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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
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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AGENDA

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

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

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

(Pledge of Allegiance recited.)

CHAIRMAN FOX: Thank you.

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

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

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

MS. BENNETT: Yes.

CHAIRMAN FOX: Very good.

Okay. If we could, we'll start with introductions and we'll start with you.
MS. BENNETT: Okay. My name is Carlene Bennett with the State of Tennessee Department of Labor, and I'm the Board Secretary.

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

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

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

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

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

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

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

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

MS. JEFFERSON: Kim Jefferson. I'm
the Administrator for Workplace Regulations and
Compliance Division. I represent the Department.

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

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

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

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

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

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

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

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

MR. CREWS: Adam Crews, National
Machine Elevator.

MR. FARMER: Chris Farmer,
Assistant Chief Elevator Inspector for the State.

MR. MCMILLAN: Mitch McMillan. I represent KONE.

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

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

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

Next item is the Chief Inspector's report.

Mr. Sidler?

MR. SIDLER: Well, first off, before I forget, I'm going to ask -- HomeLift is here. They weren't on the agenda, came in late. They didn't get their application in in the 30-day requirement period. They're here to ask if they can be added to the agenda. It's a LULA request which the board had already approved, but they've still got to come before the board. And I've looked at the prints. Everything is in order.
Theirs just was not in a timely manner. So I didn't know if you would add them to the agenda.

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

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

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

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

MR. MOORE: Second.

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

(No verbal response.)

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

(Affirmative response.)

CHAIRMAN FOX: All opposed by like sign.

(No verbal response.)

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

CHAIRMAN FOX: And you will make
that part of your motion, sir?

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

MS. BENNETT: Please.

MR. BURCH: Okay.


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

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

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

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

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

So that's pretty much where we are.

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

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

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

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

MR. RADER: Where is it held?

MR. SIDLER: In Gatlinburg at
Creekside. It's right across the street from the tram.

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

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

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

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

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

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

CHAIRMAN FOX: We will send the
tram or trolley by to pick you up.

Anything else, sir?

MR. SIDLER: No, sir.

CHAIRMAN FOX: Okay. Item IV, Old

Business, there is none.

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

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

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

In this first building, they built an
elevator shaft sometime, I believe, in the '70s,
never installed an elevator, so it had a four-foot
existing pit. And now they're renovating that
part of the structure, and they're wanting to add an elevator at this time.

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

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

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

And the reason being, it refers you back to a section in the elevator code that is "unintended car movement protection." And that's
the safety issue that's addressed in 2.19.2. And so on further, in .2.2, it gives you that 48-inch measurement for any elevator that has to adhere to that unintended motion.

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

MR. MCMILLAN: That I don't know.

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

MR. MCMILLAN: We did get approval to put one in the LRC building at MTSU University.
MR. SIDLER: No, you didn't.

MR. MCMILLAN: Okay.

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

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

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

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

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

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

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

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

MR. MCMILLAN: Well, I'm just trying to understand because I haven't been part of code committees. And you made a good point that there's a difference between a hydraulic elevator and a traction elevator. And I'm trying
to understand what would have driven that
difference other than the fact that a traction
elevator is usually a faster speed.

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

MR. MCMILLAN: I understand.

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

They do have other alternatives. You
can trench the front of that pit a foot and you're
good to go. We've done that on many occasions in
this state. Or you can put in a hydraulic
elevator in that location as it was designed,
apparently. So it's not like there's not another
option, you know.

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

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

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

MR. EDENS: Right.

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

MR. EDENS: Okay. Thanks.

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

MR. MCMILLAN: Well, this would be
on the contractor, and it's an option. It's just
this particular design -- and I began my
discussion by saying KONE would not put something
on an elevator that we didn't feel was safe. I mean, we have tremendous liability as the manufacturer, and I wouldn't be sitting here asking for this if I didn't believe it was a safe alternative.

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

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

MR. SIDLER: You're correct.

There's one more part of the code.

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

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

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

The code specifically says you cannot do that. So there again, that's another thing
that I can't approve because it hits every time it comes in. That's what we had up there on the one that we tried.

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

CHAIRMAN FOX: Okay.

MR. HALE: I have a question.

CHAIRMAN FOX: Go ahead.

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

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

MR. SIDLER: Well put.
CHAIRMAN FOX: What's the pleasure --

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

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

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

It's been much improved, a much improved
situation, but we still don't have a way to approve that on a new installation.

Now, in a mod --

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

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

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

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

MR. BURCH: That's right.

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

And since we did have that opportunity to test that -- I've tested a lot of things that similar way over the years to see, you know. Let's put it in, and if it doesn't work, we're going to take it out. It's just what we've got to do, you know. And that was agreeable at the time.
And I've got to approve it if y'all want to approve it. That's fine, you know. I don't have a, you know -- all I can do is tell you the code situations.

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

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

MR. SIDLER: Oh, just like --

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

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

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

MR. SIDLER: Well, I don't know what merit it changes. It's still going to hit when it goes to the bottom floor every time. And I could say electrically the things that you --
I'm not saying that it was designed after what we
came up with there that spring day in Murfreesboro
when we worked on this and tried it. I'm not
saying that those switches and all were by my
design in any way. But that was what I asked for
at that time.

MR. MCMILLAN: Right.

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

MR. MCMILLAN: I see.

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

MR. MCMILLAN: I understand.

MR. BURCH: Mitch, are these other
two that are on the agenda, are they new elevators
or are they a modernization?

