

FOR THE CASE OF
Elevator & Amusement Device

TRANSCRIPT OF
Proceedings

March 1, 2016

Stone & George

COURT REPORTING

2020 Fieldstone Pkwy

Suite 900 - PMB 234

Franklin, TN 37069

(615) 268-1244

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1. STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
2. WORKER'S COMPENSATION DIVISION
3.
4.
5.
6.
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9. TRANSCRIPT OF PROCEEDINGS
10. OF
11. ELEVATOR & AMUSEMENT DEVICE SAFETY BOARD
12. March 1, 2016
13. BEFORE: Robbie Fox, Commissioner
14.
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16.
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19.
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22.

23. DOMINIQUE A. DUBOIS, LCR# 686
STONE & GEORGE COURT REPORTING
24. 2020 Fieldstone Parkway
Suite 900 - PMB 234
25. Franklin, Tennessee 37069
(615) 221-1089

1.
2. The above-styled cause came on for
3. hearing on this the 1st day of March, 2016, before
4. The Elevator & Amusement Device Safety Board at
5. 220 French Landing Drive, TOSHA Hearing Room, 1st
6. Floor, Nashville, Tennessee, when and where the
7. following proceedings were had, to wit:
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- A P P E A R A N C E S
- 1.
 - 2.
 3. Robbie Fox, Chairman
 4. R. Perry Burch, Manufacturer Representative
 5. Lewis Moorers, Jr., Public at Large Representative
 6. David A. Hale, Tennessee Fair Association Representative
 - 7.
 8. Larry R. Moore, II, Owner and Lessee Representative
 - 9.
 10. Kelly O'Connor, Public at Large Representative
 11. Chris Farmer, Assistant Chief Elevator Inspector
 12. Mark Finks, Assistant Administrator
 13. Dan Bailey, Esq., Legal Counsel
 14. Carlene T. Bennett, Board Secretary
 15. Melinda Kelsey, Commissioner's Office
 16. Anita Rhodes, State of Tennessee
 17. David Plummer, Centric Architecture
 18. Patrick Johnson, EDGIE Designs
 19. Steve Gustafson, EBL Ziplines and Professional Ropes Course Association
 20. Dylan Burt, Navitat Canopy Adventures and ACCT.
 21. Michael R. Smith, ACCT
 22. Scott Andrews, ACCT
 23. Mary Audrey Powers, Navitat Canopy Adventures
 24. Jennifer Halverson, Adventureworks
 25. Don Stock, The Adventure Guild
 26. Brad Webb, Nashville Nightmare, LLC

1. Robert A. Warner, Warner Haunts, LLC
2. Chris Cannon, Department of Labor and Workforce Development
- 3.
4. Stephen Clevenger, ZIPStrea Fall Creek Falls
5. Sarah Wyatt, Holston Home for Children.
6. Anthony Curtis, Adventure Designs.
7. David Sells, Space Walk Party and Event Rental.
8. Tony Atwell, Jump Jump Bounce.
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1. AGENDA
2. I. Call Meeting to Order
3. II. Introductions
4. III. Pledge
5. IV. Announcements
6. V. Annual Conflict of Interest Policy, Acknowledgement and Disclosure
- 7.
8. VI. Elevator Unit's Report
9. * Amusement Device Unit's Report
10. VII. Old Business
11. * None
12. VIII. New Business
13. * 16-01
14. IX. Discussion Items:
15. * Procedures required to adopt new standards/guidelines not currently in the Amusement Device rules.
16. * Procedures for amending Amusement Device rules to remove the year from current ASTM references. Chapters 0800-03-04.02; 0800-03-04-.12; 0800-03-04-.13 0800-03-04-.14; 0800-03-04-.18, etc.
17. * Required verbiage when a third-party inspector submits an inspection report stating devices are safe and operable and meet ASTM standards.
- 18.
19. * Permit Application Fees/Device Fees Chapter 0800-03-04-.25
20. * LULA Lift Update - Rule 0800-03-04-.02
21. X. Announcement of Next Meeting - The next regularly scheduled meeting of the
- 22.
- 23.
- 24.
- 25.

1. * * * * *
2. PROCEEDINGS
3. CHAIRMAN FOX: Good morning. We will
4. call the March 1st, 2016 Elevator and Amusement
5. Device Safety Board Meeting to order. If we could
6. go around the room starting with Carlene and let's
7. do some quick introductions.
8. MS. BENNETT: Hi --
9. CHAIRMAN FOX: And -- go ahead.
10. MS. BENNETT: I'm Carlene Bennett,
11. Board Secretary.
12. MR. FARMER: Chris Farmer, Elevator
13. Inspector Supervisor.
14. MS. O'CONNOR: Kelly O'Connor, Board
15. member, representing Public at Large.
16. MR. HALE: David Hale, Board member,
17. representing the Tennessee Association of Fairs.
18. CHAIRMAN FOX: Robbie Fox
19. representing Fixed Parts.
20. MR. BURCH: Perry Burch representing
21. manufacturers.
22. MR. MOORE: Larry Moore representing
23. the owners and the lessee.
24. MR. MOORER: Lewis Moorers, member at
25. large.

1. Elevator & Amusement Device Safety Board meeting will be held in the first floor
2. TOSHA Hearing Room at 9:00 a.m. (CT) on
3. Tuesday, June 7, 2016 at the State of
4. Tennessee, Department of Labor and Workforce Development building, located at 220 French Landing Drive, Nashville, Tennessee.
- 5.
6. XI. Adjournment
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1. MR. FINKS: Mark Finks, Assistant
2. Administrator for the Workplace Regulations and
3. Compliance Division.
4. MR. BAILEY: Dan Bailey, legal
5. counsel.
6. CHAIRMAN FOX: Sir, let's start with
7. the gentleman here in the corner. I hate to pick on
8. you but you just look nice, and I just thought I'd
9. ask you to introduce yourself. But just go back
10. that way and then start from the back and come
11. forward. You don't have to come all -- no. No, no,
12. no. Just introduce yourself.
13. MR. FARMER: Just introduce yourself,
14. David.
15. MR. PLUMMER: Sorry, gotcha.
16. CHAIRMAN FOX: Hi, David. Who are
17. you?
18. MR. PLUMMER: David Plummer. I'm an
19. architect for Eccentric Architecture here regarding
20. a possible elevator remodel at the State Capitol.
21. CHAIRMAN FOX: Okay.
22. MR. ATWELL: Tony Atwell, Jump Jump
23. Bounce.
24. MR. SELLS: David Sells with Space
25. Walk Party and Event Rental.

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1. MR. CURTIS: Anthony Curtis,
2. Adventure Designs.
3. MS. HALVERSON: Jennifer Halverson,
4. Adventureworks.
5. MR. CARROLL: Robert Carroll, Local
6. 572.
7. MR. MAYO: Chris Mayo, Local 572.
8. MR. CLEVINGER: Steve Clevenger,
9. ZIPstream Aerial Adventure Parks.
10. MR. JOHNSON: Patrick Johnson, Edgie
11. Designs.
12. MS. WYATT: Sarah Wyatt, Holston Home
13. for Children.
14. MS. GIPSON: Gabrielle Gipson, Gipson
15. Mechanical.
16. MR. GIPSON: Winston Gipson, Gipson
17. Mechanical.
18. MR. WILSON: David Wilson, Gipson
19. Mechanical.
20. MR. KING: Stephen King, Gipson
21. Mechanical.
22. MR. CANNON: Chris Cannon, Department
23. of Workforce and Labor.
24. MS. KELSEY: Melinda Kelsey,
25. Commissioner's Office, Department of Labor and

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1. Workforce Development.
2. MS. DOWER: Jann Dower,
3. Commissioner's Office.
4. MR. WEBB: Brad Webb, Nashville
5. Nightmare and Haunted House.
6. MS. POWERS: Mary Audrey Powers,
7. Navitat Canopy Adventures.
8. MR. BURT: Dylan Burt, Navitat Canopy
9. Adventures.
10. MR. STOCK: Don Stock, the Adventure
11. Guild ZIPstream Aerial Adventures.
12. MR. ANDREWS: Scott Andrews,
13. Association for Challenge Course Technology.
14. MR. SMITH: Mike Smith, ZIPStream
15. Fall Creek Falls.
16. MR. GUSTAFSON: Steve Gustafson, EBL
17. Ziplines and the Professional Ropes Course
18. Association.
19. CHAIRMAN FOX: Okay. Folks, if you
20. will, please stand. I'd ask Mr. Hale to lead us in
21. the pledge.
22. MR. HALE: Please address the flag.
23. (Pledge of Allegiance recited by
24. all.)
25. CHAIRMAN FOX: Mr. Hale, you did that

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1. with conviction, and I appreciate that.
2. MR. HALE: Thank you.
3. CHAIRMAN FOX: Okay. An
4. announcement: In the event of an emergency or
5. natural disaster, security personnel will take
6. attendees to a safe place in the building or direct
7. them to exit the building on the Rosa Parks side.
8. Mr. Finks, will you -- which way are we going when
9. we leave here if that happens?
10. MR. FINKS: The Rosa Parks side is
11. that way.
12. CHAIRMAN FOX: Okay. So we're going
13. straight out?
14. MR. FINKS: Uh-huh.
15. CHAIRMAN FOX: Go into the lobby and
16. straight out, if that happens, right?
17. MR. FINKS: Yes.
18. CHAIRMAN FOX: Okay. Thank you very
19. much. All right. Ms. Bennett, has everyone signed
20. their conflict of interest? Or we got people
21. signing them right now, I think.
22. MS. BENNETT: The only person now
23. would be Mr. Edens.
24. CHAIRMAN FOX: Okay. And I'm
25. assuming as soon as he gets better, he'll be back.

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1. MS. BENNETT: Right. Right.
2. CHAIRMAN FOX: Okay. Mr. Farmer.
3. MR. FARMER: Yes, sir.
4. CHAIRMAN FOX: The Elevator Unit's
5. report.
6. MR. FARMER: All right. I'll just go
7. over some numbers for where we're at this year from
8. where we were this time last year. This year, we've
9. done 3,226 inspections. It's down a little bit from
10. last year of 3,579. We've done 88 acceptance
11. inspections, and that's up from 46 from this time
12. last year. We have at -- 96 permit applications
13. this year versus 68 last year at this time.
14. We currently have 24 inspectors,
15. including myself, and we're in the process of
16. hiring four new inspectors and hope to get them in
17. here by March 16th. There'll be one East
18. Tennessee inspector and three Middle Tennessee
19. inspectors. We're going to be doing our
20. recertification for QEI April 5th through the 8th
21. in Gatlinburg. And anybody is welcome to come, if
22. they want to.
23. CHAIRMAN FOX: Where is it?
24. MR. FARMER: April 5th through the
25. 8th. It'll be at the Creekside in Gatlinburg. And

1. I believe --

2. MR. BURCH: Can I ask a question

3. about that? Is it in a NAESA? Can I come to that?

4. MR. FARMER: Yes, you can. It

5. counts.

6. MR. BURCH: Okay.

7. MR. FARMER: So if you want to get

8. with them, just get with me after and I can give you

9. you the contact numbers.

10. MR. BURCH: Appreciate it.

11. MR. FARMER: So -- and I believe

12. that's all I got for you.

13. CHAIRMAN FOX: May I ask a question?

14. MR. FARMER: Sure.

15. CHAIRMAN FOX: You're going to hire

16. four inspectors.

