a nationwide company.

11 MR. HALE: So are you saying square
12 foot of the roof or square feet of wall?

13 MR. MOORE: Of climbing wall.

14 MR. SIDLER: I think I understand
15 what your question is now, but we're still limited
16 to that 40 hours is the difference, and the
17 42 height. That's your parameters you've still
18 got to stay in. If you change it to square
19 footage, you're going to require a rule change
20 which could come down the road. But I think
21 you're still confined to those simple things that
22 we have in the rules now. Square footage is not
23 there. So I think the argument is that you're out
24 of the rules.

25 MS. JEFFERSON: But that would be

1 something that we could work towards. Understand,
2 we're not saying we don't want to move in that
3 direction. We're just trying to do what we can
4 based on the current fees.

5 MR. MOORE: I guess one more
6 question and then I'll be quiet. Who
7 determines -- I mean, are we actually seeing the
8 manufacturer's manual for these rock-climbing
9 walls or for any of these devices that say
10 manufacturer suggested that it takes 42 hours
11 to -- where are we coming up with that figure? Is
12 that something that the people that are applying
13 for a permit are having to present to us? Or is
14 that something we're estimating ourselves, as
15 inspectors or ...

16 MR. SIDLER: Well, when I was doing
17 this in the beginning with our previous inspectors
18 on board, what was explained to me -- and I'm not
19 a certified inspector, but I was deep into it for
20 a few years there -- it was explained to me that
21 every device had a manufacturer's manual and you
22 inspect to that device manual from elliptical,
23 quadruple, whatever the name is, and then it had
24 the hours to assemble it and all those things in
25 it.

1 So that was the pertinent information
2 that you had to have as an inspector to figure all
3 of this out. I wouldn't know it, just like you
4 don't. I'm in elevators and you're kind of
5 somewhere in between there. You're in elevators
6 as far as Eastman Kodak is concerned, you know.

7 MR. HALE: But the owner's manual
8 of the amusement rides does cover that.

9 CHAIRMAN FOX: Under the ASTM
10 rules, they have to have that in there.

11 MR. SIDLER: And they were built --
12 in the early years, when we first came into this,
13 to doing this, there was a lot of things along the
14 strip in Sevierville, for instance, that were
15 older, not manufactured now. It was something
16 that was put together. So our inspector at that
17 time helped them to write a manual to meet our
18 specifications, which is required. That's
19 required, just to bring that out. That meant that
20 everybody had to have a manual.

21 So if your climbing wall -- there's
22 got to be some specs, or they'd have to write
23 them, you know. It's something they would have to
24 establish at the time that that inspector is out
25 there looking at it. And we've run into that in

1 the past. We've run into that a bunch of times.

2 CHAIRMAN FOX: Okay. So it's my
3 understanding, just to bring it kind of all
4 together and summarize it, Ms. Jefferson is going
5 to send this to me; I'll distribute it out to the
6 rest of you; and we'll give her the information
7 back as to what we think needs to be changed; and
8 if there's changes to be made, you-all will
9 process -- again, this is why I was stumbling
10 through that other question earlier, stumbling
11 through the process to either make it a rule, a
12 law, or whatever it is that it has to be, and
13 incorporate that into our rules and regulations,
14 correct?

15 MS. JEFFERSON: Well, you know it
16 takes time.

17 CHAIRMAN FOX: Right. But if we
18 hand that back --

19 MS. JEFFERSON: When you hand that
20 information back, that's what we'll be using
21 immediately to provide to the public.

22 Now, if you suggest something that's
23 outside what we can do, then we'll prepare to make
24 a rule change or do whatever we need to in the
25 future. Does that make sense?

1 CHAIRMAN FOX: You've answered my
2 question.

3 All right. Update on hiring of
4 inspectors. Can you tell us where we're at,
5 please.

6 MS. JEFFERSON: Yes. Last meeting,
7 authority was obtained to hire inspectors for
8 East, West Tennessee, and to fill -- well,
9 actually, to -- at that time, we had inspectors.
10 Unfortunately, we don't have any inspectors at
11 this point. We have no inspectors for the
12 program.

13 Although the positions were recently
14 announced, those two positions, in addition to the
15 Middle Tennessee inspector position, no qualified
16 applicants to date have applied for those
17 positions. We extended the position for two weeks
18 to try to obtain qualified applicants.
19 Unfortunately, we were unsuccessful. That's what
20 I've been told.

21 That position recently closed. I
22 think it closes -- it should have closed
23 yesterday, I believe it was. And so I will have
24 to talk with the Department of Human Services to
25 see if there were any qualified applicants. I

1 don't think that there were, based on the
2 information that I received.

3 As a result of the challenges
4 associated with not having qualified applicants,
5 it's really difficult to fill positions not just
6 for amusement devices, but this is a problem that
7 we're having in most of the technical industries,
8 like, with the boilers, the elevator, and with
9 amusement devices.

10 We have another program called Labor
11 Standards Unit. And when we actually announced
12 those positions, we have over 100, sometimes 200
13 applicants. But we don't have the same type of
14 experience with these type of positions.

15 And if we are to have amusement
16 device inspectors, we have to have people who are
17 ready to work when they get here. We can't afford
18 to have people sitting in positions and not being
19 able to do anything. We need at least Level 1
20 certification. That's what's required by NAARSO.
21 And so we didn't get that. That's where we are.

22 So what are we doing now? Because we
23 have no inspectors for the state of Tennessee as
24 it relates to amusement devices, so what we're
25 doing, we're reviewing the administrative process.

1 As I previously indicated, previously we didn't
2 have an administrative process. The inspectors
3 that we utilize for the program were out in the
4 field, they were processing paperwork, handing
5 paperwork out to the owners/operators, they were
6 receiving that paperwork. They were determining
7 whether or not -- you know, well, they were
8 actually inspecting.

9 After the inspection, they were
10 determining whether or not these owners/operators
11 should be issued permits or not. That's too much
12 authority, too much discretion for inspectors. So
13 we recently established an administrative process
14 that would require our administrative assistants
15 to issue, to distribute, the permit packages to
16 the public. They're going to distribute those.

17 We're going to receive those permit
18 packages from the public. We're going over those
19 with a fine-toothed comb in that, as far as a
20 permit application package is concerned, we're
21 looking at those to make sure they're accurate and
22 complete because there's certain things that we've
23 noticed since we started doing that. We want to
24 make sure they're accurate and complete, signed by
25 the proper person, contain all the information

1 that the State requires.

2 In addition to that, we have a ride
3 list. We want them to complete the ride list,
4 because we've noticed that some of the ride lists
5 aren't even complete. We can't even compare that
6 information to what an inspector provides us.

7 Sometimes an inspector may say there
8 are five rides or five devices. And than the
9 owner may say that there are ten or vice-versa.
10 We need to make sure that information is accurate.

11 In addition to that, there is a
12 qualification or there is a requirement, excuse
13 me, for proof of insurance, general liability
14 insurance. We're taking that more serious. I
15 used to work in another division that handled
16 workers' comp, so when it comes to compliance or
17 insurance, that's very important. We need to make
18 sure that these owners/operators have proper
19 general liability insurance. And they're supposed
20 to have a million dollars per occurrence.

21 So we're making sure that we receive
22 valid certification or a proof of insurance in the
23 form of a certificate of insurance or declaration
24 pages that specifically say this is a good policy,
25 the policy effective dates are correct, and it

1 actually requires a million dollars per
2 occurrence. We're making sure that that's there.

3 And we're also going to take a look
4 at inspection reports. We don't have any
5 inspectors at this point. I wish we did have some
6 good inspectors, quality inspectors. But the
7 truth of the matter is that we don't. So we have
8 to take a different approach, and we have to look
9 to those third-party, qualified inspectors. And
10 we have to request when a company asks for a
11 permit in Tennessee -- we have to make sure that
12 the owner/operator knows you have to submit a copy
13 of your third-party inspection report. Because
14 we're going over that inspection report to make
15 sure that the device is safe and operable, it says
16 that; and I think that would put us in a really
17 good position. Because if we don't have something
18 showing that it's safe and operable, it's going to
19 cause problems down the road, not only for the
20 owner/operator but for us, too.

21 So that's what our administrative
22 staff is mainly doing at this point, and that's
23 what we're forced to do because we don't have
24 qualified inspectors at this time.

25 MR. MOORER: Question,

1 Mr. Chairman. Would this be a situation where we
2 might, say, bring some interns in and you train
3 these people to become inspectors?