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

MR. BURCH: So two --

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

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

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

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

MR. SIDLER: Technically, that's the only one I've got any real documents on. And
if they went ahead with the others and it was
going to be a mod, then there's discussion. In
A17.3, it states that one situation not deemed an
imminent danger, we wouldn't want that to stop the
betterment of the whole improvement of the
elevator, something to that character.

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

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

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

MR. MCMILLAN: Okay.

MR. SIDLER: Right.

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

MR. BURCH: Well, I would love to
make a motion to provide a variance but I just
don't feel good about it based on the stats that
the chief elevator inspector has taken. And I
just know that there's been variances, a lot of
variances, issued that have been more involved
than this over the years. And all of a sudden
this takes some real, you know, importance. And
so I just -- in my position, I cannot issue a
motion to accept it.

CHAIRMAN FOX: Any other board
member?

(No verbal response.)

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

Let's move on to 15-02.

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

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

MR. BURCH: May I ask a question?

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

MR. MCMILLAN: Okay. Thank you.
MR. BURCH: You say that 48 inches is what is minimum, right? I mean, we can go to 48 inches on the toe guard?

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

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

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

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

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

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

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

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

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

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

MR. BURCH: You would have to do a
foot-deep trench or more.

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

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

MR. SIDLER: Which five foot would do.

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

MR. MCMILLAN: Yes, sir.

CHAIRMAN FOX: Is there a difference in it?

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

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

MR. SIDLER: Yes. There will be certain clearances, you know, around that, all the
way around so it's not a pinch point. That gets into the pinch point situation and the braces.

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

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

MR. MCMILLAN: Okay. All right.

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

MR. MCMILLAN: Right. Okay.

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

MR. SIDLER: No. They haven't been presented. It's just that it was brought up here. I don't have the documents to look at that. I do know from our records what they show they are now, which are -- both of those two which, if you want to talk about them one at a time, the existing
elevators there are five-stop hydraulics. Is that right, on the two -- at the Robin Realty Company -- it was one of those in question, excuse me, that's a five-stop? And then a four-stop at the Market Street Emporium?

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

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

MR. MCMILLAN: Yes, sir.

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

MR. MCMILLAN: Yes.

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

MR. MCMILLAN: That's correct.

CHAIRMAN FOX: I just wanted to get that one on the record, and now y'all can discuss.
MR. SIDLER: Can I bring something up that's -- since I don't have the records, our -- what we have in our system now is contradictory to what he's telling me is there. So whether our records are wrong here, which this is a 1989 on this one and -- let me see what the others were -- it's an '87. So they're several years old and the records have been changed over several times.

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

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

MR. SIDLER: Oh, yes.

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

MR. HALE: So if he shows those, he doesn't need the variance, right?
MR. SIDLER: No.

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

MR. MCMILLAN: Yes, sir.

CHAIRMAN FOX: Okay. Consider it done.

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

Is this the same situation?

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

CHAIRMAN FOX: Okay.

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

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

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

MR. MCMILLAN: These are -- all of
these elevators that I just mentioned are very old freight elevators.

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

MR. MCMILLAN: Okay.

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

MR. MCMILLAN: Yes, sir.

CHAIRMAN FOX: Okay. All right.

Thank you very much.

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

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

MR. MCMILLAN: No, sir.

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

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

MR. SIDLER: Can I speak on that?

CHAIRMAN FOX: Yes.

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

MR. FARMER: '08, '09.

MR. SIDLER: But we didn't do that
because this would -- in the performance code, you
could probably give all of the information and say
it equals to or better than, and we would have
to -- my thought was, and the board's thought at
that time, we would have to have engineers look at
that and see if it did. So they didn't get into
that code because the monies and the time that we
would spend disputing that -- this is kind of a minor one, but some of them -- this would be more really technical jargon.

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

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

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

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

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

CHAIRMAN FOX: Good question.
MR. MCMILLAN: All right. Thank you for your time.

CHAIRMAN FOX: Okay. Thank you, sir.

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

MR. SIDLER: Yes, HomeLift.

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

CHAIRMAN FOX: You are, sir?

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

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

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

CHAIRMAN FOX: Thank you, sir.

Please proceed.

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

CHAIRMAN FOX: Mr. Sidler?

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

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

MR. PISKIE: 25 feet.

MR. SIDLER: 25 feet?

MR. PISKIE: Yeah.

MR. SIDLER: -- 20-something feet.

And so there were several reasons for him wanting to put this in and wanting to satisfy the customer, and that's why I asked y'all to hear him so they could go forth and meet the building deadlines.
But I don't have a problem -- it's similar to ones y'all have approved before as far as --

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

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

MR. PISKIE: It all meets codes.

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

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

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

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

MR. BURCH: I make a motion to
accept his variance, I guess. Are you asking for a various or an acceptance?

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

MR. HALE: Second.

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

(No verbal response.)

CHAIRMAN FOX: Any discussion?

(No verbal response.)

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

(Affirmative response.)

CHAIRMAN FOX: And all opposed by like sign.

(No verbal response.)

CHAIRMAN FOX: Motion carries.

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

CHAIRMAN FOX: Yes, sir.

MR. PISKIE: Appreciate it.

CHAIRMAN FOX: Okay.

Ms. Jefferson, I think you're up.
MS. JEFFERSON: Thank you. I want to talk about the legislative update first. Our legislative liaison was unable to appear today. Her name is Leann Durham.

CHAIRMAN FOX: I'm sorry, who?