17. MR. FARMER: Yes, sir.

18. CHAIRMAN FOX: Do you hire those

19. already certified or -- me being a non-certified

20. person, if I were to come to work for you --

21. MR. FARMER: Most --

22. CHAIRMAN FOX: -- how long -- would

23. you consider me, first of all, and then second of

24. all, if you did, how long would it take me normally?

25. MR. FARMER: Yeah. We do not -- we

1. take elevator personnel, people that have

2. experience. They're not always certified but they

3. do have elevator knowledge. There is a minimum of

4. three years in the elevator business. We get them

5. in and we train them and we give them a state-issued

6. test, and once they pass that test, they're able to

7. go out and do certain parts of the job until they

8. get a full year in and then they become QEI

9. certified. And then they're free to do whatever we

10. need them to. So --

11. CHAIRMAN FOX: Okay. So there's sort

12. of an apprentice period?

13. MR. FARMER: Yeah. Well, we don't

14. call it apprenticeship, but it's like an

15. apprenticeship. It's a -- you know, they know

16. elevators. They know mechanical. They don't know

17. how to inspect elevators. So we teach them how to

18. apply their knowledge to the inspection process.

19. CHAIRMAN FOX: Okay. All right.

20. Thank you, sir.

21. MR. FARMER: And we've got four good

22. candidates. They all have elevator experience and I

23. hope they hit the ground running. So we need them.

24. CHAIRMAN FOX: Okay. Mr. Finks, are

25. you going to report on the elevator -- or excuse me,

1. the Amusement Device Unit Report?

2. MR. FINKS: Yes, sir. The report

3. that I have is that in the Governor's proposed

4. budget, there are five new positions for the

5. Amusement Device Unit proposed and \$489,600 in

6. non-recurring appropriation recommended for the

7. Department of Labor and Workforce Development to

8. comply with statutory requirements pertaining to the

9. permitting of amusement devices. After two years,

10. the five positions will be funded with program fees.

11. These are proposed and recommended in

12. the Governor's budget. They would still have to

13. go through the legislative committees and be

14. approved by the legislative committees and also be

15. approved by the legislature in their budget before

16. they would be -- before they would take effect.

17. But it is proposed and recommended in the

18. Governor's budget.

19. CHAIRMAN FOX: May I ask a question

20. about that, sir?

21. MR. FINKS: Yes, sir.

22. CHAIRMAN FOX: What committees do

23. they have to pass through?

24. MR. FINKS: I'm not sure about that.

25. I'm not sure about that. I don't know the answer to

1. that question, sir.

2. CHAIRMAN FOX: May I ask you to do

3. something for this Board? May I ask you to find out

4. the names of the committees that they would have to

5. be approved through?

6. MR. FINKS: Yes, sir. We can find

7. that out.

8. CHAIRMAN FOX: And furnish that to

9. this Board. Or if you furnish it to me, I'll

10. furnish it to the other members.

11. MR. FINKS: Yes, sir. We can do

12. that.

13. CHAIRMAN FOX: Okay.

14. MR. FINKS: That's the end of the

15. report.

16. CHAIRMAN FOX: Okay. May I ask

17. another question, sir?

18. MR. FINKS: Yes, sir.

19. CHAIRMAN FOX: Are these five new

20. people, are they going to be NAARSO or AIMS or ACCT

21. certified?

22. MR. FINKS: Carlene, I don't believe

23. that -- I will refer to you. I don't think that

24. there's a requirement at this point in time for that

25. to take place.

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1. MS. BENNETT: No. The job
2. descriptions haven't been written yet, but it was my
3. understanding that potentially it might be difficult
4. to attract certified people because of the salaries
5. that could be offered.
6. So there may be a case, like Chris
7. mentioned, to where we could get somebody with
8. experience and then give them time to become
9. certified. But I don't think it's a requirement
10. for them to hire on as being certified. But there
11. again, that's something left up to Kim and the
12. administration when they did the job description.
13. CHAIRMAN FOX: One of the things that
14. we put in the job description when we're looking at
15. hiring someone who works for my team is that you
16. must obtain or seek a certification in either NAARSO
17. or AIMS. You must obtain that in two years. That's
18. one of the contingencies of working for the team
19. that I'm on. Is it possible to put that in the job
20. description, or furthermore, would it be possible
21. for us to see the job descriptions before they're
22. posted?
23. MR. FINKS: As far as your second
24. question, seeing the job descriptions before they're
25. posted, absolutely. That'll be -- they'll be public

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1. record when they're posted. When job descriptions
2. are posted, it'll be public information. And so we
3. can certainly furnish that to this Board, furnish
4. you, Mr. Fox, Chairman Fox, the description on that
5. to provide to the Board members.
6. CHAIRMAN FOX: All right.
7. MR. FINKS: As far as the other
8. requirement -- whether it'd be a requirement, that
9. would be something we'd have to look at. I don't
10. know at this point in time whether that is something
11. that Ms. Jefferson and the Administration would want
12. to do or not. I don't know at this time, but we'd
13. have to look at that.
14. CHAIRMAN FOX: Okay. Is it
15. possible -- is it proper for this Board to have
16. input into that job description?
17. MR. FINKS: Yes, sir. You make
18. comments and we'll take it -- take -- to review the
19. comments and come up with the job description, and
20. that would certainly be appropriate.
21. CHAIRMAN FOX: Okay.
22. MS. O'CONNOR: Mr. Chairman, may I
23. say something?
24. CHAIRMAN FOX: Please.
25. MS. O'CONNOR: I would just like to

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1. thank the Administration and the Commission for
2. getting this in the budget. This is something that
3. I think unanimously this Board has felt very
4. strongly about getting for a long time. Thank you
5. for getting that in the budget, and we'll do
6. everything that we can, I think, to talk to any
7. committee members so that this can actually happen.
8. So thank you.
9. MR. FINKS: You're welcome.
10. CHAIRMAN FOX: I totally agree with
11. you. I -- you know, I applaud the Commissioner and
12. I applaud Ms. Jefferson for taking this -- as we
13. said in the e-mail, taking this through the process.
14. We're just glad to have them; we think with
15. inspectors or someone who's providing oversight to
16. our rides and attractions, we think that that makes
17. Tennessee safer. That's our goal, and that's what
18. we want to do. And again, thank you. Anything
19. else, Mr. Finks?
20. MR. FINKS: No, sir.
21. CHAIRMAN FOX: All right. Thank you
22. very much. Item Number 7, Old Business. There be
23. any old business to come before the Board? Okay.
24. You had mentioned something about --
25. MR. FARMER: Yes. I'll let

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1. Mr. Plummer get up and speak. They're doing a
2. renovation at the State Capitol and the elevators
3. they're looking to install would need a variance,
4. but he just wanted to come before the Board and just
5. kind of give a scope of his work of what they're
6. planning on doing. So if you want to --
7. MR. PLUMMER: Thank you, Mr. Farmer.
8. CHAIRMAN FOX: Sir, may I ask you to
9. do one thing for me?
10. MR. PLUMMER: Yes.
11. CHAIRMAN FOX: I'm old. I don't hear
12. well. So could you, number one, introduce
13. yourself --
14. MR. PLUMMER: Yeah.
15. CHAIRMAN FOX: -- and then speak
16. loud, please. Not real loud but just loud enough
17. that we can hear you.
18. MR. PLUMMER: No problem. I'll do my
19. best.
20. CHAIRMAN FOX: Okay.
21. MR. PLUMMER: My name's David
22. Plummer. I'm an architect here in Nashville with
23. Centric Architecture. We do not have a specific
24. appeal before the Board at this time, but as the
25. State Capitol is, as we all know, one of the oldest

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1. existing buildings currently still in the state, the
2. particularities of the elevator shafts and the space
3. for equipment and so on are unique, they're
4. historic, they've been there a long time, and
5. they're in pretty thick stone walls in some cases.
6. So we called Mr. Farmer and asked him
7. to come and walk through those spaces with us to
8. kind of talk through, hey, here's what we're
9. doing, here's the improvements we're trying to
10. make; these are some odd conditions, help us think
11. through the best way to solve these challenges.
12. He did. We had a very good review and he
13. suggested that I come before the Board just to
14. give you all some information briefly so that
15. should we need to file an appeal probably at the
16. next board meeting, you would know what the
17. project is and what's going on.
18. So the State -- there's currently a
19. project underway which we're leading to renovate
20. the Cordell Hull Building for the new legislative
21. offices. They're currently in Legislative Plaza;
22. they would move to the Cordell Hull. The current
23. elevators serve the Motlow tunnel, which is the
24. tunnel that connects under Charlotte to
25. Legislative Plaza. Our -- part of our project

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1. would be to extend those down further to make a
2. new connection to Cordell Hull. But as a function
3. of extending the shaft, making it taller, we need
4. to increase the elevator speed so that we can get
5. all of the legislature from their committee rooms
6. and offices up into the Capitol when it's time to
7. place a vote without creating a 40-minute delay
8. trying to wait on the elevator. And so we just
9. have a few clearance things that we're trying to
10. work through.
11. I've explained to Mr. Farmer -- and I
12. can go into drawing some details and stuff, but I
13. really don't want to take your time, because I
14. don't have an appeal today. But the overhead
15. clearance in the elevator shafts is satisfactory
16. for the current 300-foot-per-minute travel speed
17. but not enough for the proposed 500-foot-per-
18. minute travel speed.
19. Mr. Farmer suggested that we look at
20. the MRL equipment. The way that these cabs are
21. roped is different than the way that MRL cabs are
22. roped. We can make some changes. I'm optimistic
23. that we'll figure out a way to do all of this
24. without needing any variances or appeals just
25. because that's the way I like to work. But

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1. there's some things in the Capitol, specifically,
2. some big, thick stone arches that hold up the
3. cupola that we just can't move. So Mr. Farmer, is
4. there anything that I've left out?
5. MR. FARMER: No. Just to tell you
6. what's happening. If they weren't changing the
7. speed or the rise of it, they could do this under
8. A17-3 and it wouldn't be that big a deal. But any
9. time you change any of the characteristics, they
10. have to put it -- it has to go into the new code,
11. and the new code's got the clearance issues for
12. here. So that -- it would need a variance for them
13. when that time comes if that's the avenue they see.
14. You know.
15. CHAIRMAN FOX: Okay. Mr. Burch?
16. MR. BURCH: Yes, I have a question.
17. How many new stops are you going to incur when you
18. do that? Just one.
19. MR. PLUMMER: One stop per shaft.
20. MR. BURCH: One at the bottom.
21. MR. PLUMMER: Yes, sir. That's
22. exactly right. We're not increasing anything at the
23. top, we're just adding another stop further down.
24. MR. FARMER: Do we know how many feet
25. that is that you're adding?