4 MR. SIDLER: Ms. Jefferson would
5 have to answer that.

6 MR. MOORER: It's just a question.
7 I mean, in the industry, that's how we agree if we
8 can't find people, we're going to have to move out
9 and train them. And so would it be possible to
10 get somebody with a technical degree, industrial
11 technology or mechanical engineering, and say,
12 "Would you like to become an inspector?" And then
13 how long can you mesh that together?

14 MS. JEFFERSON: That's something
15 that we can definitely look into. I wouldn't want
16 to rule anything out at this point. The problem
17 with the amusement device unit -- and I say this a
18 lot -- is that when this program was created --
19 and it was prior to me coming on board back in
20 2009 -- it was created without any funding. Okay?

21 So what we've been doing, although we
22 had two inspectors previously, those inspectors
23 were paid out of another funding source. Okay?
24 There was never any money allotted for the
25 amusement device program. I think the original

1 idea was to allow the elevator inspectors to
2 perform the inspections, which we all know that
3 that's a separate type of certification. Elevator
4 cannot perform amusement device inspections.

5 Now we know that, but for some reason
6 I don't think that that was the understanding back
7 in 2009. Because of that, we don't have
8 resources. So being an administrator, it's up to
9 me to come up with an idea so we can move forward.
10 Because if, say, there is an audit, a future
11 audit, I want to be in a position to say, "Okay.
12 This is what we did with what we had." We didn't
13 have the money to hire folks, so what we did was
14 we increased our administrative support staff to
15 oversee inspections that were being performed by
16 third-party inspectors. Not saying that we
17 wouldn't ever have inspectors, because maybe at
18 some point when we announce the position, we'll
19 obtain qualified candidates so we can still place,
20 you know, maybe a qualified candidate in the East,
21 West, and Middle Tennessee.

22 But even having three inspectors, as
23 you-all know, that's not enough to inspect the
24 entire state of Tennessee.

25 There's no way in the world we could

1 say with three inspectors that we were covering
2 all the inspections throughout the entire state of
3 Tennessee. So the way that I would like to
4 approach it is to not rule that out in the future,
5 but right now we don't have any candidates. We
6 don't have any inspectors. We didn't have anyone
7 who qualified to be an inspector.

8 So the question is what do we do now?
9 So for right now, I'm going to increase our
10 administrative support staff to insure that our
11 administrative support staff perform those
12 functions that I previously described: Distribute
13 the permit packages, receive those, make sure
14 they're accurate and complete, not issue any
15 permits until we know that the ride is safe and
16 operable as reported by the third-party inspector.
17 Because that's what we have to do right now.

18 In the future, I'm not ruling out the
19 fact that we can possibly hire someone for East,
20 West and Middle, but we do need to focus on that
21 funding issue because there's no funding for this
22 program.

23 And in getting back to your --

24 MR. MOORER: Well, I was just
25 sitting here thinking. I spent a number of years

1 in the food industry. And, of course, we're
2 inspected by the FDA and all of that. I was at
3 Tennessee Pride in Dickson, Tennessee. We have to
4 go through daily and make inspections and weekly
5 make inspections and monthly make inspections, and
6 we send that report in to the FDA. We never know
7 when the inspector is going to come in.

8 And if we are not meeting those
9 requirements when the inspector came in, they just
10 shut you down. And so it was a self-inspection-
11 type process where it was followed up on, you
12 know, at a random time. You never knew when Jenny
13 was going to drive up and say, "The FDA is here."
14 And it might be, you know, we only could run two
15 shifts. And then the third shift was spent
16 cleaning. They would come in and check our
17 cleaning process. But we had an inspection we had
18 to go through, we had to certify it was correct,
19 and they would just come in on a random basis.

20 MS. JEFFERSON: And I think that
21 would be a good approach. We previously talked
22 about that.

23 MR. MOORER: I'm not saying it
24 would work here, but it worked in the food
25 business.

1 MS. JEFFERSON: I think that would
2 be a really good approach, and that's something
3 that we were looking at at the last meeting.
4 Unfortunately, we don't have any inspectors today.
5 But once we do what we're supposed to in the way
6 of administrative process, I think we'll have a
7 good system in place. We'll be able to bring on
8 people maybe in the future to go out and inspect
9 as you indicated, do it randomly and inspect,
10 maybe audit. But as far as having three people to
11 audit or to inspect for the entire state of
12 Tennessee, that's just not going to work.

13 MR. SIDLER: I didn't mean to --
14 when you asked me that, I was kind of caught in
15 the middle, but I'm not directly involved in the
16 program anymore. Ms. Jefferson is. That's why
17 I've directed that money issue now to her.

18 I was going to suggest that maybe
19 Robbie could answer that question about training
20 because he has people on staff that that's all
21 they do, is amusements.

22 So what would it take, Robbie, in
23 your estimation and your experience -- I think you
24 can answer that -- if you were to hire someone off
25 the street without any experience in that

1 industry -- how long would it take before you
2 could have them certified? How many hours or
3 years would they have to work is a question I
4 think he was ...

5 CHAIRMAN FOX: NAARSO --

6 MR. SIDLER: Yeah, it was NAARSO.

7 CHAIRMAN FOX: Let's look at them.

8 NAARSO requires you to work at least one year in
9 the field, and then you can sit for the exam.
10 Then at that point you can take it, pass it, and
11 you're certified. AIMS is the same way.

12 MR. SIDLER: So that working in the
13 field is not sitting in the office doing paperwork
14 and all. It's actually working on the units.

15 CHAIRMAN FOX: It's physically
16 inspecting the ride --

17 MR. SIDLER: Right.

18 CHAIRMAN FOX: -- so that you know
19 what a sweep on a Scrambler is.

20 MR. SIDLER: Exactly.

21 CHAIRMAN FOX: Or you know what an
22 up-stop wheel is.

23 MR. SIDLER: It's nothing you can
24 learn from this. It's all going to be hands on.

25 CHAIRMAN FOX: That's the only way

1 you learn.

2 MR. SIDLER: That's why I wanted
3 you to answer that.

4 CHAIRMAN FOX: The only way you'll
5 ever learn that business is to be involved in it.

6 MR. MOORER: Robbie, sometimes it
7 all depends on what you call it. You know, like,
8 it used to be the vocational technical schools,
9 and now it's, what, Tennessee College of Applied
10 Technology?

11 CHAIRMAN FOX: I think you're
12 correct.

13 MR. MOORER: So I was just thinking
14 maybe if you came up with a name for this, here is
15 an intern program. There's people out there
16 needing jobs and would like it, and it's sort of a
17 hands-on-type intern program. And some of them, I
18 know, are complicated with the labor laws, but
19 that would give somebody something to look at and
20 say, you know, it's pretty well a field that's got
21 a lot of open jobs.

22 CHAIRMAN FOX: You have to be
23 involved in that industry and have to have
24 intimate knowledge of a ride. You've got to know
25 the difference between a grade 8 and a grade 5

1 bolt. And, again, you've got to know the
2 difference between an up-stop wheel and --

3 MR. MOORER: Well, it would be
4 where you might have some people with
5 qualifications, because, like, somebody with
6 industrial technology or mechanical engineering
7 background is going to have that before they even
8 start for the program, so it's just an idea of
9 getting people hands-on involved with something
10 that would provide some training and background
11 for people that need work.

12 CHAIRMAN FOX: That's correct.

13 And, Ms. Jefferson, going back in
14 time, you know, we realized when this law was
15 implemented and put in place that we didn't have
16 the people in place to do the inspections, so some
17 had to be hired. Just like we hired a gentleman.
18 He did not have his certification. Lee Bentley,
19 the first one that we had, did. He was a Level 2
20 advanced maybe.

21 And then we hired another gentleman.
22 He had to work with Lee for a year, and then he
23 sat for the test. He obviously passed it and
24 became an inspector. So that's kind of the
25 process that we have to go through.

1 Again, I think we need to crawl before
2 we jump up and walk. And I think if we look at it
3 in that way, I think we could find someone who
4 wanted to be an inspector. Maybe we set the
5 minimum qualifications, maybe we have to back up.

6 If the Level 1 certification is the
7 issue, then we back up and change that standard to
8 find somebody with mechanical aptitude. And we at
9 least hire them and try to train them.

10 To his point, that additional set of
11 eyes out there inspecting that ride helps keep us
12 safe. And this law was passed and these folks
13 are -- everybody is here for the same reason. Our
14 goal is to keep somebody from getting hurt. And I
15 submit to you that filling out a piece of paper
16 does not necessarily do that every day.