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

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

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

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

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

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

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

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

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

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

There's also another bill. It's Senate Bill 24, House Bill 234. It removes rock-climbing walls from under the Department's jurisdiction. That bill has been passed in the senate, commerce and labor committee. It was
passed last week and is currently on the senate floor. It was on the senate floor last night, according to Leanne's notes. So once I talk with Leanne, I'll be able to find out the status of that bill, because it's further along than the first bill.

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

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

MR. BURCH: Yes.

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

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

MS. JEFFERSON: Actually, I'm
looking at the legislation here, and it says here, "As introduced, specifies that climbing walls are not considered amusement devices and are not subject to regulation by the Department of Labor and Workforce Development."

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

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

MS. JEFFERSON: What do you mean, specifically?

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

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

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

MS. JEFFERSON: Sure. Senator Jack
Johnson and also McCormick.

CHAIRMAN FOX: Marshall McCormick?

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

CHAIRMAN FOX: Okay. Thank you.

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

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

And I understand your concern. And
that's all that I have, those two bills.

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

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

CHAIRMAN FOX: Okay.

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

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

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

CHAIRMAN FOX: Yes. I'm asking did
the Department of Labor or have you-all -- I don't
know exactly how you-all would present a law or a
rule. But have we changed any rules or have we
presented any legislation that would make for more
stringent rules and regulations on inspections for
these climbing walls?

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

CHAIRMAN FOX: All right.

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

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

MS. JEFFERSON: No, it's --

CHAIRMAN FOX: Or is that something
that the Department of Labor, the commissioner of
the Department of Labor can actually impose?

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

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

Do you-all have anything to add?

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

MS. JEFFERSON: Okay. Very good.

Now, with ACCT, if that's what you're talking
about --
CHAIRMAN FOX: Yes.

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

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

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

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

CHAIRMAN FOX: Association for Challenge Course Technology.

MS. JEFFERSON: Yes.

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

MS. JEFFERSON: That's the certifying agency that certifies and inspects zip lines and other aerial courses, as they've described it. Zip lines mainly. And so what they have done, they've contacted our office. And actually, that's something that came out of the
legislative hearing as well. During that meeting in November, we were asked whether or not that organization should be a qualified inspector pursuant to the law.

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

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

MS. JEFFERSON: And AIMS is --

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

MS. JEFFERSON: And the first -- actually, the definition starts by saying -- it asks who is a person -- a qualified inspector means any person who is -- and it has (a), (b), or (c). And it says, "A person found by the commissioner to possess the requisite training and experience and respect to amusement devices to perform competently the inspections required by this chapter; (b) certified by the National Association of Amusement Ride Safety Officials,
NAARSO, and have and maintain at least one level of certification; or (c) is a member of and certified by the Amusement Industry Manufacturing and Suppliers, AIMS, and meets the qualifications established by the board."

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

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

And with that said, that means that the commissioner can find on this new organization we're talking about to possess the requisite training and experience and respect to amusement devices. That's ACCT, the other company that inspects zip lines. So that would also be a qualified inspector if the commissioner chooses that that is a qualified inspector. But I would like to receive you-all's input on it.
CHAIRMAN FOX: I'll be happy to address that. In my opinion -- and I don't speak for anyone else but me -- in my opinion, the ACCT, Association for Challenge Course Technology, should not be inspecting amusement rides per se. I don't think they have the expertise in that area.

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

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

CHAIRMAN FOX: Okay.

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

CHAIRMAN FOX: Yes.

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

CHAIRMAN FOX: Let me also say that in my opinion, the NAARSO-certified inspectors and
the AIMS-certified inspectors could in fact
inspect the zip lines, ropes courses, challenge
courses, aerial trekking courses, and canopy
tours, but not vice versa.

MS. JEFFERSON: Right. I agree.

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

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

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

MS. JEFFERSON: And what year was
that?

MR. HALE: 2012.

MS. JEFFERSON: '12? That's
interesting. I'm not sure who told you that. I wasn't here in 2012.

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

MS. JEFFERSON: And Mr. Bailey is here.

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

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

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

MR. BAILEY: Yes.

CHAIRMAN FOX: Okay.

MR. SIDLER: Can I ask a question --

CHAIRMAN FOX: Yes, sir.

MR. SIDLER: -- of Mr. Bailey? Of course we're dealing with laws, trying to -- like I said, we've got laws and codes. And that interpretation, when it has the semicolon or a comma, is that not "and"
understood?

MR. BAILEY: Is that not what?

MR. SIDLER: An understood "and"?

MR. BAILEY: No.

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

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

MR. SIDLER: Right, on the other two, which is very definite there. But I'm just saying that was my understanding from early 1960s English classes, I guess, that the "and" would be understood if it didn't have a period. That's why I was -- I'm just trying to get clarification. So
that has nothing to do with it, as far as a period
or a comma or --

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

MR. SIDLER: Thank you.

MR. HALE: But I do believe that

those of us that worked on passing that

legislation in the very beginning intended for

there to be an "and." I think we always intended

for those inspectors to be NAARSO or AIMS
certified.

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

MR. HALE: And I'm not trying to

argue whether -- on the semicolon or "and" or

whatever. I'm just stating that my personal

opinion is that those that worked pretty
diligently to get the ride laws passed to begin

with intended for the inspectors to be NAARSO or

AIMS certified.

MR. BAILEY: It just seems to me

that if that were the case, then the

subparagraph (a) has no use. It shouldn't even be

in there, regarding the commissioner having

authority. If the intent was just for them to be

NAARSO and AIMS-qualified only, then I would say
subparagraph (a) would have never been put in.

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

MR. BAILEY: Understood.

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

(No verbal response.)