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1. MR. PLUMMER: About 54 feet plus or
2. minus a few inches.
3. MR. FARMER: Yeah. So it's quite a
4. bit.
5. MR. HALE: And how many shafts?
6. MR. FARMER: Two.
7. MR. BURCH: So what are you
8. anticipating -- how much increase the speed are you
9. above 300?
10. MR. PLUMMER: From 300 to 500.
11. MR. BURCH: Five hundred.
12. MR. PLUMMER: I looked at 700, but --
13. MR. BURCH: Well --
14. MR. PLUMMER: -- they --
15. MR. BURCH: -- I mean --
16. MR. PLUMMER: -- that --
17. MR. BURCH: -- with -- when that's
18. got, what, four stops and five stops, right?
19. MR. PLUMMER: Yes, sir.
20. MR. BURCH: One more not going to do
21. too much to it. You got a good, long 54 feet to
22. travel to. And so --
23. MR. FARMER: Well, that 54 feet of
24. blind hoistway basically is what they'll have.
25. MR. BURCH: All right. I have a

1. question then.
 2. MR. FARMER: Okay.
 3. MR. BURCH: Fifty-four feet of blind
 4. hoistway, are there -- is there going to be any way
 5. to access the hoistway in case of an emergency on 54
 6. feet?
 7. MR. FARMER: I don't think you have
 8. to under 2010 code as long as they have emergency
 9. pulse that will actually run the elevator on limited
 10. voltage and kill that safety circuit. So --
 11. MR. BURCH: Something -- you need
 12. to --
 13. MR. FARMER: We'll look --
 14. MR. BURCH: -- consider --
 15. MR. FARMER: Yeah. We'll look into
 16. it.
 17. MR. BURCH: -- and look at it,
 18. because that could --
 19. MR. FARMER: Yeah.
 20. MR. BURCH: -- have a problem --
 21. MR. FARMER: Yeah.
 22. MR. BURCH: -- as well. So --
 23. MS. BENNETT: Sure.
 24. MR. HALE: So I suppose a followup
 25. question to that would be, do you anticipate any

1. complications with the Fire Marshal's office and the
 2. fire inspection as relates to having 54 feet of
 3. blind hoistway or the altering of the system, either
 4. one?
 5. MR. FARMER: I don't anticipate. We
 6. have blind hoistways all over town. So --
 7. MR. HALE: Oh. I don't know.
 8. MR. FARMER: -- yeah. Yeah. I don't
 9. anticipate a problem with it. But --
 10. MR. PLUMMER: We have met with the
 11. state Fire Marshal's office, with Mr. Bainbridge and
 12. his team. Most of our conversations have focused on
 13. other elements of this new connector between Cordell
 14. Hull and not the elevator shaft in particular.
 15. And --
 16. MR. BURCH: That's one reason that I
 17. pose the question. At the James K. Polk building,
 18. we've got blind -- 10 stories of blind hoistway. At
 19. Tennessee Towers, we've got about that much blind
 20. hoistway for the high rise. That can create a
 21. problem if you don't have access to the hoistway. I
 22. just -- I mean, you've already got two buildings in
 23. the stat that have got that kind of a problem.
 24. MR. PLUMMER: Okay. Well --
 25. MR. FARMER: We'll work together.

1. MR. PLUMMER: -- this is good
 2. information.
 3. MR. FARMER: Yeah.
 4. CHAIRMAN FOX: Anything else, sir?
 5. MR. PLUMMER: No, sir.
 6. CHAIRMAN FOX: All right.
 7. MR. PLUMMER: Not from me.
 8. CHAIRMAN FOX: Anything else from the
 9. Board on it?
 10. MR. PLUMMER: Questions?
 11. CHAIRMAN FOX: All right. Thank you,
 12. sir.
 13. MR. MOORE: Thank you. Thank you
 14. all.
 15. MR. FARMER: Thank you.
 16. CHAIRMAN FOX: Mr. Finks --
 17. MR. FINKS: Yeah.
 18. CHAIRMAN FOX: -- I guess a point of
 19. order would be rulemaking document that you sent me,
 20. would that come under old business? Would that be
 21. something we need to take up now or do you want to
 22. move it over into the discussion items?
 23. MR. FINKS: Probably move it over to
 24. the discussion items.
 25. CHAIRMAN FOX: All right. Okay.

1. With that being said, no more old business. We'll
 2. go to New Business. Topic 16-01, Mr. Bill Weaver,
 3. Director of Operations, Association for Challenge
 4. Course Technology would like to present ANSI/ACCT
 5. 03-2016 as an approved American National Standard.
 6. Mr. Weaver?
 7. MR. ANDREWS: Actually, I'm
 8. Scott Andrews and I'm speaking for Bill Weaver and
 9. representing ACCT today.
 10. CHAIRMAN FOX: All right. Just
 11. remember what I asked that other gentleman. I'm
 12. old, decrepid, can't hear; please speak loud.
 13. Actually, it's for this lady over here so she can
 14. get you --
 15. MR. ANDREWS: Absolutely.
 16. CHAIRMAN FOX: -- recorded.
 17. MR. ANDREWS: I have some handouts
 18. for the Board, if I may. How would you like these
 19. distributed? Mr. Fink.
 20. CHAIRMAN FOX: And your name, again?
 21. MR. ANDREWS: My name is
 22. Scott Andrews.
 23. MR. HALE: There's a front and back.
 24. MR. ANDREWS: It's a front and back,
 25. yes. So I'd like to take this opportunity to tell

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1. you a little bit about the ANS/ACCT 03-2016
2. standard, how it came to be, how it currently
3. functions not only here in Tennessee but other
4. places in the United States, Canada, and throughout
5. the world. And I'd like to take the opportunity to
6. answer any questions you have as a board about how
7. that can work within the State of Tennessee and your
8. regulatory structures.
9. The ACCT standard as a collective
10. body was first published in the early 1990s and
11. unless some of the other association members know
12. the date, I don't know the date of the first --
13. MR. BURT: '94.
14. MR. ANDREWS: '94 is the first one?
15. MR. BURT: March.
16. MR. ANDREWS: '94 -- 1994 is the
17. first of those standards, and that standard has been
18. revised nine times now. The ninth revision is the
19. new ANSI standard. The standard's been written by
20. more than 200 people and received more than 1,000
21. people who've commented on it over the years. More
22. than 250 people commented on the standard the last
23. time it was out for public comment in 2013.
24. It is a comprehensive standard that
25. addresses aerial adventure parks, challenge

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1. courses, canopy zipline tours, and is intended to
2. be used by manufacturers, builders, operators,
3. practitioners and trainers. And it does address
4. specifically all of those components in the
5. various chapters.
6. Chapter one of the standards, Design
7. Performance and Inspection Standard addresses how
8. strong should it be, how does it perform, and what
9. do you have to look for when you inspect it? It
10. is a very comprehensive standard with very
11. detailed indications of what should be in an
12. inspection report both as a commissioning
13. document, as an acceptance inspection, and as an
14. annual inspection or more frequent as may be
15. required on some high-volume operations.
16. Chapter two is the operation
17. standard. How do you operate this thing as an
18. effective business and as a safe operation, how do
19. you document that both with the manufacturer and
20. as an operator with the intention of running a
21. safe educational or recreational or therapeutic
22. environment for participants?
23. Chapter Three is training. What is
24. the documentation required to do effective
25. training so that that documentation can help

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1. inspectors and operators assure that they're
2. getting what is needed to be safe operations?
3. The standard also addresses in the
4. non -- a portion of it which is not the American
5. National Standard, which has not been through the
6. ANS process: The certification of practitioners.
7. This was seen 10 years ago -- 12 years ago as a
8. very important step in the industry.
9. There are a couple of other things
10. that I'd like to point out about this standard,
11. one of which is its scope. It does address all
12. aspects of the aerial adventure community. The
13. ASTM's F24 -- or F2959 specifically excludes
14. educational fitness programs, organizational
15. competitive -- organized competitive events,
16. therapeutic programs, programs for training
17. purposes, specifically, and team and confidence
18. building. And this is a concern, because programs
19. that operate specifically in that environment are
20. not covered by that standard.
21. The ACCT standard is extremely good
22. at being effective in supporting noncommercial
23. operations. And I think this is one of the most
24. important things to recognize about it. A
25. noncommercial operation, such as a summer camp,

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1. that operates a single zipline or a challenge
2. course as part of their educational summer program
3. may be operating many, many kinds of operations
4. during their summer programs. In the ASTM
5. standard, the expectation is that they have the
6. on-site skill to be able to do all of their own
7. internal inspections and all their internal
8. maintenance.
9. The ACCT standard does not make that
10. assumption, which makes it possible for small
11. operations to continue to function. I believe
12. that's a very important distinction to recognize.
13. The other piece in distinction that's
14. important there is in the ACCT standard, the
15. inspection is a third-party process; it is outside
16. the ownership of the facility. In the ASTM, the
17. inspection is an internal process or an external
18. process and the audit, a different process
19. altogether is a third-party process.
20. The ACCT standards are designed to
21. support an extremely diverse community of
22. programs, and in that are very, very effective.
23. And I'd like you -- to encourage you to consider
24. them as the primary standards you use in
25. regulating this industry. I'd be happy to take

1. questions from the Board.
 2. CHAIRMAN FOX: Any questions from the
 3. Board?
 4. MS. O'CONNOR: I have one. Your --
 5. if I understood you correctly, it sounds like
 6. ANS/ACCT standard are more comprehensive than the
 7. ASTM. My question is: Are they more stringent in
 8. what they're -- of likes to likes, are they actually
 9. more stringent or no?
 10. MR. ANDREWS: Yes and no. There are
 11. some areas where they are much more stringent.
 12. Around training, they are much, much more stringent.
 13. Around operations, they're more detailed, and
 14. they're more prescriptive. Around design, they're
 15. equivalent.
 16. CHAIRMAN FOX: With that be -- I'm
 17. sorry.
 18. MS. O'CONNOR: No. You're okay.
 19. CHAIRMAN FOX: With that being said,
 20. on the design in -- most amusement rides are
 21. designed by an engineer. Here it says it's by a
 22. qualified person. Tell me what a qualified person
 23. is.
 24. MR. ANDREWS: An engineer.
 25. CHAIRMAN FOX: Okay.

1. MR. ANDREWS: In both standards, it
 2. actually states a qualified person, and ACCT
 3. suggests very strongly in the standard that it
 4. should be an engineer who designs anything that is
 5. not service proven. One of the pieces in the
 6. industry is we do have a significant number of
 7. facilities here in Tennessee and in other states
 8. that are really old; they've been here a long time.
 9. They were built by guys who knew that, if I build
 10. this in this way, it's not going to come apart. And
 11. for 20 years, it's proven true. And engineers go
 12. back and look at it and say, yup, that is much
 13. stronger than it needs to be. You don't need my
 14. stamp on it and you don't need to pay me to draw a
 15. new set of drawings for it.
 16. I am aware as a builder/operator that
 17. that is a big deal. I own and operate a course
 18. that has that very problem. We don't even know
 19. who built it. It was built 30 years ago. Whoever
 20. built it came into town, built it, it's -- the
 21. place has changed hands, the paperwork's been
 22. lost. We know it's passed its inspection for 31
 23. years. It's been inspected by a third party.
 24. So service proven is an important
 25. piece of both standards. ASTM makes specific

1. reference in all of the components related to F24
 2. and 2959 that service proven is a valuable and
 3. appropriate method of assurance.
 4. CHAIRMAN FOX: I'm familiar with the
 5. ASTM. I've read it. And what you're asking us to
 6. do -- you're asking this Board to do is consider
 7. passing ANS/ACCT 03-2016; is that what you're asking
 8. us to do?
 9. MR. ANDREWS: We would love for you
 10. to accept that.
 11. CHAIRMAN FOX: Okay. And have you
 12. furnished Ms. Jefferson or Mr. Finks or Carlene with
 13. a full copy of the document?
 14. MR. ANDREWS: I believe Ms. Jefferson
 15. has a copy. Mr. Finks, I don't believe you do,
 16. and --
 17. CHAIRMAN FOX: Ms. Bennett.
 18. MR. ANDREWS: -- Ms. Bennett, I don't
 19. believe you do, as well, but I can make those
 20. available to you in about 20 minutes.
 21. CHAIRMAN FOX: Well, I think before
 22. we would pass it, we'd probably want to really --
 23. MR. ANDREWS: I think --
 24. CHAIRMAN FOX: -- study it.
 25. MR. ANDREWS: -- that'd be a good

1. idea.
 2. CHAIRMAN FOX: So if you --
 3. MR. ANDREWS: I'm actually happy to
 4. make it available to the --
 5. CHAIRMAN FOX: Okay.
 6. MR. ANDREWS: -- entire Board. I
 7. believe it's --
 8. CHAIRMAN FOX: All right.
 9. MR. ANDREWS: -- important that you
 10. have it and read it.
 11. CHAIRMAN FOX: That's right. I don't
 12. think we have it before us, do we? We don't have a
 13. copy. Okay. If we could get a copy of that so we
 14. could consider it, then we can give you an answer at
 15. a later date.
 16. MR. ANDREWS: Absolutely.
 17. CHAIRMAN FOX: Okay. Any questions
 18. from the Board?
 19. MR. MOORER: Just one question,
 20. Robbie. Does ACCT require design by this qualified
 21. person, why wouldn't you just state a certified
 22. engineer or be more specific with that? It seems
 23. like it would clarify it and make it where you
 24. hadn't got to come back and define what a qualified
 25. person is.