17 And, again, I speak for no one else, but
18 I speak, I think, for me. I think we need
19 inspectors out there. And if nothing else, for
20 them to drop by and visit to give that extra look
21 at my ride or his ride or her ride to make sure
22 that we're doing everything we're supposed to do
23 to keep the industry and the people who ride those
24 rides and amusements safe.

25 And I think if we don't have inspectors

1 in place, we have taken a step backwards. I truly
2 do.

3 MR. EDENS: And another thing, your
4 insurance people do inspections also. We probably
5 could get those reports sent to the State.

6 CHAIRMAN FOX: Oh, they have to.
7 But it's just like ours. We have a third party
8 come in. They do the inspection and they send it
9 to the State. We get our permits and so forth and
10 so on. But in addition to that, just like when
11 Lee was there -- and I don't mean to bash Lee or
12 anything else or bring his name up or whatever,
13 but he would come and visit. And he walks up to
14 the roller coaster or he walks up to whatever ride
15 he wanted to, he inspected it, and he says, "Okay.
16 Show me what you've done. And does this meet the
17 ASTM standard?" Again, just that extra set of
18 eyes out there looking to keep us all safe.
19 That's what we're after.

20 MS. JEFFERSON: Right. And we
21 would like to have that extra set. Like I said,
22 we were taking steps. We announced the position.
23 Unfortunately, we were unable to get some
24 qualified candidates. And we don't want to just
25 hire anyone in here. We don't want to be rushed

1 to hire people either, because we don't want to
2 suffer consequences for making inappropriate
3 decisions as to hiring.

4 So that's not anything that we're
5 ruling out. I'm just telling you based on what we
6 have today, that that's pretty much where we are.
7 I want to be honest with you and let you know
8 where we are today. And that's a matter of
9 increasing our administrative process. And once
10 we do that -- another thing that I noticed, too,
11 when I started looking at the program, audits and
12 investigative reports, they're not a bad thing.
13 The fact that, you know, audits come up, they
14 allow someone new, like me, because I came in here
15 October 2013, to actually take a look at the
16 program to see what's being done and what's not
17 being done.

18 Sometimes if these things don't
19 happen, you really don't know. You think that
20 your program is functioning and moving in a smooth
21 direction, and then you later find out that it's
22 really not. So what this has enabled me to do is
23 to take a look at the program to see what's needed
24 and what's not needed.

25 And we also -- what I was getting to

1 is that simple things like knowing the number of
2 amusement devices, the number of companies in
3 Tennessee, those are things that our
4 administrative staff are having to go back and
5 take a look at.

6 As far as traveling devices, we have
7 that information because we have the Tennessee
8 Fair Association information. But things as
9 simple as knowing the number of zip lines in
10 Tennessee, the number of bumper cars in Tennessee,
11 things that we take for granted, those are things
12 that we're having to create at this point. So
13 it's really -- we're starting over, basically, and
14 having to obtain this information so we'll know
15 what we need to inspect. Because how can you say,
16 you know, how many inspectors you need unless you
17 know how many devices and companies are out there.

18 And so that's pretty much where we
19 are. We have to know how many companies exist so
20 that we'll know what our needs are. And we're
21 just reassessing at this point.

22 MR. MOORER: Robbie, one other
23 thing and then I'll shut up. We even had -- in
24 the food industry again, do you remember when the
25 thing came up with hogs having a spine problem?

1 We had to videotape -- we had to Skype. We had to
2 start taking the spine out of all the hogs when we
3 harvested them. You can't "kill" hogs anymore;
4 you have to "harvest" them. And so when we
5 harvested them, we took the spine out. But it was
6 actually being videotaped on Skype, and the
7 inspector was in our area, and he could pull up
8 and see what we were doing.

9 MR. BAILEY: Mr. Chairman, if I
10 could comment on that. If the Division ends up
11 taking on, like, an intern, you know, hiring
12 someone that doesn't meet the qualifications, and
13 then training them up to become qualified, I would
14 just like to share some anecdotal evidence.

15 I represent Tennessee OSHA primarily,
16 and basically, when they hire compliance officers,
17 that's exactly what they do. They train them.
18 They go from compliance officer 1, 2, 3. Then
19 what was happening was, once they got fully
20 trained, they were going out in the private
21 industry. And so what Tennessee OSHA did --
22 about, I don't know, I think it was around 2008 or
23 something like that -- is all new hires have to
24 sign a five-year agreement that if they leave any
25 time before five years, they have to pay the State

1 back that training cost.

2 And that, along with finally getting
3 them some raises, has helped our retention rate in
4 Tennessee OSHA. But before that, it was like a
5 revolving door. We train them up; they're gone.
6 So that's just something to ...

7 CHAIRMAN FOX: Right. I have seen
8 that, sir, and been a product of that myself.
9 I've signed those agreements to stay.

10 MR. BAILEY: I understand.

11 CHAIRMAN FOX: It's very important
12 to have them. I think that's a good way to keep
13 good people.

14 MR. BAILEY: Right.

15 CHAIRMAN FOX: But again, if
16 private industry is paying more, they're going to
17 wait and they're going to escape.

18 MR. BAILEY: Money talks.

19 CHAIRMAN FOX: Money talks.

20 MR. HALE: Which is what's happened
21 to us now.

22 I've got two questions. Let me ask
23 the simple one first. So what would it take for
24 us to put those jobs back out for application
25 again, to readvertise or -- to open the inspectors

1 job back up for people to apply?

2 MS. JEFFERSON: Well, they're out
3 there now. I need to check to see when those jobs
4 close.

5 MR. HALE: Right.

6 MS. JEFFERSON: As I indicated
7 before, I'm not sure -- based on what I've been
8 told, no one qualified, but I need to actually see
9 the candidates. And what we've been doing just
10 recently, we've been contacting the national
11 organizations just to be sure that the person is
12 qualified before we actually interview.

13 MR. HALE: But I thought that you
14 had said earlier that closed today.

15 MS. JEFFERSON: I thought it closed
16 yesterday.

17 MR. HALE: So what has to be done
18 to say, "Okay. We're opening it back up again"?

19 MS. JEFFERSON: We would have to
20 announce it again. Taking a look at it, that's
21 why I told you that we need to take a look at the
22 funding aspect of this because there's no money
23 there. I would rather put the money into the
24 administrative than at this point announce for the
25 inspector's position. But I'm willing to think

1 about that. It's not a difficult matter. I would
2 just have to contact our HR and have them to
3 reannounce the position.

4 MR. HALE: What concerns me is with
5 the summer season, the season when people are on
6 amusement rides the most, upon us and something
7 happens, I don't think that we want to say, "Well,
8 some administrative person is coming out there and
9 seeing that their paperwork is done."

10 MS. JEFFERSON: No. Administrative
11 personnel --

12 MR. HALE: I think we want to be
13 able to say, "We sent an inspector out there to
14 determine whether it was a device problem or it
15 was a rider problem."

16 MS. JEFFERSON: Right. And I
17 agree. Like I said, I wish that folks had applied
18 for the position, qualified folks had applied for
19 these positions, but the fact of the matter is
20 that they didn't.

21 MR. HALE: And I don't want to say
22 that I don't think what you're doing from the
23 administrative side isn't important as well. It
24 is important for that to be done and done properly
25 and ensure that those folks are submitting their

1 applications and their insurance, and their
2 third-party inspections and all of that are all in
3 place. I'm certainly not saying that's not
4 important, because it is.

5 But we've got to, at some point, get
6 somebody that can go to those locations. You
7 know, if you've got a flock of sheep and you've
8 got a sheepdog, that's the third-party inspector
9 and he's making sure the sheep are going the right
10 way. But there's still got to be a shepherd to go
11 and make sure the dog is not asleep under a tree.
12 So I see that as the role of our state inspectors,
13 to go out and make sure that in fact those
14 third-party inspectors have done those
15 inspections, that they're not -- and then if there
16 is a complaint, be able to respond and either
17 support what the third-party inspector did or say
18 no, there's a problem right here. Let's find out
19 when that occurred.

20 With that said, my next question is,
21 is there a provision to allow us to use, on an
22 interim basis, a temporary basis, a third-party
23 inspector who maybe is contracted per inspection
24 or by the hour or however we would want to
25 organize that so that if we do have a problem, we

1 can pick up the phone and say, you know, "Bailey
2 Inspections, I want you to respond on behalf of
3 the State of Tennessee to this ride accident." Is
4 that a ...