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

MS. JEFFERSON: The proposed fee list was sent to the Chair -- it was either the end of December or the beginning of January. And
it basically set out the proposed fees to be used as we go forth. At the last board meeting, we discussed some of the difficulty that we had with establishing fees. One of the difficulties was the inflatables, and the board helped us to identify a specific fee for that which we now assess a fee for $25 for inflatables.

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

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

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

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

CHAIRMAN FOX: Yes.

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

And so that's what we need your guidance on. We want to look to some
alternatives, different ways to kind of handle this, just basically discuss it so that we can come to a conclusion as to how to charge for climbing walls. But this is our suggestion at this point. Do you-all have any suggestions?

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

MS. JEFFERSON: Would you be considering ropes?

MR. RADER: Harnesses.

MR. HALE: Harnesses, ropes, and the belay devices, connection points, all of those types of things. To me, if you've got this gym and it's got a hundred places for people to be climbing at one time, it should be more expensive to inspect that than a mobile device that has four
or six people climbing it. Obviously, it's going
to take more time, so that should be more costly.
It costs the State more to do it.

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

MR. HALE: Right.

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

MR. HALE: I'm just throwing that
out as maybe a way to define it, that we do it by
the number of inspections that we have to make for
connection points, rope, harness, that maybe
that's an alternative. Instead of trying to, you
know, "Well, I'm going to get a single price
because I have this facility and I've got" -- so
in order to circumvent the cost, I just tore out
four foot of section and said, "No, that's another
wall right there," as opposed to, you know, "Well,
I've got this long, continuous wall."

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

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

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

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

CHAIRMAN FOX: For a hand-powered
device?

MR. FINK: I think we were talking
about $200 per facility for the device fee and the
$150 for the permit fee, so it would be a total of $350 for -- is what we were -- what the thinking was on that.

MR. HALE: So --

CHAIRMAN FOX: Let me understand. So if this is Fox's Climbing Walls right there, that entire wall, I'm going to pay you, the State of Tennessee, or whoever is inspecting, a $150 fee, and I can have as many ropes as I want hanging on that wall, and then I pay you an additional $200, so a total of $350, and Fox Climbing Walls is then certified.

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

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

MS. JEFFERSON: Right. And we're --
CHAIRMAN FOX: It's not a challenge. We're just looking for a better understanding, because there's an issue here. It says you have a hand-powered -- that's a hand-powered device. It's a miscellaneous -- each rope is a hand-powered device, so to speak, and it's $25. And that was what was confusing to me. I did not understand.

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

MS. JEFFERSON: Yes.

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

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

MR. SIDLER: You're going to change the rules to do whatever you figure out later, but this is to better explain to the public what their fees are in advance so that they know what to
expect when the inspector shows up.

    MS. JEFFERSON: That's exactly right.

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

    MR. SIDLER: Right. And then you're going to develop possibly some rule changes at some point to better spread out the amount.

You can't do that now --

    MS. JEFFERSON: Right.

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

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

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

CHAIRMAN FOX: We'll pick a number.

Let's say that we have 20 ropes along this wall right here.

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

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

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

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

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

MR. BURCH: It makes no difference
how many ropes you have.

CHAIRMAN FOX: That's correct.

MR. BURCH: Well, why has it got a

$25 per device and $50 per device? Is that

something different?

MS. JEFFERSON: The $25, also in

the rules, the way the rules are currently

written, we wanted to take into consideration --

see where the second bullet says 40 work hours, 42

or more in height; less than 40 hours on the third

bullet; and then on the fourth bullet it says

42 inches or less in height. So it has three

different categories as established in the current

rules.

So we were trying to determine which

fee should be accessed based on the information

that already exists in the rules. This is the way

the rules look now.

The rules also address this, a

miscellaneous fee for $25. It also addresses

reinspection fees. Reinspection fee and the

permit application fee are the same, regardless of

what type of device. The only thing that's

different would be the second bullet through the

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

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

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

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

CHAIRMAN FOX: Okay. If you disagree with me, let me know. But if I'm looking at this schedule here, I'm paying $150 because I am the Fox Climbing Wall Company.
MS. JEFFERSON: The company, yes.

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

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

CHAIRMAN FOX: Right.

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

CHAIRMAN FOX: Okay.

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

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

MR. HALE: Right.

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

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

MR. HALE: So I'm going to pay

$250?

MS. JEFFERSON: $250.

CHAIRMAN FOX: You're going to pay

$250.

MS. JEFFERSON: Right.

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

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

CHAIRMAN FOX: Okay.

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

MS. JEFFERSON: Right.

MR. HALE: One thing I want to
clarify, if I own a climbing wall and trackless
train and an inflatable, I'm only going to pay one
$150 company fee.
MS. JEFFERSON: Per application, yes.

MR. HALE: For the application.

And then from there I would pay additionally for the devices.

MS. JEFFERSON: Exactly.

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

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

MR. RADER: A jumping gym is an inflatable.

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

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

CHAIRMAN FOX: I think the jumping gym is --

MS. JEFFERSON: Is that like in McDonald's where they have those little balls in there and the little kids are jumping around on
them? I believe so. Trampoline-type devices?

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

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

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

MS. JEFFERSON: I'm sorry. Yes.

MR. HALE: If it's trampolines --

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

MR. HALE: Right.

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

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

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

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

MS. JEFFERSON: You're right.
Yeah, I'm sorry --

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

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

MR. HALE: Yeah.

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

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

MR. SIDLER: Right.