1. MR. ANDREWS: Mr. Moorer, the answer
 2. actually is international. Because the standards
 3. are used not only in the United States, Canada, but
 4. in several other international locations. In
 5. writing a standard that can be used in all those
 6. locations, we've been asked to keep some terms,
 7. "certified engineer" being one of them, as the most
 8. generic we can for that appropriate position. And
 9. "qualified" is the term that the international
 10. community has asked us to use. There are places
 11. where they don't -- they use a different
 12. jurisdictional language over that, and "qualified"
 13. allows them to insert a specific jurisdictional
 14. language they need.
 15. MR. MOORER: Okay.
 16. MR. ANDREWS: As a --
 17. MR. MOORER: I can't tell you I feel
 18. comfortable with that, but, you know, I understand.
 19. MR. ANDREWS: Right. As a standards
 20. writer, I'd like it to be a lot tighter also, but I
 21. recognize that our folks in Taiwan need -- and
 22. Singapore need it to be different.
 23. MR. MOORER: Thank you.
 24. CHAIRMAN FOX: Anything -- any other
 25. questions for him? Mr. Andrews, thank you very

1. much.
 2. MR. ANDREWS: Thank you for your
 3. time.
 4. CHAIRMAN FOX: Okay. Item Number 9
 5. our Discussion Items. Wait a minute. I'm sorry.
 6. Mr. Gustafson?
 7. MR. GUSTAFSON: Yes, sir.
 8. CHAIRMAN FOX: Are you wanting to
 9. speak -- I'm -- I apologize to the group. Are you
 10. wanting to speak on ACCT -- you had handed us some
 11. information.
 12. MR. GUSTAFSON: I'd like to speak to
 13. the standards that you're looking to adopt. Yes,
 14. sir.
 15. CHAIRMAN FOX: Okay. But you're here
 16. for the same reason he is, correct?
 17. MR. GUSTAFSON: Yes, sir.
 18. CHAIRMAN FOX: Okay.
 19. MR. GUSTAFSON: But not with the
 20. ACCT. I'm here to represent the other association
 21. that had an ANSI standard two years prior that also
 22. regulates this industry, that does have more
 23. stringent standards.
 24. CHAIRMAN FOX: Then are you asking to
 25. speak to the group?

1. MR. GUSTAFSON: Yes, sir. If I may.
 2. CHAIRMAN FOX: Then please take the
 3. chair. And again, please speak loudly.
 4. MR. GUSTAFSON: Yes, sir.
 5. CHAIRMAN FOX: So this lady can hear.
 6. MR. FARMER: I do have some handouts
 7. for the Board. I'm here a little bit -- well,
 8. first, thank you for your time. I'm here -- I'm
 9. kind of wearing two baseball caps. I'm here as a
 10. private builder and I'm also here as an advisory
 11. board member for the Professional Ropes Course
 12. Association.
 13. As a personal builder that's over
 14. here in Bristol doing the course right now, the
 15. current language that you have adopted regarding
 16. third-party inspections would actually restrain me
 17. from trade in the the state of Tennessee. So I
 18. could not service my client; I am not an ACCT
 19. professional vendor member. There's a sorted
 20. history there; I'm not going to bore you with the
 21. details, but I am not with that association and I
 22. probably will never be with that association as a
 23. PBM.
 24. As your current language is written,
 25. then that restrains me from trade or any other

1. Professional Ropes Course Association Vendor from
 2. the state of Tennessee. And obviously, we feel
 3. there's an error there and an unfairness that I'm
 4. sure in your wisdom you'll rectify.
 5. As my baseball cap for the
 6. Professional Ropes Course Association, I've been
 7. on the Board of Directors for 13 years of that
 8. association. I currently stepped down about two
 9. years ago off the board and now kind of add as and
 10. advisory role, historical information, how the
 11. industry came to be.
 12. My colleague, Scott, did a fabulous
 13. job explaining the industry, but there are some
 14. differences between the two associations that we
 15. speak of today. The Professional Ropes Course
 16. Association is more of an association for the
 17. industry not focused on the trade of the builders
 18. that have the only vote in the ACCT. Ours is more
 19. of inclusive, open nature of an association. As
 20. such, we went out and became the first ANSI
 21. developed accredited association for our industry
 22. and have been charging ahead through three public
 23. reviews and finally got the ANSI standard for our
 24. industry, including ziplines, ropes courses,
 25. aerial adventure parks, in March of 2014.

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1. That entire period of time, the ACCT
2. was invited to come along, be a joint standard,
3. but again, there's some dirty laundry there, and
4. we just never got together as associations. And
5. that's kind of a shame, because now we have a
6. competing standard in the new ACCT 2016. There's
7. some issues that are being born out at the ANSI
8. level at their lend through appeals and so forth.
9. But the way ANSI reads, there cannot be a
10. duplicative or competing standard. And with the
11. ACCT standard coming out in 2016, there now is a
12. competing duplicative standard that actually does
13. conflict with the PRCA standards that have been
14. adopted two years ago, both two years ago in
15. March.

16. I heard some questions about
17. standards and qualified people. In the PRCA
18. standards, qualified professional is an engineer.
19. We do seek out engineer input and prefer stamped
20. plans. In the ACCT document, I'm not as fluent
21. with their background; however, I do know the
22. professional vendor members are allowed to
23. override what manufacturer's recommendations are
24. for use of product. For example, there's dead-end
25. devices that are allowed to be used on ropes

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1. challenge courses and zipline tours that in
2. 2000 -- in 2007, the manufacturers sent them
3. advisory notices not to use. They're still being
4. used to this day.

5. There's other differences in strength
6. requirements. While the ACCT is an international
7. association, as the PRCA is, they rely on lower
8. strength requirements than the 5,000-pound
9. strength requirement set by the United States.
10. Not just the PRCA but also ASTM, ASEE, and other
11. ANSI standards for fall protection.

12. So we believe the PRCA is a more
13. suitable suggestion and choice for you to look at.
14. Copies of that can obviously be provided, as well,
15. in as such, you know, in just -- in minutes, as
16. well. But the PRCA is more of an association
17. that's open for anybody to practice trade and have
18. access to those same standards, not just have a
19. select voting pool of only 44 vendors that get a
20. run and say of what's in the document and not in
21. the document.

22. So I just kind of dumped a lot of
23. information on you, trying to keep it concise as
24. possible. But do you have any questions I could
25. field for you?

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1. CHAIRMAN FOX: The question I would
2. have: We have the ACCT.
3. MR. GUSTAFSON: Yes, sir.
4. CHAIRMAN FOX: We have the PRCA.
5. MR. GUSTAFSON: Yes, sir.
6. CHAIRMAN FOX: What other
7. organizations are out there in the world?
8. MR. GUSTAFSON: Well, that's a good
9. question.
10. CHAIRMAN FOX: That's why I ask it.
11. MR. GUSTAFSON: I know. And I
12. actually -- I'm probably going to get my colleague,
13. Mike Smith, because he's also one of the other
14. recognized experts in ziplines other than myself and
15. maybe three or four. I mean, any top list of five
16. in the room or top list of five in the United
17. States, two of them are right here in the room for
18. experts. There's the Universal Zipline Technology;
19. is that still an association or not?
20. MR. SMITH: Other than ASTM and the
21. F2461 subgroup and the standards that they're
22. publishing right now, there aren't any other
23. applicable standards that have been referenced in
24. court hearings that have been found and proven to be
25. substantial, either in number of other claims, that

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1. have been made by individuals trying to represent
2. themselves as trade associations. And in particular,
3. that's occurred in this state in the past.
4. MR. GUSTAFSON: That'd be accurate.
5. Yeah. I mean, there's nothing to say tomorrow
6. another association couldn't start up. Though I
7. think it would be highly unlikely with ACCT and PRCA
8. sitting in the room.
9. CHAIRMAN FOX: I would agree. Just
10. wanted to make sure. Any questions by the Board?
11. MR. BURCH: I thought I heard him say
12. there are probably five and now I hear it's just two
13. there in the room; is that right?
14. MR. GUSTAFSON: Well, there -- sir,
15. there could be roughly 40 or 50 or 100 builders in
16. the United States. I'm just referencing for
17. ziplines industry and the commercial aspect of the
18. top five, if you will, in the United States, two of
19. them are sitting right here in front of you today.
20. MR. BURCH: But we're talking about
21. standards, right?
22. MR. GUSTAFSON: Correct, sir.
23. MR. BURCH: Okay.
24. MR. GUSTAFSON: Only two standard
25. writing organizations, really; the ACCT and PRCA,

1. that we feel is relevant outside of ASTM.
 2. CHAIRMAN FOX: Okay.
 3. MR. MOORER: Robbie, question.
 4. CHAIRMAN FOX: Sir.
 5. MR. MOORER: Mr. Farmer, if you go
 6. out and inspect these things, whose standards do you
 7. use as precedent?
 8. MR. FARMER: Well, I don't inspect
 9. amusements, so that would be a third-party answer.
 10. It is written in the rules what their standards are.
 11. So --
 12. MR. MOORER: Okay. Okay. I just
 13. didn't know if you got all these standards, some are
 14. going to pick this one for this one or this one for
 15. this one, you know, and --
 16. MR. FARMER: I would think --
 17. MR. MOORER: -- you'd have standard
 18. that we look at and hold everybody to that.
 19. MR. FARMER: I would think if they
 20. conflict each other, it'd be tough to inspect by all
 21. of them.
 22. MR. MOORER: Okay. Okay.
 23. MR. FARMER: That's just my thought.
 24. I don't know --
 25. MR. MOORER: Okay.

1. MR. FARMER: -- how you would do
 2. that.
 3. CHAIRMAN FOX: Okay.
 4. MR. MOORER: I understand.
 5. MR. GUSTAFSON: Okay.
 6. CHAIRMAN FOX: We'd ask you the same
 7. as Mr. Andrews, could you provide us a copy --
 8. MR. GUSTAFSON: Yes, sir.
 9. CHAIRMAN FOX: -- of the standard
 10. you're asking us to consider.
 11. MR. GUSTAFSON: Yes, sir.
 12. CHAIRMAN FOX: Okay. And as with
 13. him, we need time to look at it, digest it, massage
 14. it, and we'll get it back on the agenda at some
 15. point. I can't tell you when.
 16. MR. GUSTAFSON: That's all we can
 17. ask.
 18. CHAIRMAN FOX: Okay. Anything else,
 19. sir?
 20. MR. GUSTAFSON: No. I think that
 21. concludes it. I just want to keep it short and
 22. sweet and to the point.
 23. CHAIRMAN FOX: Okay. All right.
 24. Thank you very much.
 25. MR. GUSTAFSON: Thank you.