5 MS. JEFFERSON: That gets into
6 legal aspects as far as liability.

7 MR. BAILEY: I mean, as far as
8 hiring contracted employees, the State can just do
9 that.

10 MS. JEFFERSON: They can do that.

11 MR. BAILEY: I mean, there's a
12 whole process you've got to go through to do that.
13 But it's not something, I don't think, that cannot
14 be done.

15 CHAIRMAN FOX: We're looking for
16 somebody to protect the interests of the State.

17 MR. BAILEY: Sure. And I think the
18 point that -- you know, if somebody thinks
19 something is wrong, they're going to call, you
20 know, the state amusement device people. And, you
21 know, to not be able to have an inspector go out
22 there is going to be a problem at some point in
23 time.

24 CHAIRMAN FOX: It's going to be a
25 black eye on us.

1 MR. BAILEY: But whether that's a
2 contract person or what, I -- you know ...

3 MR. HALE: Is that within the
4 authority of the agency to contract that third-
5 party person, or would that require a legislative
6 action of some kind or a board action of some
7 kind?

8 MR. BAILEY: I think it can be done
9 through the Department of Human Resources. I just
10 don't know the process exactly. But I think it
11 can be done.

12 MR. HALE: And I certainly don't
13 want this to become a permanent solution, but I
14 really feel like that we need some type of interim
15 ability to have somebody respond until we can
16 hire. And, again, I don't want it to become a
17 permanent thing, though.

18 MS. JEFFERSON: Well, let me ask a
19 question. Before you-all hired the inspectors,
20 because I know that you-all were involved in the
21 process before, what did you-all do prior to
22 hiring these inspectors in Tennessee when the
23 program was first created? Did you hire a private
24 vendor or did you -- was there --

25 MR. HALE: Well, we were fortunate

1 to bring Lee on fairly soon after the -- in the
2 process.

3 MR. SIDLER: Actually, we brought
4 Lee on -- the law took effect January 1, 2009.
5 And the first of -- we actually went almost
6 30 days without an inspector. And when we had
7 the -- Dollywood hosted the NAARSO training
8 session that year in Sevierville.

9 CHAIRMAN FOX: Yes.

10 MR. SIDLER: And Lee was hired the
11 Friday before that NAARSO training started in 2009
12 which was the last weekend in January. So we went
13 30 days without -- we couldn't find anybody --
14 trying to find someone qualified. And he was
15 referenced to us and we hired him.

16 MS. JEFFERSON: Right. And if
17 you-all have any other references, please let them
18 know about the position. Of course they'll have
19 to go through HR and, you know, do that the proper
20 way because we do have a process in place for
21 hiring.

22 I have no problem with announcing the
23 position again, one person in East to oversee, one
24 person in West to oversee, and one person in
25 Middle to oversee. But, again, these three people

1 cannot inspect all the devices in Tennessee. So
2 as long as we all understand that, then I think
3 we're okay. And I would prefer, actually, rather
4 than going through the third party. If we have to
5 do that temporarily, then fine, but I just want
6 you-all to know that three people, that's not
7 sufficient to inspect all of the amusement devices
8 in Tennessee.

9 CHAIRMAN FOX: It's physically
10 impossible to do that.

11 MS. JEFFERSON: It's physically
12 impossible.

13 MR. MOORER: Let me ask this
14 question, Robbie. I'm sitting here confused and
15 thinking, "What is different than what we've got
16 to do with Ron than what TOSHA does, Tennessee
17 Occupational Safety Health Administration?"

18 It seems to me it's the same concept.
19 They have health inspectors that have got to be
20 certified and go out and do things, and think of
21 all the manufacturing processes in the state of
22 Tennessee that really they're technically required
23 to make sure -- why couldn't it sort of be
24 structured like TOSHA?

25 MR. SIDLER: Well, there again,

1 Robbie was touching on that awhile ago. And I can
2 relate to you on elevators. That's my bread and
3 butter. All right. Elevators, to be an elevator
4 inspector, you have to have two years hands-on
5 experience of inside the working brains, guts, all
6 of that about the elevator. That's how you learn
7 that process. So you're not going to be able to
8 come in and be a certified elevator inspector
9 without having gotten your hands dirty.

10 MR. MOORER: That's -- you're not.

11 MR. SIDLER: All right. So that's
12 where that has to come from. Now, the elevator
13 industry in Tennessee is really rather small
14 compared to electricians, as far as numbers of
15 people. But it's not near as small as amusements,
16 as far as the workforce training area that you
17 would have. You're only going to get that
18 training by working in that park, in that place of
19 business, on that equipment of some sort.

20 Same thing with elevators. The only
21 way you're going to get it is working for the
22 Otis, the KONE, the Uniteds, the Nashville
23 Machines, all of these elevator companies, and
24 there's a lot more of those, but they have to come
25 through the ranks somehow. And it's a constant

1 battle to find qualified persons. The good thing
2 in elevators are that after you get typically 55
3 to 60, these guys like myself want to retire and
4 do something easier on their body and retire from
5 that industry and come to our industry.

6 But that's still a short-term
7 employment time, because if you retire at 55,
8 you're only going to work so long, unlike if you
9 could get somebody in a training program and build
10 that, which some states do. Wisconsin is one.
11 But they've gotten the money, there again, from
12 their state to have a training program. So they
13 have those guys work there in a five-year training
14 program to become inspectors. They have the money
15 to do that. We don't have the money to do that.
16 There is the problem again. So I don't know if I
17 helped you or not.

18 CHAIRMAN FOX: But at one point we
19 were allocated two people to do that. We had -- I
20 guess Lee was a manager or -- I don't know what
21 his title was.

22 MS. JEFFERSON: Manager inspector.

23 CHAIRMAN FOX: He was a manager and
24 then we had an additional inspector. And those
25 two were funded and this board wrote --

1 MS. JEFFERSON: They weren't funded
2 from the amusement device program. That money was
3 taken from our elevators.

4 CHAIRMAN FOX: It may have been. I
5 don't know. I wasn't managing that. I don't
6 know. But I know that we went to the commissioner
7 of labor -- not we went -- we sent a letter to the
8 commissioner of labor and requested funding for
9 the first position and the second position, and it
10 was granted. And it took us a year to get it in
11 the budget cycle, but the second one came about.

12 MR. SIDLER: Well, actually, I
13 think the proper term, Ronnie, would be that it
14 was granted permission to hire. And we proved
15 that he could at least bring in enough money to do
16 what Lee was doing.

17 CHAIRMAN FOX: Yes.

18 MR. SIDLER: That's really how it
19 went. We never really fully covered it because
20 you couldn't get around enough. But we could do
21 the same thing that we were doing with Lee with
22 Neil, who -- just using the names of the persons
23 that were here. So we had enough money/revenue
24 coming in to at least be where we were with the
25 other one. So that's what we actually did.

1 There was never funding granted to
2 us. You know, \$200,000 to do this, we never got
3 that windfall.

4 CHAIRMAN FOX: Well, I stand
5 corrected, but --

6 MR. SIDLER: No. I mean, I'm just
7 trying to --

8 CHAIRMAN FOX: In my world, it was
9 funded. Somebody paid the money for that person
10 to come on board.

11 MR. BURCH: You indicated that this
12 third party is being accomplished right now. And
13 that's through the owners, right? The owners have
14 to provide the third party to you. They have to
15 prove to you that they've got somebody to look at
16 the facility and the rides.

17 MS. JEFFERSON: Yes.

18 MR. BURCH: So it is being done.
19 It's --

20 MS. JEFFERSON: It's being
21 inspected by a third party.

22 MR. BURCH: But it's not a third
23 party that works for the State of Tennessee.

24 MS. JEFFERSON: Right. It's not a
25 state inspector.

1 MR. BURCH: Right.

2 MS. JEFFERSON: It is being
3 inspected.

4 MR. BURCH: Well, I think that
5 needs to be emphasized. You've referred to it two
6 or three or four times, that the third-party is
7 being done.

8 MS. JEFFERSON: The third-party
9 inspection -- we will not issue a permit unless
10 there is a third-party inspection performed.

11 MR. HALE: And the long and the
12 short of it is if they've got insurance, their
13 insurance company is not going to let them operate
14 that ride without a third-party inspection before
15 they insure it. So rides -- unlike maybe the
16 perception has been, rides in Tennessee do have an
17 inspection. They may not have the state
18 inspector, but they have had a third-party
19 inspection; otherwise, from the administrative
20 side of it, we would have kicked it back because
21 they didn't have the proper documentation.