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

MR. SIDLER: No, sir, not at this point. We did originally when -- when we were tasked with this back in 2008-2009, we did a survey, you know -- we were tasked with being compatible with what the other states charged. So the commissioner at that time, that was one of the requirements.
So we did a survey in calling all the states, but that was compatible at the time for the basic fees that we -- you know, what we were doing. It was compatible with -- comparable, I mean, with the adjoining states that touched us. But I don't have that information anymore.

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

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

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

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

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

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

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

If an equipment owner says, "Well, is this this," he should be able to look under that
particular category and say yes, this falls
directly here, or no, it does not.

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

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

    MS. JEFFERSON: Right.

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

    MS. JEFFERSON: What do you mean
separate them?

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

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

    MR. HALE: But if you followed that
same logic, we'd end up listing every ride individually.

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

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

MS. JEFFERSON: And when is our next meeting?

MR. EDENS: June, I believe.

CHAIRMAN FOX: June 2nd.

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

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

MS. JEFFERSON: We'll resend the
Word document. Again, we sent this back in December-January. But we'll resend this and what we'll do, we'll go in and edit the document, and we'll -- underneath each device we'll define it or put examples. Did you-all want examples of the device or --

MR. MOORE: That would be good.

MR. EDENS: Yeah, that would be helpful.

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

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

MS. JEFFERSON: Okay.

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

    MS. JEFFERSON: The $25 fee?

Because we do have an option to do that.

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

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

    MS. O'CONNOR: He didn't.

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

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

    CHAIRMAN FOX: Okay.
MR. MOORE: One quick question.

Getting back to the climbing wall -- and we've had, you know, how many belay devices or how many pulleys or whatnot -- could this fee not be set in accordance with the square footage measurement of the wall and, say, per square footage you're going to pay this amount, if it's a nickel or a dollar or whatever?

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

MR. SIDLER: The --

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

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

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

MR. BAILEY: I would have to read the rules.
MS. JEFFERSON: We would need to read the rules just to be sure. We just want to make sure we don't step outside the rules and do something --

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

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

MR. MOORE: Of climbing wall.

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

MS. JEFFERSON: But that would be
something that we could work towards. Understand, we're not saying we don't want to move in that direction. We're just trying to do what we can based on the current fees.

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

MR. SIDLER: Well, when I was doing this in the beginning with our previous inspectors on board, what was explained to me -- and I'm not a certified inspector, but I was deep into it for a few years there -- it was explained to me that every device had a manufacturer's manual and you inspect to that device manual from elliptical, quadruple, whatever the name is, and then it had the hours to assemble it and all those things in it.
So that was the pertinent information that you had to have as an inspector to figure all of this out. I wouldn't know it, just like you don't. I'm in elevators and you're kind of somewhere in between there. You're in elevators as far as Eastman Kodak is concerned, you know.

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

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

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

So if your climbing wall -- there's got to be some specs, or they'd have to write them, you know. It's something they would have to establish at the time that that inspector is out there looking at it. And we've run into that in
the past. We've run into that a bunch of times.

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

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

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

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

Now, if you suggest something that's outside what we can do, then we'll prepare to make a rule change or do whatever we need to in the future. Does that make sense?
CHAIRMAN FOX: You've answered my question.

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

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

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

That position recently closed. I think it closes -- it should have closed yesterday, I believe it was. And so I will have to talk with the Department of Human Services to see if there were any qualified applicants. I
don't think that there were, based on the information that I received.

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

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

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

So what are we doing now? Because we have no inspectors for the state of Tennessee as it relates to amusement devices, so what we're doing, we're reviewing the administrative process.
As I previously indicated, previously we didn't have an administrative process. The inspectors that we utilize for the program were out in the field, they were processing paperwork, handing paperwork out to the owners/operators, they were receiving that paperwork. They were determining whether or not -- you know, well, they were actually inspecting.

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

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

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

   Sometimes an inspector may say there are five rides or five devices. And than the owner may say that there are ten or vice-versa.

We need to make sure that information is accurate.

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

   So we're making sure that we receive valid certification or a proof of insurance in the form of a certificate of insurance or declaration pages that specifically say this is a good policy, the policy effective dates are correct, and it
actually requires a million dollars per occurrence. We're making sure that that's there.

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

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

MR. MOORER: Question,
Mr. Chairman. Would this be a situation where we might, say, bring some interns in and you train these people to become inspectors?

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

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

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

So what we've been doing, although we had two inspectors previously, those inspectors were paid out of another funding source. Okay? There was never any money allotted for the amusement device program. I think the original
idea was to allow the elevator inspectors to perform the inspections, which we all know that that's a separate type of certification. Elevator cannot perform amusement device inspections.

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

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

There's no way in the world we could
say with three inspectors that we were covering all the inspections throughout the entire state of Tennessee. So the way that I would like to approach it is to not rule that out in the future, but right now we don't have any candidates. We don't have any inspectors. We didn't have anyone who qualified to be an inspector.

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

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

And in getting back to your --

MR. MOORE: Well, I was just sitting here thinking. I spent a number of years
in the food industry. And, of course, we're inspected by the FDA and all of that. I was at Tennessee Pride in Dickson, Tennessee. We have to go through daily and make inspections and weekly make inspections and monthly make inspections, and we send that report in to the FDA. We never know when the inspector is going to come in. And if we are not meeting those requirements when the inspector came in, they just shut you down. And so it was a self-inspection-type process where it was followed up on, you know, at a random time. You never knew when Jenny was going to drive up and say, "The FDA is here." And it might be, you know, we only could run two shifts. And then the third shift was spent cleaning. They would come in and check our cleaning process. But we had an inspection we had to go through, we had to certify it was correct, and they would just come in on a random basis.