1. CHAIRMAN FOX: Are there any other
 2. organizations that want to speak to these two
 3. standards?
 4. MR. SMITH: Sir, if I could say one
 5. thing.
 6. CHAIRMAN FOX: Then you'll have to
 7. sit in --
 8. MR. SMITH: Sure.
 9. CHAIRMAN FOX: -- the chair and --
 10. MR. SMITH: Thank you, sir.
 11. CHAIRMAN FOX: -- speak loudly,
 12. please, sir.
 13. MR. FARMER: And state your name.
 14. MR. HALE: And state your name.
 15. CHAIRMAN FOX: State your name.
 16. MR. SMITH: My name is Michael Smith.
 17. In addition to being an operator here in the state
 18. of Tennessee at Fall Creek Falls State Park, I am
 19. also a standing board member at the Association for
 20. Challenge Course Technology.
 21. There have been -- there has been
 22. some confusion over the years with having multiple
 23. standards, and what we've found successful in
 24. other states is to make sure that when an
 25. inspector goes out, they know what the course was

1. built to initially and to follow that standard as
 2. an inspector.
 3. I also am a sitting member on the
 4. F2461 subgroup and authoring the F2959. And of
 5. that here, there are several members of the Board
 6. of Directors for ACCT sitting behind me. Many of
 7. us participate in that, and we are trying to bring
 8. the ACCT standard and the ASTM standard as close
 9. and as uniform as we can. One of the challenges
 10. and discrepancies with the ASTM standard is that
 11. in working to follow the procedures at ASTM, we
 12. have had some glitches.
 13. Namely, we thought it was authorized
 14. and okay to go ahead and cut and paste from all of
 15. the other 21 standards that are referenced in
 16. F2959, bring them in. We got to that and got to
 17. balloting and then were brought back. Much of
 18. that new language comes from the ACCT standard.
 19. We have just recently, even though
 20. that ballot was pulled back, have recently
 21. received approval from the lawyers at ASTM to say,
 22. yes, in fact, you can bring all of that language
 23. in. It would be unfair for any engineer or
 24. individual to have to purchase all of these
 25. referenced standards. In in fact, much of the

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1. language for writers as it applies in the other
2. standards is very difficult and would be
3. confusing, we would have to say in the new
4. standard strike this language; replace it with
5. this language. And the amount of back and forth
6. would become very difficult to follow and lead to
7. a lot of discrepancies.
8. So in that process, what I would
9. advocate here, the ACCT standard allows for the
10. use with challenge courses for educational
11. purposes and those that ASTM does not cover and is
12. a more thorough document at this time. I think
13. that we'll find as we move forward that the ACCT
14. standard and ASTM standard will become closer and
15. closer together as we move forward.
16. I am not a builder myself. I am an
17. operator. I would take objection to some of the
18. statements. I'm friends with Mr. Gustafson, but I
19. would say that I do not believe ACCT is primarily
20. for builders. We are approximately 2,800 members.
21. I believe it's greater than that, actually. We
22. just -- our organizations don't include all of
23. their members or their employees in that count.
24. But the vast majority of the members in our
25. association and the way voting is taken care of

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1. now lends itself to the membership at large.
2. I, in fact, sit on a seat that I was
3. elected by a builder. I fill a seat on that, but
4. I am not a builder myself. Dylan Burt, who is
5. here with us today, who is an operator, fills a
6. seat for a -- that was elected by our vendor
7. members. He is not a builder himself. He is an
8. operator in the state, as well.
9. And so I think the association has
10. changed dramatically from a building organization
11. when we started to an operating organization now.
12. I think unique in our standard and what we've
13. really focused on in the last couple years is that
14. we've had many years to vat the engineering, the
15. inspection, the design and performance issues that
16. are coming out.
17. What we're starting to see with these
18. newer activities coming -- and I would urge you,
19. as you look at your inspectors, to think about
20. this is the design considerations for operation;
21. that technical inspections are one issue,
22. operational audits are another. And that is
23. something that our standard has focused on, and
24. that is something that is missing in the ASTM
25. F2959 standard right now.

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1. There are a lot of ambiguities
2. between the difference in how you operate a
3. challenge course and how you would operate an
4. amusement park device. And that is one area that
5. I think our standard really prevails in and
6. provides clear direction in.
7. CHAIRMAN FOX: Okay.
8. MR. HALE: Would it be fair to say
9. that between the two standards, it seems to me from
10. what I've read of the two standards, two of the
11. biggest differences are in the areas of fall
12. arresting and then strength where the professional
13. rope requires the 5,000. The ACCT standard seems to
14. be a little different from that. Would that be a
15. fair statement to say those are two of the more
16. prevalent differences?
17. MR. SMITH: We --
18. MR. ANDREWS: If I may.
19. MR. SMITH: Scott.
20. MR. ANDREWS: No, actually it's not.
21. Scott Andrews again. In a previous post with ACCT,
22. I am the standards chair for operations. Intimately
23. familiar with the document. The question is more
24. nuanced. In the PRCA standard, all fall restraint,
25. all protection at heighth is considered fall

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1. protection. In the ACCT standard, anywhere where
2. the fall is limited, two feet or shorter is
3. considered fall restraint, which functions under the
4. same strength conditions as required by OSHA.
5. There is also positioning in the ACCT
6. standard. Again, operating under the strength
7. requirements of OSHA. There is also fall
8. protections, which is a fall of six feet or
9. greater, which in the ACCT standard, is the same
10. as OSHA. It is a more nuanced question, and it is
11. directly related to effective and appropriate
12. design of activities.
13. If there is no way for anyone to ever
14. fall more than two feet, one needs to ask the
15. question, why do I need a 5,000 pound lanyard when
16. one that is 3,500 will do just perfectly fine.
17. And that is the more nuanced piece that is in the
18. ACCT standard and the new American National
19. Standard version. That is also addressed in the
20. operational documentation, the operational
21. standards that an organization has specific
22. operational documentation in policies and
23. procedures which address assuring that those
24. conditions are continually met.
25. MR. HALE: Okay.

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1. CHAIRMAN FOX: Any other questions
2. from the Board?
3. MR. BURCH: I'm a little bit --
4. excuse me. I'm a little bit confused about the
5. difference between builders and operational.
6. MR. ANDREWS: Well --
7. MR. BURCH: Can you make that a
8. little clearer?
9. MR. ANDREWS: I believe I can, sir.
10. MR. BURCH: Okay. Is that all right?
11. CHAIRMAN FOX: Absolutely. We're
12. here to seek information.
13. MR. ANDREWS: In our industry, there
14. are companies who design and build activities.
15. MR. BURCH: You say design and build
16. the equipment? Is that what you're saying?
17. MR. ANDREWS: And the activity
18. itself. The cables between the trees or the cables
19. between the poles.
20. MR. BURCH: Okay. Okay.
21. MR. ANDREWS: There are folks like
22. Dylan and Mike who take those facilities from a
23. builder and they operate it for whoever their
24. clientele is. There are also organizations,
25. Mr. Stock's organization and my own organization,

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1. which do both of those functions. We build for
2. other people. My staff is currently building in
3. Washington State today, and we operate a course for
4. the municipality of the City of Bellevue. We
5. operate two private facilities in addition. We
6. treat those as two separate functions. We build it
7. and we operate as a manufacturer supporting the
8. owner's operation.
9. As an operator, I take what was built
10. for me by another building company and I operate
11. it in the safest possible manner to provide the
12. best possible experience for the public. Is that
13. distinction clear, Mr. Burch?
14. MR. BURCH: Yes. Yeah.
15. CHAIRMAN FOX: Okay. Any other
16. questions for the Board?
17. MR. MOORER: Robbie, just one
18. question.
19. CHAIRMAN FOX: Sir, yes, sir.
20. MR. MOORER: It's probably stupid,
21. but anyway, what -- through all of this coming down
22. into a funnel, what provides the most purpose for
23. the user? It seems to me that's what we're all
24. interested in here.
25. MR. ANDREWS: Yes, sir.

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1. MR. MOORER: Is the person that walks
2. up to climb that wall or pull on that rope, what
3. provides them the most protection? What should
4. we -- is that looking at it the wrong way? I mean,
5. I'm getting ready to climb on a wall, I want to have
6. something to look at, because I think that's what
7. we're all here for in the end result is what's
8. really going to provide that user the protection.
9. Like, your child is climbing a rope. I see a hand
10. in the back. Can he answer?
11. MR. ANDREWS: I think -- can I try,
12. Don?
13. MR. STOCK: Sure.
14. MR. ANDREWS: Help me out if I need
15. it.
16. MR. STOCK: Okay.
17. MR. ANDREWS: Within our industry
18. today, the failures of mechanical structures is very
19. rare. We broke stuff in the 70s. We don't break it
20. today. We drop really big trees on things in
21. Washington and they don't break. Really big trees.
22. They don't break. When people get hurt, it is
23. largely and most often because of an error in the
24. way the facility was operated; any of the training
25. or the policies and procedures of an organization.

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1. And it is the most effective way to assure that
2. those incidents don't happen is to assure that well
3. documented, well delivered training happens at every
4. facility and that it is done to the cleanest,
5. simplest standard possible.
6. MR. MOORER: Okay.
7. MR. STOCK: The -- Don Stock from the
8. Adventure Guild and ZIPStream Aerial Adventures.
9. One of the things to recognize is -- and I am the --
10. I'm a credited vendor with the Association for
11. Challenge Course Technology and actually, the only
12. vendor in the industry that has been through both
13. the PRCA and the ACCT accreditation process. I was
14. also on the PRCA standards committee since the
15. inception.
16. I have chosen to throw our hat in the
17. ring with the Association for Challenge Course
18. Technology because of the strength of the
19. organization and the scope and the breadth the
20. organization represents. The ACCT standard, as it
21. exists now, is already being followed by the vast
22. majority of traditional challenge courses in the
23. United States, without question. It has a track
24. record, to answer your question, Mr. Moorer,
25. that -- the fact that you are just now as a

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1. regulating body finding out about challenge
2. courses and the operations and those kinds of
3. things is testimony to -- or testament to how
4. effectively our industry has managed itself, its
5. builders, its operations, because we have not had,
6. you know, many, many accidents throughout the year
7. that brought attention to the -- it's only been in
8. the proliferation and the huge growth of our
9. industry that we have seen an increase of
10. accidents because proportionate to the number of
11. people who are participating.
12. The admonishment -- as a -- I'm -- I
13. said, I'm an accredited vendor. I'm an operator
14. in the State of Tennessee. Well, I'm in
15. partnership with Mr. Smith and some other -- we
16. have the contract with the state of Tennessee to
17. build and operate at Fall Creek Falls State Park.
18. We run the project, we built the project, and both
19. of these are permitted projects in Tennessee. We
20. also -- in Ruby Falls. On top of that, I have
21. clients in the state, and many of these other
22. vendors have clients in the state that we have to
23. service -- that we inspect their courses, we do
24. their training, and those kinds of things.
25. All of them are already being -- the

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1. vast majority are referencing built to, designed
2. to, operated to in accordance with the ACCT
3. standard. To introduce the PRCA standard, which I
4. am familiar with, is -- will be very disruptive to
5. the processes that already exist within the state,
6. within these organizations. They're -- it's a
7. fundamental shift and a change from what they're
8. used to. Also, with the ACCT standard, we also
9. have the inspector certification that is tied
10. directly to that whole process, because our
11. approach as an association and as vendors who are
12. accredited is to have a comprehensive program that
13. deals with and addresses every single component
14. that makes these facilities safe and fun and
15. educational and recreationally viable.
16. To Mr. Smith's point earlier and
17. Mr. Andrews' point, as well: It really is the
18. operational side of things. It really is
19. stringence in terms of -- stringency in oversight
20. of who is operating these things. In ASTM world,
21. all the -- vast majority of the risk is mitigated
22. by engineering, because there's relays and sensors
23. and you push the button and the car won't go
24. unless the door's shut. That is fundamentally not
25. what our industry is.