22 We still need that shepherd, though,
23 to go out and oversee what the dog and the flock
24 are doing.

25 MR. BURCH: And you are collecting

1 fees from every person that you've got on record
2 right now, each year.

3 MS. JEFFERSON: The ones that we
4 have on record.

5 MR. BURCH: And how long would it
6 take for those fees to pay for --

7 MS. JEFFERSON: To be self-
8 sufficient, that was one of the questions that we
9 asked. We asked that question in the legislative
10 hearing in November, "Why aren't we
11 self-sufficient?" The reason, I'm going to get
12 into the statistics, if that's okay.

13 CHAIRMAN FOX: We need to vet this
14 out. We need to get it on the table and make a
15 decision.

16 MS. JEFFERSON: Last year that
17 program collected about \$40,000. As you know,
18 that does not cover the cost of one inspector. So
19 we could not become self-sufficient at the rate we
20 were going.

21 This year, from 7/1/2014 to
22 2/27/2015, we've processed revenue in the amount
23 of 39,600. That's still not enough to become
24 self-sustaining.

25 Schedule devices inspected. We've

1 inspected approximately 94 devices. But keep in
2 mind, when we go to Dollywood, we can't possibly
3 inspect all the devices at Dollywood, so the
4 inspectors that we have have to actually -- they
5 have to do a spot check. And they may have to
6 spot check some devices within a certain group and
7 then go to another group and spot check.

8 So, so far, we've done 94. Devices
9 red tagged, we've red tagged about 3 of them. The
10 average time it takes for us to resolve the red
11 tag is 2.6 days, we'll say 3 days. The number of
12 companies that have been permitted thus far this
13 fiscal year is 65. The numbers of accidents
14 reported, zero. That's from 7/1/2014 to
15 2/27/2015. Number of training classes conducted,
16 that's where we go out and try to educate, 2.

17 So those are the type of statistics
18 we're maintaining now. Previously, we had no
19 statistics, so we just put this in place. And so
20 what we'd like to do is to solicit ideas from
21 you-all about different areas we should be
22 reporting on, because the public, from time to
23 time, they request information from us. So I
24 think it's important to receive your input to see
25 if we're capturing everything that we should

1 capture, whether or not we should include other
2 items on this list.

3 MR. BURCH: You say you've
4 permitted 65 companies?

5 MS. JEFFERSON: 65 this year, this
6 fiscal year.

7 MR. BURCH: What do you think that
8 represents, as far as the percentage of the
9 companies that are out there that could be
10 permitted?

11 MS. JEFFERSON: That's what we're
12 trying to establish. Remember I said earlier that
13 there was no information in place to provide the
14 number of companies. We know how many traveling
15 companies that we have. We have about 60
16 traveling companies in East, West and Middle
17 Tennessee; however, as far as all those other
18 companies, the fixed companies, as far as all of
19 the inflatables, all the climbing walls, all the
20 zip lines, there has been no research done to see
21 what our need is so that we can determine where we
22 need to go or how many companies we should be
23 permitting.

24 We can't determine how many we should
25 be permitting at this point because these other

1 systems were not in place in the past. But that's
2 what we're working on now and that's why the
3 administrative part is so important, because we
4 have to make those type of determinations.

5 Those are our statistics.

6 MR. SIDLER: Two things just for
7 clarification. Why it's so hard to determine
8 those numbers is the traveling shows, as y'all
9 would know, are here this year, here next year,
10 and then three or four years, they're not here.
11 And when they come in, they might make 20 stops or
12 they only make 1 stop passing through this year.
13 So that's a fluctuation there of are they coming
14 across or are they not.

15 And I know there is a sore subject
16 but I hope you understand my intent. Could we, as
17 a suggestion of a temporary employee that could
18 be, if we find someone, that when we needed them
19 to go out and investigate that accident, if it
20 happens next week, if we could get them on board
21 as a part-time employee as opposed to a
22 contractor -- or maybe "contract" is the word --
23 and then if we have that person that refuses to
24 send Carlene and Anita and them the paperwork that
25 we could contact and he could go out there and be

1 our enforcement or our shepherd, as you're talking
2 about, is that possible, as opposed to a contract?
3 You know, someone who would be willing to do that.

4 MS. JEFFERSON: That may be a
5 possibility.

6 MR. SIDLER: If you find that right
7 person, I know.

8 MS. JEFFERSON: It may be a
9 possibility. But again, as you know, it's very
10 difficult to find that qualified person. But I'm
11 willing to take a look at it. I haven't ruled
12 anything out. And also the law, when Mark and I
13 reviewed the law, it talks about the different --
14 the consequences of not providing the
15 administrative staff the information. There is an
16 injunctive process.

17 MR. SIDLER: Sure.

18 MR. HALE: But you need somebody to
19 go out there to follow up in the field.

20 MR. RADER: Follow up in the field.

21 MS. JEFFERSON: Well, not
22 necessarily. If they don't send the information
23 to us, then injunctive relief would require us to
24 contact the Attorney General's office and provide
25 them the information that we have to show that

1 this person is noncompliant.

2 So it may would be stronger -- you
3 know, that would help -- but whether or not that's
4 a requirement, I'm not really sure. I would have
5 to go back and read the law. But there is
6 injunctive relief, so don't think that there's no
7 recourse for a person not providing that
8 information to us.

9 We have not set up our administrative
10 process. We haven't gotten that far. But that is
11 an alternative, and I want you-all to know that.

12 MR. MOORER: Let me give you an
13 idea, just sitting here thinking about it, how to
14 identify what businesses are in what. I think
15 businesses in the state of Tennessee have to get a
16 business license. And that has to be done through
17 the county court clerk, in the clerk's office.
18 That's 96 counties that you could find out how
19 many businesses there are probably with an email.

20 MS. JEFFERSON: Exactly.

21 MR. MOORER: And that would give
22 you some data to get started.

23 I still like this concept of -- like
24 with the FDA with us -- you turn this inspection
25 report in, and if we check it and there's a

1 problem, you're down.

2 CHAIRMAN FOX: To your point, we --
3 in the beginning, as we shall say -- we tried the
4 county court clerk system and --

5 MR. MOORER: I know it's a buddy
6 process but ...

7 CHAIRMAN FOX: I have to be
8 tactful. I'll just simply say it didn't work as
9 we thought it would. And so that's the reason
10 that the group got together and brought this
11 second phase of law, or presented that law and it
12 was passed. People didn't report it.

13 John and Jim's Zip Line Company, they
14 didn't think they came under that particular rule
15 or regulation, so they didn't report it.

16 MS. JEFFERSON: I understand.

17 CHAIRMAN FOX: And that's what
18 happens. Yes, there's recourse, but if we don't
19 know it, we don't know it.

20 MS. JEFFERSON: And that's why we
21 at least have to create a list of all the fixed --
22 and as Ron indicated, sometimes you don't -- I
23 mean, we won't know. Those fly-by-night companies
24 that come, we don't know. But we do know about
25 the 60 that are reported by the Tennessee Fair

1 Association. So if someone asks us, I can say,
2 well, at least 60.

3 And I can, you know, tell them in
4 East Tennessee is this many; West Tennessee is
5 this many; Middle Tennessee is this many. But if
6 I don't have any information, I can't provide any
7 statistics.

8 And we should do the same thing for
9 all those fixed rides, all the bumper cars, all
10 the inflatables, all the zip lines. But we've got
11 to come up with an initial list. We've got to
12 have some statistics.

13 CHAIRMAN FOX: We agree on that.
14 And I remember, again, reading those minutes of
15 when Lee Bentley was talking to us about the
16 database. He said that they were reporting in the
17 elevator database, or whatever, of the rides. And
18 I also remember him talking about, when he came to
19 Sevier County, the zip lines were multiplying
20 exponentially, shall we say, and there would be a
21 new one every week. And then one would go out of
22 business, so forth and so on.

23 But again, he was in the area, and he
24 would see the signs go up again for Jim and Bob's
25 Zip Line. So he would go to Jim and Bob's Zip

1 Line, and that's the only way we found out about
2 them. So, again, I'm stressing that it's
3 important to have that person out there --

4 MS. JEFFERSON: I understand.

5 CHAIRMAN FOX: -- and looking for
6 these things. And, again, that's what brings in
7 the revenue and/or makes it self-sustaining,
8 eventually.