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

MR. MOORER: I'm not saying it would work here, but it worked in the food business.
MS. JEFFERSON: I think that would be a really good approach, and that's something that we were looking at at the last meeting. Unfortunately, we don't have any inspectors today. But once we do what we're supposed to in the way of administrative process, I think we'll have a good system in place. We'll be able to bring on people maybe in the future to go out and inspect as you indicated, do it randomly and inspect, maybe audit. But as far as having three people to audit or to inspect for the entire state of Tennessee, that's just not going to work.

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

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

So what would it take, Robbie, in your estimation and your experience -- I think you can answer that -- if you were to hire someone off the street without any experience in that
industry -- how long would it take before you
could have them certified? How many hours or
years would they have to work is a question I
think he was ...

CHAIRMAN FOX: NAARSO --

MR. SIDLER: Yeah, it was NAARSO.

CHAIRMAN FOX: Let's look at them.

NAARSO requires you to work at least one year in
the field, and then you can sit for the exam.

Then at that point you can take it, pass it, and
you're certified. AIMS is the same way.

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

CHAIRMAN FOX: It's physically

inspecting the ride --

MR. SIDLER: Right.

CHAIRMAN FOX: -- so that you know

what a sweep on a Scrambler is.

MR. SIDLER: Exactly.

CHAIRMAN FOX: Or you know what an

up-stop wheel is.

MR. SIDLER: It's nothing you can

learn from this. It's all going to be hands on.

CHAIRMAN FOX: That's the only way
you learn.

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

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

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

CHAIRMAN FOX: I think you're correct.

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

CHAIRMAN FOX: You have to be involved in that industry and have to have intimate knowledge of a ride. You've got to know the difference between a grade 8 and a grade 5
bolt. And, again, you've got to know the
difference between an up-stop wheel and --

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

CHAIRMAN FOX: That's correct.

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

And then we hired another gentleman.

He had to work with Lee for a year, and then he
sat for the test. He obviously passed it and
became an inspector. So that's kind of the
process that we have to go through.
Again, I think we need to crawl before we jump up and walk. And I think if we look at it in that way, I think we could find someone who wanted to be an inspector. Maybe we set the minimum qualifications, maybe we have to back up.

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

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

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

And I think if we don't have inspectors
in place, we have taken a step backwards. I truly do.

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

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

MS. JEFFERSON: Right. And we would like to have that extra set. Like I said, we were taking steps. We announced the position. Unfortunately, we were unable to get some qualified candidates. And we don't want to just hire anyone in here. We don't want to be rushed
to hire people either, because we don't want to
suffer consequences for making inappropriate
decisions as to hiring.

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

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

And we also -- what I was getting to
is that simple things like knowing the number of amusement devices, the number of companies in Tennessee, those are things that our administrative staff are having to go back and take a look at.

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

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

MR. MOORER: Robbie, one other thing and then I'll shut up. We even had -- in the food industry again, do you remember when the thing came up with hogs having a spine problem?
We had to videotape -- we had to Skype. We had to start taking the spine out of all the hogs when we harvested them. You can't "kill" hogs anymore; you have to "harvest" them. And so when we harvested them, we took the spine out. But it was actually being videotaped on Skype, and the inspector was in our area, and he could pull up and see what we were doing.

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

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

And that, along with finally getting them some raises, has helped our retention rate in Tennessee OSHA. But before that, it was like a revolving door. We train them up; they're gone.

So that's just something to ...

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

MR. BAILEY: I understand.

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

MR. BAILEY: Right.

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

MR. BAILEY: Money talks.

CHAIRMAN FOX: Money talks.

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

I've got two questions. Let me ask the simple one first. So what would it take for us to put those jobs back out for application again, to readvertise or -- to open the inspectors
job back up for people to apply?

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

MR. HALE: Right.

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

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

MS. JEFFERSON: I thought it closed yesterday.

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

MS. JEFFERSON: We would have to announce it again. Taking a look at it, that's why I told you that we need to take a look at the funding aspect of this because there's no money there. I would rather put the money into the administrative than at this point announce for the inspector's position. But I'm willing to think
about that. It's not a difficult matter. I would just have to contact our HR and have them to reannounce the position.

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

MS. JEFFERSON: No. Administrative personnel --

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

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

MR. HALE: And I don't want to say that I don't think what you're doing from the administrative side isn't important as well. It is important for that to be done and done properly and ensure that those folks are submitting their
applications and their insurance, and their third-party inspections and all of that are all in place. I'm certainly not saying that's not important, because it is.

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

With that said, my next question is, is there a provision to allow us to use, on an interim basis, a temporary basis, a third-party inspector who maybe is contracted per inspection or by the hour or however we would want to organize that so that if we do have a problem, we
can pick up the phone and say, you know, "Bailey Inspections, I want you to respond on behalf of the State of Tennessee to this ride accident." Is that a ...  

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

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

MS. JEFFERSON: They can do that.

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

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

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

CHAIRMAN FOX: It's going to be a black eye on us.
MR. BAILEY: But whether that's a contract person or what, I -- you know ...

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

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

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

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

MR. HALE: Well, we were fortunate
to bring Lee on fairly soon after the -- in the process.

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

CHAIRMAN FOX: Yes.