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1. And I've been communicating with
2. Ms. Jefferson's office for probably three years,
3. going all the way back to when we very first
4. started the inspection process when Lee Henley, I
5. have talked to him, we started this conversation
6. about educating this Board and this -- about the
7. differences between the tilt-a-whirl and the
8. challenge course and the aerial adventure park and
9. the zipline. Our approach at the ACCT is
10. comprehensive because we've been doing it for 30
11. years, and that standard represents that 30 years
12. of history.
13. And so I guess that's my admonishment
14. as someone who has a vested interest, because this
15. is my home. I'm from Nashville. I mean, this is
16. the state I operate in, the state home base I
17. build in. Even though we have places across the
18. United States, this is home, and I know what a
19. change in the standard is going to mean to the end
20. user, what it's going to mean to try making that
21. transition. Then you also have an inspection
22. process that this administration loves, inspector
23. certification, that now just is dealing with a
24. completely difference standard.
25. And so based on -- to answer your

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1. question, Mr. Moorer, what I believe the very best
2. solution is is to adopt the standard that has the
3. connection with all the other piece and has the
4. history to go by -- to stand behind it.
5. CHAIRMAN FOX: Any questions from the
6. Board?
7. MR. MOORER: I'll be quiet this time.
8. MR. ANDREWS: Mr. Chairman, if I may,
9. I know that you've all read standards before. There
10. is things in ours that may not make sense, because
11. you haven't been hanging in a tree with somebody
12. saying, go ahead, take that step. I am more than
13. happy -- I will make the standard available to the
14. entire Board today. I am more than happy to answer
15. any questions you have. Please call me. It is
16. actually my job on the Board to answer those
17. questions, and we want you to understand it. I
18. don't want you to make any decisions unless you do
19. understand it fully.
20. MR. MOORER: Thank you for your
21. information.
22. CHAIRMAN FOX: Thank you. Thank you
23. very much.
24. MS. BENNETT: Mr. Andrews, this is my
25. e-mail. If you'll send it to me, I'll send it to

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1. the Board.

2. MR. ANDREWS: Very well.

3. MS. BENNETT: Okay.

4. CHAIRMAN FOX: Yes, sir?

5. MR. GUSTAFSON: If I could redirect a

6. couple of points from the PRCA's perspective, we

7. feel that we've been a little bit misrepresented

8. here. If I could have a chance to address the Board

9. again?

10. CHAIRMAN FOX: Sir, you've got five

11. minutes.

12. MR. FARMER: I'll probably do it in

13. three and a half.

14. CHAIRMAN FOX: I'm all about

15. expedience.

16. MR. GUSTAFSON: Again, Steve

17. Gustafson with the PRCA advisory board. You've

18. heard a lot of information here and it really is

19. get -- to be kind of a thick soup. You add too much

20. salt, too much celery, too much seasonings, it

21. gets -- to get a bad taste in your mouth. Now, I'm

22. not going to sit here and bash on my colleagues in

23. the ACCT, I'm going to say we're different.

24. But I am going to say the ACCT

25. standards and the PRCA standards for years have

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1. been de facto voluntary standards. You didn't

2. have to follow them, and a lot of camps and

3. associations out there -- or organizations out

4. there haven't been one or the other association.

5. That is why the PRCA sought ANSI designation; it

6. was the first accredited standards developer and

7. now has the first ANSI standard for this industry.

8. To go from de facto standard or voluntary to

9. regula -- federal mandated standard, we need

10. boards like yourself to recognize an ANSI federal

11. standard that's pertinent to the United States and

12. get us off de facto standards of multiple

13. associations and bring this into one standard.

14. The PRCA's standard's already

15. harmonized with ASTM. We don't have the conflicts

16. or the differences as the ACCT as Mr. Smith

17. addressed. We harmonized with them from the

18. beginning. We've already dovetailed that bridge,

19. if you will. So we feel the PRCA's a better

20. standard. You -- at the end, you'll be the

21. judges. Go read it yourselves.

22. But while my colleagues have spoken

23. about years of things breaking or not breaking, I

24. hate to say my age, but I've been in the industry

25. for 32 years. I'm a builder, as well, and I also

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1. operate my own courses. I have eight locations

2. and three more licensed across the U.S. I've

3. probably been in more states doing more things and

4. have more ownership than a lot of the builders of

5. any, maybe, in the U.S. I'm from Florida all the

6. way up into Hawaii like they've built, but I've

7. also operated there.

8. So I'm not from Tennessee, and

9. Mr. Stock is. I'm from Illinois. I'm having the

10. same conversations up there as we are down here

11. today. I've had the same conversations in

12. Florida, the same conversations in Idaho, et

13. cetera.

14. What's before you today is what's the

15. ANSI federal standard and that's the PRCA from

16. March 2014. We would love to have our colleagues

17. on the ACCT join us and do a joint standard and

18. get rid of all this issue of two different

19. standards. But we welcome them any time they want

20. to come and join our team. But for now, the ANSI

21. standard on PRCA was March 2014. It predates the

22. standard from ACCT that they just received, and by

23. ANSI statute, which we're looking at in turn with

24. ANSI, is there cannot be a conflict or duplicative

25. standard which is what the ACCT standard now

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1. represents. Hope that was three and a half

2. minutes.

3. CHAIRMAN FOX: You're real close,

4. sir.

5. MR. GUSTAFSON: Thank you. Any

6. questions or --

7. CHAIRMAN FOX: Thank you.

8. MS. O'CONNOR: I actually do have --

9. CHAIRMAN FOX: Yeah.

10. MS. O'CONNOR: -- one question. My

11. question is, by changing to PRCA, would this, in

12. fact, create a systemic change if most people --

13. because in your words, the ACCT has been de facto,

14. is this going to create chaos and make things less

15. safe in the interim as we're changing?

16. MR. BURT: Absolutely.

17. MR. SMITH: Absolutely.

18. MR. ANDREWS: Yes.

19. MR. GUSTAFSON: The ACCT members in

20. the room obviously feel that there is going to be a

21. change and a chaotic change.

22. MS. O'CONNOR: Right. But I'm

23. asking --

24. MR. GUSTAFSON: We believe that

25. there's going to be a change for the better and

1. change doesn't come easy, it comes with time. And
 2. change has to come with the minority vote and
 3. someone speaking up and saying, there's got to be
 4. something better. That's what the PRCA did, and
 5. that's what we became in the -- with our ANSI
 6. standard on March of 2014. Our colleagues at ACCT
 7. have been welcome to be part of that since day go.
 8. They've been offered consensus body seats and et
 9. cetera; they've declined.

10. So we want to be as inclusive as
 11. possible, but change is going to be for some
 12. people easy and some people more difficult. It's
 13. just up to the end user. If you've been in the
 14. ACCT camp for years, yeah, it's going to be
 15. probably a hard pill to swallow. But we're also
 16. finding people who haven't been in either camp, if
 17. you will call it camps, that are coming into the
 18. ANSI standard and they're finding it easy,
 19. especially these European countries that are
 20. coming into the U.S. now and building courses.

21. MS. O'CONNOR: Okay. Thank you.
 22. MR. GUSTAFSON: It's up to the
 23. individual, and it's just, you know, if you're -- if
 24. you've got an opinion one way or the other, it could
 25. be hard, it could be easy.

1. MS. O'CONNOR: Thank you.
 2. CHAIRMAN FOX: She always asks the
 3. good questions.
 4. MR. MOORER: Robbie.
 5. MR. GUSTAFSON: Good questions are
 6. good.
 7. CHAIRMAN FOX: Yes, sir?
 8. MR. MOORER: Is the owner or operator
 9. in the audience?
 10. MR. SMITH: Yes.
 11. MR. MOORER: From you all's standard
 12. or position, what standard do you all feel's the
 13. best and why?
 14. MR. SMITH: Well, I can speak to my
 15. own. I've been following the ACCT standard for many
 16. years. I'm an expert witness in many cases, and I
 17. have to defend clients to both the ANSI ACCT
 18. standards and the ANSI PRCA standard. The challenge
 19. that I have as an operator is we have a very clear
 20. certification program in ACCT, so if I want to be
 21. inspected to ACCT standards, I have a list of
 22. qualified inspectors that I can go to that I can
 23. hire to -- that I know will be familiar with the
 24. ACCT standard.
 25. We also have at ACCT a very formal

1. accreditation program, so if I know if I need a
 2. qualified builder, there are 40 builders in the
 3. United States that have been through the
 4. accreditation process at ACCT that I can call and
 5. I know that they have been verified. ACCT is
 6. putting out now an operator accreditation program
 7. that will first be released later this year to
 8. formally audit operations. So there's a larger
 9. support and educational network and network of
 10. professionals that have been certified and peer
 11. reviewed that I can go to, which makes the ACCT
 12. standard much easier for me to follow, because I
 13. have third-party support that I can bring in.

14. We have looked at using ASTM. Quite
 15. honestly, the challenge that we have in many
 16. states is if we call in a NAARSO or AIMS
 17. inspector, most of them look at our cables and
 18. have no idea what they're looking at. It's just
 19. not what they're used to looking at. And so I
 20. think we can talk about the stringency of
 21. standards here. The reality is following any of
 22. these standards are in the best interest of the
 23. public good. If some were to follow -- and the
 24. problem is supporting those standards and having
 25. the resources and third-party resources to bring

1. in, and ACCT is the easiest one to do that with.
 2. MR. MOORER: Can I ask another one?
 3. CHAIRMAN FOX: There's two more back
 4. there who --
 5. MR. MOORER: Yes.
 6. CHAIRMAN FOX: -- raised their hand.
 7. MS. HALVERSON: So we --
 8. MR. MOORER: Can you --
 9. MS. HALVERSON: Sure. My name's --
 10. MR. MOORER: Yes.
 11. MS. HALVERSON: -- Jennifer
 12. Halverson, and my company is Adventureworks. And
 13. we've been following both the ACCT standards and the
 14. ASTM standards for about the past three years.
 15. Three years ago, when we started trying to follow
 16. both, it was -- there was -- they were very
 17. different. There were a lot of things that ASTM
 18. required that ACCT did not and quite a few things
 19. that ACCT required that ASTM did not.
 20. Over the past three years, they have
 21. really become more and more in line. There's
 22. still some subtle differences, and some of those
 23. are being worked out. I attend both the ASTM
 24. subcommittee meetings, as well as the ACCT
 25. conferences. And so the conversations are coming