9 MR. HALE: And I'm going to venture
10 to say there are a lot more fixed facilities that
11 we're missing than there are mobile.

12 CHAIRMAN FOX: Probably so, yes.

13 MS. O'CONNOR: So what is the
14 biggest barrier for us being economically self-
15 sufficient? Is it a lack of information or ...

16 MS. JEFFERSON: Well, lack of
17 funding, lack of resources, lack of inspectors to
18 go out. Like, if some programs have 10, 12 -- you
19 know, like with the elevators, they have
20 28 inspectors to cover the entire state of
21 Tennessee. That's one of the main problems, is
22 that we don't have the resources we need in order
23 to make the program self-sufficient. However --

24 MR. HALE: Sort of like starting a
25 company and not having any help.

1 MS. O'CONNOR: It's the seed money,
2 basically, is what --

3 CHAIRMAN FOX: But also I remember
4 us talking in here at that last meeting about the
5 number of inflatables that were out there. And
6 that alone would almost take care of one person's
7 salary if we go after those. Again, that's an
8 administrative process.

9 MS. JEFFERSON: Right. And that's
10 what we're -- actually, we had just implemented
11 the administrative process, and they're going to
12 take a look at each one of those devices. And
13 that's what we're going to do. We're going to
14 send letters out -- because they're not
15 inspectors -- we're going to send letters out,
16 target these -- not really. I don't like that
17 word, "target" -- we're going to focus on those
18 different companies and inform them of the
19 requirements. And we're going to go through the
20 entire process. And if they don't obtain a
21 permit, then we have to look at injunctive relief
22 because they cannot operate in the state of
23 Tennessee without a permit. So that's the
24 approach at this point.

25 MR. HALE: But still there's got to

1 be somebody out there that goes and looks.

2 MS. JEFFERSON: Oh, yeah.

3 MR. RADER: Robbie may not like for
4 me to say this, but if you go up the Parkway in
5 Pidgeon Forge -- and I know we went over these
6 rules and the fees -- and you're looking at what
7 you're charging for someone to go out and do an
8 inspection, seems to me, if you take something
9 like The Track that has numerous rides and
10 climbing walls and reverse bungees, that this is
11 extremely, extremely cheap to go do that.

12 In essence, the problem is that we --
13 because we're not financially self-sufficient, we
14 can't go out and hire and attract the appropriate
15 people. And I realize that changing these rules
16 would be difficult, but that's my opinion.

17 MS. O'CONNOR: Well, that's kind of
18 why I asked the question. If funding is the
19 issue, do we need to address this and revisit the
20 fee structure?

21 MS. JEFFERSON: Oh, yeah. We
22 definitely want to revisit the fee structure.
23 This is just a temporary fix, is what I'm looking
24 at, because we have to provide the public with
25 information as to how much it costs in order to

1 get a permit and how much a device fee is. So we
2 have to provide them something now. So this is
3 just temporary, but I think as a board, it would
4 be great if you-all would take a look at the fees
5 to determine what we need to do going forth so
6 that we can modify the rules in the future if
7 these fees are unreasonable. If you find the fees
8 are unreasonable, we would like to get your input
9 on that.

10 MR. HALE: But I don't think we can
11 put the burden of funding on those folks who have
12 been forthcoming and sent in their paperwork and
13 done what they're supposed to. We have to shift
14 some of this burden onto the folks that haven't
15 complied before we start raising the costs on the
16 ones that have been trying to do right.

17 What we need to go and see is if
18 there is another 300 fixed facilities in Tennessee
19 that haven't complied before we start saying,
20 "Well, Dollywood, you've been doing what you're
21 supposed to, but, by the way, I'm raising your
22 cost," because this guy over here is not complying
23 and I've got to go look for him. So I think we've
24 got to search out those noncompliant folks first
25 or as well.

1 MR. BURCH: I like -- I hear what
2 you're doing. I think that administratively
3 you're trying to do that, and you're requiring the
4 owners of the facilities to make their own
5 inspections through a third party, and you're
6 charging them for that, right?

7 MS. JEFFERSON: No. Actually, the
8 third-party inspector charge is for that part.
9 We're charging for the application --

10 MR. BURCH: But you're charging for
11 the application.

12 MS. JEFFERSON: Right. All of the
13 persons who apply, we charge a permit application
14 fee and the device fee. Well, we couldn't have
15 a -- I guess we wouldn't really look at the -- we
16 would still have a device fee, yes. We would
17 still have a device fee, so you're right. If they
18 used a third-party inspector, they would have a
19 third-party inspection fee that they pay to that
20 person.

21 MR. BURCH: They would have to
22 pay -- the owner would have to pay that. Right.

23 MS. JEFFERSON: And they would
24 continue to pay the permit application fee to the
25 State and the device fee to the State.

1 MR. BURCH: So it behooves us to
2 know more about who's out there and who's not
3 paying their fees.

4 MS. JEFFERSON: Right.

5 CHAIRMAN FOX: Okay. Legal
6 question: If Mr. Hale is a certified inspector,
7 can I impose a fee on him to inspect rides in the
8 state of Tennessee?

9 In other words, he files for a
10 third-party inspector's permit and I charge him --
11 pick a number -- \$500 as the Hale Inspection
12 Company --

13 MR. HALE: Are you saying all the
14 third-party inspectors, they would have a --

15 CHAIRMAN FOX: Every third-party
16 inspector. In some states they do that. You pay
17 a fee to inspect in that particular jurisdiction.

18 MR. BURCH: Well, somebody's doing
19 that now, aren't they?

20 CHAIRMAN FOX: Oh, yes.

21 MS. JEFFERSON: They're talking
22 about other states.

23 MR. BURCH: But I'm talking about
24 in Tennessee. If we don't have inspectors,
25 somebody -- I mean, the third party of somebody is

1 inspecting them.

2 CHAIRMAN FOX: Well, yes, but the
3 point being I'm charging the Hale Company over
4 here \$500 for the privilege of being able to
5 inspect --

6 MR. BURCH: Right. He's going to
7 start an inspection business.

8 CHAIRMAN FOX: Yes. Yes.

9 MR. BURCH: Well, that's different.

10 MR. BAILEY: I think our statute
11 would have to be amended to permit that. Because
12 I don't think it currently would allow that.

13 MS. JEFFERSON: Right.

14 CHAIRMAN FOX: But that is a
15 revenue stream.

16 MR. BAILEY: Sure. That would be a
17 new revenue stream, yes.

18 CHAIRMAN FOX: Okay. Yes?

19 MR. SIDLER: I believe it is in the
20 statute.

21 MR. BAILEY: Is it?

22 MR. SIDLER: You could be
23 registered -- just a registration. Those
24 inspectors are supposed to register, I believe. I
25 don't know if there's a fee to it.

1 MS. JEFFERSON: Are you talking
2 about the rules or the law?

3 MR. SIDLER: In the law, I think,
4 if I remember.

5 MS. JEFFERSON: In the law?

6 MR. SIDLER: In the law there's
7 something about the --

8 MR. BURCH: Third-party inspection.

9 MR. SIDLER: But while we're
10 looking at that or talking about that, could I
11 ask -- could Charlie and Robbie and David --

12 CHAIRMAN FOX: I'm sorry?

13 MR. SIDLER: The thing I was
14 talking about, we might not be able to entice
15 someone to be an inspector right now for us, but
16 if we could entice them to be available as a
17 part-time inspector or person -- is this not
18 right? -- for 25 hours a week maximum --

19 MS. JEFFERSON: 26.

20 MR. SIDLER: -- 26, then he
21 wouldn't have to -- he would be available for a
22 fee that we could pay. He wouldn't get anything
23 if we didn't call him. He would be there for an
24 emergency. If we could find someone willing to
25 provide that locally, we're better off than

1 bringing someone from New York down here to try
2 and cover us. Because I know that's a concern.

3 MR. HALE: That was sort of the
4 direction I was going with it.

5 MR. SIDLER: I know.

6 MR. HALE: Can we hire a contractor
7 to say, "We're going to call you" --

8 MR. SIDLER: But we would have to
9 depend on y'all, maybe, for someone that you might
10 know in the industry that would be willing to do
11 that.