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

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

I have no problem with announcing the position again, one person in East to oversee, one person in West to oversee, and one person in Middle to oversee. But, again, these three people
cannot inspect all the devices in Tennessee. So as long as we all understand that, then I think we're okay. And I would prefer, actually, rather than going through the third party. If we have to do that temporarily, then fine, but I just want you-all to know that three people, that's not sufficient to inspect all of the amusement devices in Tennessee.

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

MS. JEFFERSON: It's physically impossible.

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

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

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

MR. MOORE: That's -- you're not.

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

Same thing with elevators. The only way you're going to get it is working for the Otis, the KONE, the Uniteds, the Nashville Machines, all of these elevator companies, and there's a lot more of those, but they have to come through the ranks somehow. And it's a constant
battle to find qualified persons. The good thing
in elevators are that after you get typically 55
to 60, these guys like myself want to retire and
do something easier on their body and retire from
that industry and come to our industry.

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

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

MS. JEFFERSON: Manager inspector.

CHAIRMAN FOX: He was a manager and
then we had an additional inspector. And those
two were funded and this board wrote --
MS. JEFFERSON: They weren't funded from the amusement device program. That money was taken from our elevators.

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

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

CHAIRMAN FOX: Yes.

MR. SIDLER: That's really how it went. We never really fully covered it because you couldn't get around enough. But we could do the same thing that we were doing with Lee with Neil, who -- just using the names of the persons that were here. So we had enough money/revenue coming in to at least be where we were with the other one. So that's what we actually did.
There was never funding granted to us. You know, $200,000 to do this, we never got that windfall.

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

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

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

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

MS. JEFFERSON: Yes.

MR. BURCH: So it is being done.

It's --

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

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

MS. JEFFERSON: Right. It's not a state inspector.
MR. BURCH: Right.

MS. JEFFERSON: It is being inspected.

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

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

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

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

MR. BURCH: And you are collecting
fees from every person that you've got on record right now, each year.

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

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

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

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

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

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

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

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

So those are the type of statistics we're maintaining now. Previously, we had no statistics, so we just put this in place. And so what we'd like to do is to solicit ideas from you-all about different areas we should be reporting on, because the public, from time to time, they request information from us. So I think it's important to receive your input to see if we're capturing everything that we should
capture, whether or not we should include other
items on this list.

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

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

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

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

We can't determine how many we should
be permitting at this point because these other
systems were not in place in the past. But that's what we're working on now and that's why the administrative part is so important, because we have to make those type of determinations.

Those are our statistics.

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

And I know there is a sore subject but I hope you understand my intent. Could we, as a suggestion of a temporary employee that could be, if we find someone, that when we needed them to go out and investigate that accident, if it happens next week, if we could get them on board as a part-time employee as opposed to a contractor -- or maybe "contract" is the word -- and then if we have that person that refuses to send Carlene and Anita and them the paperwork that we could contact and he could go out there and be
our enforcement or our shepherd, as you're talking
about, is that possible, as opposed to a contract?
You know, someone who would be willing to do that.

MS. JEFFERSON: That may be a
possibility.

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

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

MR. SIDLER: Sure.

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

MR. RADER: Follow up in the field.

MS. JEFFERSON: Well, not
necessarily. If they don't send the information
to us, then injunctive relief would require us to
contact the Attorney General's office and provide
them the information that we have to show that
this person is noncompliant.

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

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

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

MS. JEFFERSON: Exactly.

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

I still like this concept of -- like with the FDA with us -- you turn this inspection report in, and if we check it and there's a
problem, you're down.

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

MR. MOORE: I know it's a buddy
process but ...

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

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

MS. JEFFERSON: I understand.

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

MS. JEFFERSON: And that's why we
at least have to create a list of all the fixed --
and as Ron indicated, sometimes you don't -- I
mean, we won't know. Those fly-by-night companies
that come, we don't know. But we do know about
the 60 that are reported by the Tennessee Fair
Association. So if someone asks us, I can say, well, at least 60.

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

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

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

But again, he was in the area, and he would see the signs go up again for Jim and Bob's Zip Line. So he would go to Jim and Bob's Zip
Line, and that's the only way we found out about them. So, again, I'm stressing that it's important to have that person out there --

MS. JEFFERSON: I understand.

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

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

CHAIRMAN FOX: Probably so, yes.

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

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

MR. HALE: Sort of like starting a company and not having any help.
MS. O'CONNOR: It's the seed money, basically, is what --

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

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

MR. HALE: But still there's got to
be somebody out there that goes and looks.

MS. JEFFERSON: Oh, yeah.

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

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

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

MS. JEFFERSON: Oh, yeah. We definitely want to revisit the fee structure. This is just a temporary fix, is what I'm looking at, because we have to provide the public with information as to how much it costs in order to
get a permit and how much a device fee is. So we
have to provide them something now. So this is
just temporary, but I think as a board, it would
be great if you-all would take a look at the fees
to determine what we need to do going forth so
that we can modify the rules in the future if
these fees are unreasonable. If you find the fees
are unreasonable, we would like to get your input
on that.

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

What we need to go and see is if
there is another 300 fixed facilities in Tennessee
that haven't complied before we start saying,
"Well, Dollywood, you've been doing what you're
supposed to, but, by the way, I'm raising your
cost," because this guy over here is not complying
and I've got to go look for him. So I think we've
got to search out those noncompliant folks first
or as well.
MR. BURCH: I like -- I hear what you're doing. I think that administratively you're trying to do that, and you're requiring the owners of the facilities to make their own inspections through a third party, and you're charging them for that, right?

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

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

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

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

MS. JEFFERSON: And they would continue to pay the permit application fee to the State and the device fee to the State.
MR. BURCH: So it behooves us to
know more about who's out there and who's not
paying their fees.