1. much more in line.
 2. The one distinction that I do see is
 3. what Mike just referenced is when it comes to
 4. inspections, particularly, in the state of
 5. Tennessee, when we have an ACCT inspection, what
 6. they are used to doing is a very technical
 7. inspection where they get up on the cables and
 8. they inspect every connection, they look at the
 9. growth of the trees, the -- how tight the clamps
 10. are, and it's a pretty long process. It -- I have
 11. a large course and so it takes at least a full day
 12. to do one course, sometimes two days.
 13. When I have a NAARSO inspector come,
 14. they are more used to doing what I would call an
 15. audit where they're looking to see all of my
 16. documentation, which ACCT now does, as well. They
 17. didn't used to. But they're looking to see -- and
 18. they look at the general overall course, was it
 19. designed to standard, are things in line?
 20. And so one of the important things
 21. that I think's important is that both the audit
 22. and the technical inspection are important, but I
 23. think sometimes, they're being used
 24. interchangeably, and so somebody gets an audit and
 25. they think they've had a technical inspection, and

1. vice versa. So that's the one distinction that I
 2. think ACCT is very clear on that I just want you
 3. all to hear that it's important that they're not
 4. used interchangeably; that they're seen as two
 5. different things.
 6. MR. BURT: I've -- my name's
 7. Dylan Burt with NAVITAT. I've been operating big,
 8. commercial zipline tours and aerial adventure parks
 9. for about 12 years, and I have always used the ACCT
 10. standard. I think that the ACCT standard is the
 11. standard for you to -- I think that you should very
 12. strongly consider using the ACCT standard.
 13. MR. MOORER: Thank you. No more.
 14. CHAIRMAN FOX: All right. Anyone
 15. else? Thank you.
 16. MR. GUSTAFSON: And just to close,
 17. the PRCA has accredited vendors, as well. I'm not
 18. going to knock my colleagues; we're just a different
 19. association going through the ANSI process. We
 20. already have the standard in place. It's already
 21. been out there; it's already been addressed by
 22. Tennessee OSHA and issued fines in a Tennessee
 23. zipline accident. It's already in your system
 24. whether it be changed, whether it'd be better to
 25. admit if there was only one ACCT and PRCA; we

1. joined, absolutely. But that's not on the table
 2. today.
 3. What's on the table today is what was
 4. to the ANSI process, what was precedent, the PRCA
 5. in March 2014, and there can't be conflict or
 6. duplicative standard with an ANSI, and that's
 7. being addressed internally with the ANSI appeal
 8. process.
 9. CHAIRMAN FOX: Okay. Anything else?
 10. Thank you, Mr. Gustafson.
 11. MR. GUSTAFSON: Thank you, sir.
 12. CHAIRMAN FOX: Okay. Mr. Finks, if
 13. we can go back to you, and you sent us a document
 14. referenced to the rules, and if you would kind of
 15. explain this to us so that we can make an informed
 16. decision.
 17. MR. FINKS: Okay.
 18. CHAIRMAN FOX: Because I'm not sure I
 19. could -- I explained it to them correctly, sir.
 20. MR. FINKS: All right. Let me pass
 21. this around. I've got some copies of what we sent
 22. to the Board members. Let me pass these around.
 23. This document just outlines the steps in the
 24. rulemaking process. I went through and outlined the
 25. steps in the rulemaking process.

1. The first step is approval of rules
 2. by the Governor's Office. Then the rules have to
 3. be approved -- if they're approved by the
 4. Governor's Office, they have to be approved by the
 5. Attorney General's office. They have to be filed
 6. with the Secretary of State's office according to
 7. guidelines of the Secretary of State and approved
 8. by the Secretary of State. They have to be
 9. published in the Tennessee Administrative Register
 10. by the Secretary of State.
 11. At that point, there's two
 12. processes -- there's a possibility of two
 13. processes. One is to go through proposed rules --
 14. is to have the rules go through the proposed rules
 15. route, which means that they would become
 16. effective 90 days after filing with the Secretary
 17. of State unless within the 90 days after filing
 18. the proposed rule with the Secretary of State a
 19. petition for a public hearing on the proposed rule
 20. is filed by 10 persons -- 10 or more persons who
 21. will be affected by the rule, an association with
 22. 10 or more members, a municipality, or by a
 23. majority vote of any standing committee of the
 24. General Assembly. If such a petition is timely
 25. filed, a rulemaking hearing must be conducted.

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1. And basically, if you started to go
2. that route and somebody objected to it, you would
3. just lose those 90 days, that 90-day waiting
4. period; that would be a delay of 90 days in the
5. process, and you would have to go through the
6. rulemaking hearing process, and those 90 days
7. would be lost, which is effectively about three
8. months, about a three-month setback.
9. If you don't go with the proposed
10. rule route, you could go straight to the
11. rulemaking hearing route and furnish public notice
12. of the rulemaking hearing after filing the rules
13. with the Secretary of State at least 45 days prior
14. to the date of the rulemaking hearing, and the
15. notice is deemed filed seven days after filing
16. with the Secretary of State. At the rulemaking
17. hearing, the agency will receive public comments,
18. both written and verbal, concerning the proposed
19. rules.
20. The agency would be required to
21. respond in writing to the public comments received
22. at the rulemaking hearing and file the written
23. responses with the Secretary of State to be
24. published publically by the Secretary of State.
25. Any modifications to the rules, based on the

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1. public comments received at the rulemaking
2. hearing, must be filed with the Secretary of
3. State.
4. Typically, there would be a hearing
5. before the Legislative Government Operations
6. Committee; they would schedule a hearing before
7. the rules took effect and have a hearing on that
8. before that committee. And then if all steps of
9. the approval process were completed
10. satisfactorily, the rules would become effective
11. 90 days after final filing with the Secretary of
12. State. And rules that contain fee increases
13. become effective on July 1st following the
14. expiration of the 90-day period after final filing
15. with the Secretary of State.
16. But the question that I would propose
17. to you, Mr. Chairman Fox, is whether the Board --
18. particularly -- and I may be getting this out of
19. order about the LULA lift rules, because those are
20. the rules that have already been approved by the
21. Governor's Office in this process. They've
22. already gone through that step. And I was going
23. to ask you if the Board -- get the comments from
24. the Board as to whether or not they felt that
25. that -- the process should go through the proposed

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1. rule process or the rulemaking hearing process.
2. And again, like I said, those are two
3. steps, the two possibilities. And usually, the
4. main consideration is whether there is a --
5. whether the Board feels that there may be any
6. objection from the different committee -- from 10
7. or more persons affected by the rule, an
8. association of 10 or more members, municipality,
9. or majority of any standing committee of the
10. General Assembly, whether there would be any
11. objection from one of those groups that would set
12. the process back and require us to lose that
13. 90-day period. And so that's the main
14. consideration on that.
15. CHAIRMAN FOX: Can -- is it possible
16. to ask Mr. Farmer if he's heard objections or are
17. there objections out there?
18. MR. FARMER: Nothing but positive
19. feedback. It's a positive mood.
20. CHAIRMAN FOX: Okay.
21. MR. BAILEY: I'd just like to say
22. that you would -- it depends on when the objections
23. are filed as to how many days you actually lose. I
24. mean, if somebody files an objection after, like, 15
25. days into it, you don't have to wait the whole

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1. 90-day period to start going through the rulemaking
2. hearing process. If they -- if somebody doesn't
3. file an objection to, like, the eighth, ninth day,
4. then yes, you've lost 90 days.
5. MS. O'CONNOR: Okay.
6. MR. BAILEY: You know. So --
7. MS. O'CONNOR: Thank you.
8. MR. HALE: Well, it just occurs to me
9. that to make this change in the LULA rules, it just
10. makes sense. We -- it seems like we spend a huge
11. amount of time hearing about LULAs that for -- I
12. mean, that should be cleared up by --
13. MR. FARMER: Yes.
14. MR. HALE: -- a change in the rule.
15. I mean, is that the way you see it? Well, I mean,
16. don't you --
17. MR. BURCH: I'm not smart.
18. MR. HALE: This is a change that
19. needs to be made.
20. MR. BURCH: I'm not smart. I don't
21. know exactly what we're doing here. This is
22. Amusement and I'm Elevator, so I --
23. MR. HALE: No. That's what we're
24. talking -- we're talking about the LULAs.
25. CHAIRMAN FOX: No. We're talking

1. about the LULAs.
 2. MR. BURCH: Generally --
 3. MR. HALE: We're changing the LULA
 4. rule.
 5. MR. BURCH: Oh. Okay.
 6. MR. FINKS: And --
 7. MR. BURCH: Where do we stand right
 8. now on LULAs? We can put them in.
 9. CHAIRMAN FOX: Well, that's what
 10. we're trying to figure out what -- which path to
 11. take is the --
 12. MR. FINKS: The proposed rule that
 13. the Board approved at the last Board meeting was to
 14. remove the LULA lift from the variance process, from
 15. having to come before this Board and request a
 16. variance to get a LULA lift.
 17. MR. BURCH: Yeah. We thought we had
 18. it going again. That's what I thought we had --
 19. MR. FINKS: Well, we have to go
 20. through the rulemaking process, this rulemaking
 21. process that I've given you the -- this document.
 22. We have to go through this process to make that
 23. change. The board approved it, but we have to go
 24. through the rulemaking process to make that change,
 25. and that's what we were talking about. That's what

1. we were discussing. Yes, sir.
 2. MR. HALE: I guess my question to you
 3. was, don't you believe that this is a positive
 4. change?
 5. MR. BURCH: Yes. I mean, I think --
 6. MR. HALE: Okay.
 7. MR. BURCH: -- we need to go back and
 8. let LULA lifts be installed. And I assume the
 9. quickest, easiest road to take would be the one
 10. which I'd go with. I mean, but we don't have that.
 11. Do we have an input into that, which one -- which
 12. rulemaking process we go by?
 13. MR. FINKS: Yes, sir. That's what
 14. we're asking for the Board's input today on that.
 15. MR. BURCH: Well, I would recommend
 16. the fastest and the easiest if we -- if there is
 17. that since we are in 100 percent agreement on the
 18. Board to go back with the LULA lift -- installation
 19. of the LULA lifts without a variance. They wouldn't
 20. have to bring variance every time they install one
 21. and we approved it every time.
 22. MR. HALE: So because it's already
 23. made it past part of the steps to go from the
 24. Governor's Office and so forth, it seems to me that
 25. that's the most expedient thing to do. It's already

1. part of the way through that process and --
 2. MR. BAILEY: Well, it's part of the
 3. way through either process right now, because he has
 4. it -- have step one, whichever avenue you choose.
 5. So really, it's a decision now on whether, if you go
 6. the proposed rule route and there's no objections
 7. filed, that will be the quickest route. But if you
 8. think that there is any opposition out there that
 9. might want to object to it, that might want to
 10. comment on it, then you may be -- you know, you
 11. could still go the proposed rule route and then if
 12. somebody does object, you have to back up and go the
 13. other route. But if you think there is opposition
 14. out there or people who would want to comment, then
 15. it's best to go the rulemaking hearing route from
 16. the beginning.
 17. MS. O'CONNOR: Can you help me
 18. understand? Are we actually filed with the
 19. Secretary of State now?
 20. MR. FINKS: No.
 21. MR. BAILEY: No.
 22. MS. O'CONNOR: Okay.
 23. MR. FINKS: Not yet.
 24. MS. O'CONNOR: That's -- I wasn't
 25. quite sure where we were in the process, so if the

1. days were ticking down already or not.
 2. MR. FINKS: No.
 3. MR. BAILEY: No.
 4. MS. O'CONNOR: Okay.
 5. MR. BAILEY: It will -- we really
 6. cannot do that until we decide which --
 7. MS. O'CONNOR: Till we decide.
 8. MR. BAILEY: -- way we're going to
 9. go. Yes.
 10. MR. BURCH: So at this point in time,
 11. we're still having to hear variances, right?
 12. MR. BAILEY: Yes.
 13. MR. BURCH: Which --
 14. MR. BAILEY: And you probably will
 15. for a while, because either route you go, it's going
 16. to be probably four months or so, maybe not the
 17. quickest, before the rule would actually take
 18. effect.
 19. MR. BURCH: Is a motion in order or
 20. are you still waiting for him to --
 21. CHAIRMAN FOX: Well, we may
 22. already -- let me ask one question before -- keep me
 23. honest. I know the rest of them are honest, but
 24. keep me honest. We've already passed this to make
 25. this change, have we not?