12 MS. JEFFERSON: Someone certified.

13 MR. SIDLER: Yes, certified, you
14 know, that has all the qualifications.

15 MR. HALE: That's not a problem.

16 MR. BURCH: In the elevator
17 industry, it's consultants. They do it all the
18 time, day after day after day. So surely there's
19 some consultants out there that would be able
20 to --

21 MR. SIDLER: They're out there, but
22 they don't live in this state that I know of.

23 MR. BURCH: Well, it doesn't
24 matter. I mean ...

25 MR. SIDLER: Well, I'm talking

1 about cost-wise. I'm just saying if they knew
2 someone in their industry that lived locally that
3 might be able -- might be willing -- because we
4 don't have all that money, I know, and I probably
5 shouldn't even be talking about this, but it's
6 just something to be thinking about.

7 MR. RADER: Yeah, because it's
8 coming out of your budgeting.

9 CHAIRMAN FOX: I think it's a
10 stopgap measure that works, and I think we need
11 somebody in place, but I think our ultimate -- at
12 least my ultimate goal -- again, speaking for no
13 one else -- my ultimate goal is to have inspectors
14 out there doing -- and I know they cannot inspect
15 every ride.

16 If they came to Dollywood, it would
17 take -- we bring in a team of four people, and it
18 takes them a week to inspect it. So I don't
19 expect that John, the state inspector, is going to
20 come over there and spend four weeks inspecting
21 our rides. That just does not work.

22 But I want that person to at least
23 come once a year, from the State's perspective,
24 come visit me just to say, "Hello, and I'm
25 checking your rides."

1 MS. JEFFERSON: Right. And I'm
2 hearing you. I definitely hear what you-all are
3 saying. I definitely do. And so it's definitely
4 something that I'll go back and reconsider what we
5 need to do going forward.

6 MR. MOORE: It sounds to me like
7 instead of an inspector going out and inspecting,
8 and until we get to that point, what we more or
9 less really, truthfully need from the State's
10 perspective is an auditor to ensure that, one,
11 you're getting your permits, you're paying your
12 insurance, you're paying your fees.

13 So really, he wouldn't have to know,
14 to the detail that you're talking about, a ride.
15 He wouldn't need to know what the pulleys --
16 whatever you said a minute ago -- but what he does
17 need to know is, one, what's required by the
18 State, is he getting his permit, is he paying his
19 permit, does he have his insurance, is it being
20 inspected by this third party.

21 That's what we need, is a person in
22 this place to -- because the administrative
23 people, they can't -- they're not going to be in
24 Kingsport. They're not going to be --

25 MR. EDENS: He can be inspected by

1 his insurance person.

2 MR. MOORE: Right. Right. If he's
3 gone that route. But these mom-and-pop zip lines,
4 I could probably take you to some today in the
5 hills of East Tennessee that, you know, they're
6 just hanging out there, "Yeah, give me \$25 and you
7 can ride it."

8 That's what we need. We need someone
9 out there, not necessarily that knows everything
10 there is to know about inspecting an amusement
11 device safely, but someone that can come in and
12 say, "I know what the laws are and what you're
13 required to pay," and know that you have to be
14 inspected. And that's what we don't have.

15 MS. BENNETT: Well, that's what our
16 administrative side of it is.

17 MR. MOORE: We need an auditor, I
18 guess, to say -- not necessarily that your
19 auditing -- your process will be audited from the
20 State, but you want someone to make sure that the
21 benefits or the inspection, the testing, the
22 insurance, and the fees are all being paid.

23 MS. JEFFERSON: Well, that's what
24 our administrative staff is doing at this point.

25 MR. MOORER: A question: When

1 somebody inspects, they put a tag up that says
2 this has been inspected, right, in elevators? Why
3 don't they do that for amusement parks and things
4 like that? I mean, somewhere it's posted. Here's
5 your rating and here's this. And if anyone came
6 to me, a matter of, you know -- if I walk up to a
7 place and it hasn't been inspected, hello, you
8 might could start a reward program. You walk in
9 and this hasn't been inspected, if you was to turn
10 them in, you get a hundred bucks.

11 MS. JEFFERSON: Who's going to pay
12 that?

13 MR. HALE: For instance, one of the
14 reasons, though, that you need a qualified
15 inspector to be able to go out in the amusement
16 industry, ride companies issue what they call
17 safety bulletins, and they find there's a problem
18 with this roller coaster. And so our inspector,
19 then, should say, okay, by a registration, we have
20 three of those roller coasters in the state of
21 Tennessee, and he needs to go and look at that
22 part and say that that has been replaced by the
23 requirements of the safety board.

24 MR. MOORE: I agree. There
25 needs -- in my opinion, we need as many amusement

1 device inspectors as we have elevator inspectors;
2 however, it's sounding, from a monetary
3 standpoint, we're not going to get that for some
4 time.

5 MR. BURCH: Without a grant issued
6 or something, we're going to have to pay for it
7 some way or another, aren't we?

8 MS. JEFFERSON: Yes.

9 MR. BURCH: So that's what it
10 amounts to.

11 CHAIRMAN FOX: And I think if we
12 pursue the inflatables and if we could pursue the
13 go-karts, I think we would be self-sustaining.
14 And that is what I testified over there to when we
15 met at the Legislative Plaza.

16 If we put the go-karts in the mix,
17 then we would be self-sufficient.

18 MS. JEFFERSON: Okay. Now,
19 realistically, the way that I -- when I set up all
20 the other programs, we take a look at how many
21 inspections we perform per week. How much do you
22 think -- how many inspections do you think is
23 reasonable for one inspector to perform per week?

24 CHAIRMAN FOX: I would have to tell
25 you, I don't know.

1 MS. JEFFERSON: Okay. Well, we've
2 looked at it. And we say that four to eight
3 inspections is reasonable for a new program to get
4 up and going. And since this is relatively new,
5 probably four is more likely. So if you have
6 three people throughout the state performing four
7 inspections -- but you have three inspectors for
8 the entire state and you had requested that they
9 perform at least four per week, they look at the
10 number that they would be required to perform per
11 month, per year, and that's going to come out on
12 the lower end.

13 It looks really good to say, "Well,
14 we have all these inflatables, with that alone, or
15 all these go-karts," but the truth of the matter
16 is that if you don't have people to go out and do
17 it -- elevators has 28 inspectors. This program,
18 three inspectors alone wouldn't be able to become
19 self-sufficient at this rate.

20 CHAIRMAN FOX: But you're
21 forgetting one piece of the pie. That go-kart,
22 his insurance company or her insurance company is
23 going to mandate, once they're put into the mix,
24 that they're going to be inspected, and at some
25 point, somebody has got to pay that fee. Whether

1 the state inspector goes to inspect it or not,
2 you, we, still get the fee. So you're going to
3 have that amount of money in the coffers
4 regardless of whether that state inspector is out
5 there or not.

6 But the purpose of the state
7 inspector is every once in a while to go make sure
8 that that has been inspected.

9 MS. JEFFERSON: Right. And that
10 really sounds good with that go-kart thing, but
11 unfortunately, that's not a matter at legislature,
12 and all the --

13 Has the deadline passed for
14 legislation to be submitted, or do they still have
15 time to submit?

16 MR. FINK: I believe it's passed.

17 MS. JEFFERSON: I think it's
18 passed.

19 CHAIRMAN FOX: Okay.

20 MS. JEFFERSON: And so, of course,
21 this year that wouldn't be relevant, but in the
22 future, if that law ever passes, then that would
23 be great to take a look at.

24 CHAIRMAN FOX: But the inflatables
25 are in the same position. And the inflatables are

1 covered under --

2 MS. JEFFERSON: \$25 per -- what did
3 we say at the last meeting? Inflatables are \$25
4 per device?

5 CHAIRMAN FOX: Per device. But we
6 also looked at a large number of inflatables out
7 there plus the inflatable company.

8 MS. JEFFERSON: But again, when you
9 don't have all the companies -- that's what we're
10 doing now. We're trying to locate all the
11 different companies, and once we do locate all
12 those companies, we're sending them letters, as we
13 locate them, to let them know that monies are due,
14 \$25 per device, \$150 per company.

15 That will add up. We will eventually
16 build our program to get to that point, but I
17 guess I'm just looking at it realistically now
18 since I have to administer it to see where we are
19 now and where we're trying to go. What you say,
20 where we're trying to go, that sounds really,
21 really good, and we hope to do that.

22 But where we are now, we have to
23 identify the companies before we can actually send
24 them letters and require them to pay the permits.
25 So that money is not going to -- we won't have

1 that money at the end of the fiscal year is what
2 I'm trying to say.