MS. JEFFERSON: Right.

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

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

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

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

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

CHAIRMAN FOX: Oh, yes.

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

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

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

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

CHAIRMAN FOX: Yes. Yes.

MR. BURCH: Well, that's different.

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

MS. JEFFERSON: Right.

CHAIRMAN FOX: But that is a revenue stream.

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

CHAIRMAN FOX: Okay. Yes?

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

MR. BAILEY: Is it?

MR. SIDLER: You could be registered -- just a registration. Those inspectors are supposed to register, I believe. I don't know if there's a fee to it.
MS. JEFFERSON: Are you talking about the rules or the law?

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

MS. JEFFERSON: In the law?

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

MR. BURCH: Third-party inspection.

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

CHAIRMAN FOX: I'm sorry?

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


MR. SIDLER: -- 26, then he wouldn't have to -- he would be available for a fee that we could pay. He wouldn't get anything if we didn't call him. He would be there for an emergency. If we could find someone willing to provide that locally, we're better off than
bringing someone from New York down here to try
and cover us. Because I know that's a concern.

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

MR. SIDLER: I know.

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

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

MS. JEFFERSON: Someone certified.

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

MR. HALE: That's not a problem.

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

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

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

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

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

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

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

But I want that person to at least come once a year, from the State's perspective, come visit me just to say, "Hello, and I'm checking your rides."
MS. JEFFERSON: Right. And I'm hearing you. I definitely hear what you-all are saying. I definitely do. And so it's definitely something that I'll go back and reconsider what we need to do going forward.

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

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

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

MR. EDENS: He can be inspected by
his insurance person.

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

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

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

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

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

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

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

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

MR. MOORE: I agree. There needs -- in my opinion, we need as many amusement
device inspectors as we have elevator inspectors; however, it's sounding, from a monetary standpoint, we're not going to get that for some time.

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

MS. JEFFERSON: Yes.

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

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

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

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

CHAIRMAN FOX: I would have to tell you, I don't know.
MS. JEFFERSON: Okay. Well, we've looked at it. And we say that four to eight inspections is reasonable for a new program to get up and going. And since this is relatively new, probably four is more likely. So if you have three people throughout the state performing four inspections -- but you have three inspectors for the entire state and you had requested that they perform at least four per week, they look at the number that they would be required to perform per month, per year, and that's going to come out on the lower end.

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

CHAIRMAN FOX: But you're forgetting one piece of the pie. That go-kart, his insurance company or her insurance company is going to mandate, once they're put into the mix, that they're going to be inspected, and at some point, somebody has got to pay that fee. Whether
the state inspector goes to inspect it or not,
you, we, still get the fee. So you're going to
have that amount of money in the coffers
regardless of whether that state inspector is out
there or not.

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

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

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

MR. FINK: I believe it's passed.

MS. JEFFERSON: I think it's
passed.

CHAIRMAN FOX: Okay.

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

CHAIRMAN FOX: But the inflatables
are in the same position. And the inflatables are
covered under --

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

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

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

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

But where we are now, we have to identify the companies before we can actually send them letters and require them to pay the permits. So that money is not going to -- we won't have
that money at the end of the fiscal year is what
I'm trying to say.

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

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

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

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

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

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

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

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

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

CHAIRMAN FOX: Could we ask the
three of you to carry that flag for us and amend
the bill?

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

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

MR. BAILEY: No.

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

MR. FINK: Yes, sir.

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

MS. JEFFERSON: Are we talking
about a sticker?

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

MR. BAILEY: It says that the
annual permit is issued for an individual
amusement device and such permit shall be
prominently displayed on the amusement device.

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

MS. JEFFERSON: Right.

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

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

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

MR. BURCH: I thought we had already gone.

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

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

(Response in the affirmative.)

CHAIRMAN FOX: Okay. Now, do we need a motion from this board to request funding
through the Commissioner of Labor? Or how would
the process work?

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

   CHAIRMAN FOX: Yes.

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

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

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

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

   MS. O'CONNOR: I'll second.

   CHAIRMAN FOX: We have a motion and
a second. Any discussion?

(No verbal response.)

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

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

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

MR. RADER: Making more money.

MS. JEFFERSON: Right. Making more money. So what do you do to entice a person who's making, you know, a certain level, a certain amount of money, to work for the State at a lower income? You know, maybe, like, with elevators and boilers. Maybe there's a situation where we have
retired folks who are wanting something to do, but not necessarily, you know, looking at the higher income. I'm not sure if you-all know people like that. So if you know someone like that in the amusement device industry who's looking to retire, who's already working in this industry who maybe wants to work for the State and that person is not concerned about the salary, then certainly let us know and certainly have them to apply for the positions. Because those are the type of people we attract in elevators and boilers.

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

MS. JEFFERSON: Right.

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

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

(No verbal response.)
CHAIRMAN FOX: All in favor of the motion, let it be known by saying "aye."

(Affirmative response.)

CHAIRMAN FOX: All opposed, like sign.

(No verbal response.)

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

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

And Item Number 7, that's a biggy.

That's the announcement of the next meeting. The next meeting will be held on June the 2nd at 9:00 a.m. in this room at 220 French Landing Drive, Nashville, Tennessee.

Item Number 8, do I have a motion to adjourn?

MR. RADER: So moved.

MR. MOORER: So moved and I second.

CHAIRMAN FOX: We are adjourned.

Thank you-all very much.

END OF THE PROCEEDINGS.
CERTIFICATE

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