3 Right now, there's only \$39,600, as
4 far as revenue that's been processed. That's for
5 the fiscal year. So that means from July 1st,
6 2014, through to date, we've collected \$39,000.
7 The end of the fiscal year ends -- it ends,
8 actually, June the 30th.

9 CHAIRMAN FOX: But you're also
10 looking at the beginning of tourist season right
11 now, and everybody is having their rides
12 inspected. I'm getting ready to send you a check.
13 So I know when I'm sending you a check, so is
14 every other ride in Pigeon Forge, and every other
15 zip line in Pigeon Forge is sending a check.

16 MS. JEFFERSON: The compliant
17 operators are. And last year, we only collected
18 about \$50,000 total for the fiscal year. So that
19 gives you an idea.

20 MR. SIDLER: Something, just a
21 thought in your head, why the go-karts are so
22 important to us. The problem you have in
23 amusements, that I had, is that it's seasonal.
24 You know, you've got feast and famine, and the
25 go-karts could be into the famine side, the winter

1 months, as inflatables can be.

2 You're hitting all those traveling
3 shows and carnivals. And all that stuff that
4 everybody thinks about is from April to September,
5 October. Then you've got that dead zone, and you
6 need something to fill that also. So that's why
7 they were so important to ever get those to make
8 this department flow properly. And that's just
9 something to keep in your mind. We need that for
10 that reason if nothing else.

11 MS. JEFFERSON: Right. Because at
12 this point, go-karts aren't regulated by the
13 Department. It would take legislation in order
14 for us to be able to --

15 MR. SIDLER: Right. It's got to be
16 done, right, legislation.

17 CHAIRMAN FOX: How would we get
18 that -- is it too late to get that in the hopper?

19 MR. FINK: It's possible that it
20 could be -- a bill could be amended to include it,
21 but I think Kim is right. I think the time for
22 filing original bills by the legislature has
23 passed. But somebody could amend another bill
24 perhaps to include that. It's possible.

25 CHAIRMAN FOX: Could we ask the

1 three of you to carry that flag for us and amend
2 the bill?

3 MS. JEFFERSON: That's not an
4 administrative bill and we don't lobby. That
5 would be us lobbying. We can't do that. We don't
6 lobby.

7 Dan, do you have anything else to add
8 to that?

9 MR. BAILEY: No.

10 MR. HALE: So what we would need to
11 find is a caption bill that we can attach it to.
12 Is that what you're saying?

13 MR. FINK: Yes, sir.

14 MR. BAILEY: I may have
15 misunderstood, but there was a question, I
16 thought, a little earlier about posting of the
17 permit. And it is required that the permit be
18 posted.

19 MS. JEFFERSON: Are we talking
20 about a sticker?

21 CHAIRMAN FOX: You have to have it
22 somewhere on the property.

23 MR. BAILEY: It says that the
24 annual permit is issued for an individual
25 amusement device and such permit shall be

1 prominently displayed on the amusement device.

2 MR. SIDLER: But it goes on to
3 state if you have multiples, it can be displayed
4 at the office, right?

5 MS. JEFFERSON: Right.

6 MR. BAILEY: It shall be filed at
7 the main office of the site where the amusement
8 devices are located and shall be available for
9 inspection by any public official.

10 MR. HALE: Which is what most
11 traveling shows would do, post it in the office.

12 CHAIRMAN FOX: Okay. So where do
13 we go from here?

14 MR. BURCH: I thought we had
15 already gone.

16 MR. MOORER: Do we have a summary
17 of what all has been said?

18 CHAIRMAN FOX: In this last
19 venture, is there -- let me ask the question. Is
20 there a consensus that we recommend to
21 Ms. Jefferson that we have ride inspectors for the
22 state of Tennessee?

23 (Response in the affirmative.)

24 CHAIRMAN FOX: Okay. Now, do we
25 need a motion from this board to request funding

1 through the Commissioner of Labor? Or how would
2 the process work?

3 MS. JEFFERSON: No. You don't need
4 a motion, because we could actually utilize the
5 same funds from elevators and boilers. It's not
6 just elevators. We already have created
7 positions. We have established positions. At the
8 last meeting, I told you we had created a position
9 for East and West.

10 CHAIRMAN FOX: Yes.

11 MS. JEFFERSON: So those positions
12 are out there. Like I said, they're being
13 announced. It's just the problem is finding the
14 qualified candidates.

15 MR. HALE: Is it beneficial to you
16 as an administrator for us to go on record in
17 support of having those inspectors?

18 MS. JEFFERSON: That's always
19 beneficial, yes.

20 MR. HALE: All right. So I would
21 make a motion that we go on record supporting
22 having qualified inspectors in the three grand
23 regions of Tennessee.

24 MS. O'CONNOR: I'll second.

25 CHAIRMAN FOX: We have a motion and

1 a second. Any discussion?

2 (No verbal response.)

3 CHAIRMAN FOX: Just as a question
4 for an amendment, because the qualification is the
5 trip hazard here. If we don't get a Level 1 --
6 and by the way, one closed yesterday and the rest
7 of them close tomorrow -- excuse me -- one closed
8 yesterday and the other closed today. But if we
9 don't have that qualified individual with a
10 Level 1, NAARSO or AIMS, to apply, can we reduce
11 the job description demands to hire someone and
12 put them in training?

13 MR. RADER: That's my question.
14 Kim, are people walking the streets with a Level 1
15 qualification and NAARSO certified?

16 MS. JEFFERSON: Well, they work for
17 other companies. They work in the private
18 industry.

19 MR. RADER: Making more money.

20 MS. JEFFERSON: Right. Making more
21 money. So what do you do to entice a person who's
22 making, you know, a certain level, a certain
23 amount of money, to work for the State at a lower
24 income? You know, maybe, like, with elevators and
25 boilers. Maybe there's a situation where we have

1 retired folks who are wanting something to do, but
2 not necessarily, you know, looking at the higher
3 income. I'm not sure if you-all know people like
4 that. So if you know someone like that in the
5 amusement device industry who's looking to retire,
6 who's already working in this industry who maybe
7 wants to work for the State and that person is not
8 concerned about the salary, then certainly let us
9 know and certainly have them to apply for the
10 positions. Because those are the type of people
11 we attract in elevators and boilers.

12 MR. HALE: Well, I was surprised
13 that folks that I had talked with at the carnival
14 convention, a lot of folks that were certified
15 that seemed to be interested, and I thought that I
16 had sent them toward applying. But maybe they
17 looked at the salary range and said, "I'm not
18 interested."

19 MS. JEFFERSON: Right.

20 MR. HALE: But I am going to follow
21 up with some of those folks and say, "Why didn't
22 you apply?"

23 CHAIRMAN FOX: Okay. We have a
24 motion and a second. Any further discussion?

25 (No verbal response.)

1 CHAIRMAN FOX: All in favor of the
2 motion, let it be known by saying "aye."

3 (Affirmative response.)

4 CHAIRMAN FOX: All opposed, like
5 sign.

6 (No verbal response.)

7 MR. BURCH: That's just going on
8 record that we support what she's trying to do.

9 CHAIRMAN FOX: That and we support
10 hiring an inspector, yes, sir.

11 And Item Number 7, that's a biggy.
12 That's the announcement of the next meeting. The
13 next meeting will be held on June the 2nd at
14 9:00 a.m. in this room at 220 French Landing
15 Drive, Nashville, Tennessee.

16 Item Number 8, do I have a motion to
17 adjourn?

18 MR. RADER: So moved.

19 MR. MOORER: So moved and I second.

20 CHAIRMAN FOX: We are adjourned.

21 Thank you-all very much.

22 END OF THE PROCEEDINGS.

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C E R T I F I C A T E

STATE OF TENNESSEE)
COUNTY OF WILLIAMSON)

I, Cassandra M. Beiling, a Notary Public
in the State of Tennessee, do hereby certify:

That the within is a true and accurate
transcript of the proceedings taken before the
Elevator & Amusement Device Safety Board and the
Chief Elevator Inspector or the Chief Elevator
Inspector's Designee, Tennessee Department of
Labor & Workforce Development, Workplace
Regulations and Compliance Division, Amusement
Device Unit, on the 3rd day of March, 2015.

I further certify that I am not related to
any of the parties to this action, by blood or
marriage, and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 20th day of March, 2015.

Cassandra M. Beiling, CCR, LCR# 371
Notary Public State at Large
My commission expires: 3/12/2016

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