1. MS. BENNETT: Uh-huh.
 2. CHAIRMAN FOX: This Board voted on
 3. that, was it --
 4. MR. BURCH: Last Board --
 5. MR. FARMER: Three months ago.
 6. CHAIRMAN FOX: -- two meetings --
 7. MS. BENNETT: December.
 8. MR. FARMER: No, it was last --
 9. CHAIRMAN FOX: Last meeting.
 10. MR. FARMER: Last meeting.
 11. CHAIRMAN FOX: Okay.
 12. MR. FARMER: December meeting.
 13. MS. BENNETT: December.
 14. CHAIRMAN FOX: I'm just trying to
 15. make sure. All right.
 16. MR. FARMER: Yes.
 17. CHAIRMAN FOX: Now your motion.
 18. MR. BURCH: Well, I make a motion we
 19. go the proposed rule process. It seems to be the
 20. fastest way to have this ruling approved.
 21. MR. HALE: And I'll second it.
 22. CHAIRMAN FOX: We have a motion and a
 23. second. Any discussion? Any questions?
 24. MR. BURCH: I guess, did I make the
 25. motion correct? I just want to be -- okay.

1. CHAIRMAN FOX: All in favor of the
 2. motion, let it be known by saying "aye".
 3. MR. HALE: Aye.
 4. MR. BURCH: Aye.
 5. MR. MOORER: Aye.
 6. MR. MOORE: Aye.
 7. CHAIRMAN FOX: All opposed like sign.
 8. Motion carries. So we take the most expedient
 9. route, right?
 10. MR. BURCH: We assume it is.
 11. MS. O'CONNOR: Assuming it is.
 12. Correct.
 13. CHAIRMAN FOX: We assume that --
 14. MR. FINKS: Assuming that there's no
 15. objection.
 16. CHAIRMAN FOX: -- that's the most
 17. expedient.
 18. MR. FINKS: Right. If there's --
 19. CHAIRMAN FOX: Okay.
 20. MR. FINKS: -- objection, it won't be
 21. the most expedient route.
 22. CHAIRMAN FOX: And the other side of
 23. that, the public has a chance to intervene at any
 24. point along the way.
 25. MR. BAILEY: Yes.

1. MR. FINKS: Yes, sir.
 2. CHAIRMAN FOX: Good deal. Okay.
 3. Anything else on that, Mr. Finks?
 4. MR. FINKS: No, sir.
 5. CHAIRMAN FOX: That was very good.
 6. Thank you. Good explanation.
 7. Under Discussion Items, Procedures
 8. required to adopt new standards/guidelines not
 9. currently in the Amusement Device rules. What --
 10. is this the path we would take if we wanted to do
 11. that, sir?
 12. MR. FINKS: Any rulemaking change
 13. would have to go through this same path. This is
 14. the standard path set forth in statute in the rules
 15. for a rulemaking process.
 16. CHAIRMAN FOX: And then by virtue of
 17. that, the second thing, the procedures for amending
 18. Amusement Device rules, same process?
 19. MR. FINKS: Yes, sir. It would be
 20. the same process. We have done -- in the -- we've
 21. been in the -- with the Board of Boiler Rules, which
 22. is another board similar to this board, what they've
 23. done with Board of Boilers, they have -- what they
 24. did, they discussed the rules for -- at various
 25. meetings, the Board members discussed the proposed

1. rules, came up with proposed rules and discussed
 2. the -- went through the rules and made comments on
 3. the changes, and they did it at several different
 4. meetings. It took -- it was a relatively lengthy
 5. process, and we're still in that process now. But
 6. that's how they handled it was by discussing it at
 7. the Board meeting, the rules that they wanted
 8. changed and had everybody -- had the Board member
 9. take the rules and look at them and discuss the
 10. changes, make changes, and discuss the changes.
 11. And so that would probably be -- even
 12. before we even got to this step, we would need to
 13. know what the changes that the Board proposes to
 14. make, what changes -- what the actual changes are
 15. and have to get very specific about the rules,
 16. which rule we want changed, what line, what item,
 17. what number, things even that specific to be able
 18. to accomplish this.
 19. The first -- so the first step for
 20. any of these rules, we would need to know what the
 21. Board proposed to change, what the Board is
 22. recommending that we change, and then once we get
 23. that in place, then we would have to go through
 24. this rulemaking hearing process.
 25. With the LULA lifts, it was a

1. relatively simple process. The Board spoke and
2. said, delete this section, delete this section.
3. At the last board meeting, we deleted two sections
4. out of the rules and it was a relatively simple
5. process. But we would need to do the same --
6. something similar and possibly even in more detail
7. depending on how complicated or in depth the rule
8. changes would be, hear from the Board on those
9. changes, what those changes would actually be and
10. go through the rules line by line and make those
11. changes.
12. CHAIRMAN FOX: Okay.
13. MS. O'CONNOR: May I ask a question?
14. CHAIRMAN FOX: Sure.
15. MS. O'CONNOR: On the amending
16. Amusement Device rules to remove the year from the
17. current references, Mr. Bailey, is that really a
18. rule change?
19. MR. BAILEY: Yes, it is.
20. MS. O'CONNOR: Just removing the
21. year. The rule hasn't changed; we're just deleting
22. the year off that.
23. MR. BAILEY: The year reference. I
24. understand. It -- for instance, Tennessee OSHA has
25. to -- which I represent them. But every six months,

1. they have to submit have a proposed rule filing just
2. to update their rules to show that they are now --
3. that they are adopting the federal OSHA rules with
4. certain exceptions. But they -- and it's just a
5. date change. That's all it is.
6. MS. O'CONNOR: I had to ask.
7. MR. BAILEY: That's all it is.
8. MS. O'CONNOR: I had to ask.
9. MR. BAILEY: So yes, it is a rule
10. change or amendment.
11. CHAIRMAN FOX: Okay. So let --
12. again, just for my sake only, if we say we're going
13. to take the year off, this Board has to pass a
14. motion and then we bring that to you all to do the
15. documentation and then pass it through the
16. rulemaking process, correct?
17. MR. BAILEY: Correct. Is that the
18. only change you're anticipating?
19. CHAIRMAN FOX: I don't know what
20. changes we're anticipating --
21. MR. BAILEY: Okay.
22. CHAIRMAN FOX: -- at this point.
23. That's an open-ended question.
24. MR. BAILEY: Well, while it's -- I
25. mean, if it's a simple change like that, certainly

1. the Board can adopt it, we can go through the rules
2. and make the appropriate changes that reflects that
3. motion. If -- and why I ask that, because the
4. Boiler Board basically has just over the last couple
5. of years went through their entire rules and have
6. made a lot of changes, you know, and rearrangements
7. and stuff like that. If you're anticipating
8. something like that, then I would say, you need to
9. basically have, like, a working document that
10. everybody looks at, makes their comments to, and
11. kind of comes on into an agreement on each item and
12. then we get a finalized, a final document that --
13. okay. Here's all the agreed changes, and then we
14. can -- and then the same decision has to be made.
15. Do we want to go a proposed rule route or rulemaking
16. hearing route?
17. And again, if there's any hint that
18. somebody's going to oppose the rule change, you
19. want to go the rulemaking hearing route. But if
20. it's just a -- if it's just taking the date off in
21. wherever it's referenced in the rules, I think
22. that's fairly -- that can be done fairly
23. reasonably quick, given the process, yes.
24. CHAIRMAN FOX: Okay. But let me ask
25. another question. All right? The International

1. Building Code, are we in 10 or 12?
2. MR. FARMER: Twelve here in Davidson
3. County.
4. CHAIRMAN FOX: Twelve here in
5. Davidson County.
6. MR. FARMER: Yes.
7. CHAIRMAN FOX: Okay. So AST -- and
8. that's applicable to the year, 12 is, correct?
9. Denoting the year.
10. MR. FARMER: Yeah.
11. CHAIRMAN FOX: So speaking of ASTM,
12. there's a year on it. I guess my question is, why
13. would we take the year off to delete it? Because
14. that was -- I mean, it was passed in that year, and
15. it does not change, to my knowledge, unlike the IBC.
16. So why would we take it off?
17. MR. BAILEY: I didn't propose it.
18. CHAIRMAN FOX: I didn't either. I
19. didn't either.
20. MS. O'CONNOR: You know, we could --
21. MR. BAILEY: Okay. I mean, there
22. were --
23. CHAIRMAN FOX: I guess, what I'm
24. trying to figure out is, are we -- like, if they
25. pass -- ASTM passes the -- a standard, they -- as a

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1. matter of fact, they met two weeks ago. If they
2. pass a standard and it goes into process, are we --
3. at that point, are we going to make everybody be
4. applicable to that standard even though it passed
5. today? Say you're in the middle of building a huge
6. whatever, an ACCT or a ride or whatever, do you have
7. to meet that standard as it comes into process at
8. that time? In this situation, with IBC, we're, you
9. know, two, four years behind in the system.
10. MR. FINKS: Chairman Fox.
11. CHAIRMAN FOX: Sir.
12. MR. FINKS: In the current rules as
13. they're written, I've got a copy of them here. I
14. brought a copy. In 0800-03-04-.02, number two, the
15. definition section, it talks about the ASTM
16. standard, and it says, the latest standards and
17. specifications set forth by the American Society for
18. Testing Materials. So that is in the definition in
19. the rules as it currently stands now in the rules;
20. that definition is there.
21. Some references are two specific
22. years like you talked about, and those are in
23. place also. But when it just talks about the ASTM
24. standard in general, the definition section
25. currently in the rules talks about the latest

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1. standards and specifications set forth.
2. CHAIRMAN FOX: Okay. All right.
3. Next item. Any questions or comments on that?
4. MR. BURCH: Yes. I'm asking are we
5. going to ask for a change or are we going to -- what
6. are we going to do?
7. CHAIRMAN FOX: That's up to this
8. Board.
9. MR. BURCH: Well, that's -- I don't
10. know for sure what we're supposed to do at this
11. point.
12. MR. HALE: Something occurred to me
13. that we need to see all of the proposed changes we
14. want to make instead of a piecemeal, sending one
15. down this month and then six months from now. Let's
16. decide everything that we want to change in the
17. rules and do it one time. I mean, it seems silly to
18. be changing them, you know, in here voting on
19. something every month when we should, as a Board, as
20. you were saying that boilers did, sit down and look
21. at the entire set of rules and make those changes
22. and give the public an opportunity to speak on them
23. and send everything down at once instead of
24. piecemeal.
25. MS. O'CONNOR: Do we have any idea

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1. the last time that was done? Where, you know,
2. everybody went through it with a fine-toothed comb.
3. MR. FARMER: Yeah. We adopted new
4. elevator codes in 2012.
5. MR. HALE: Right.
6. CHAIRMAN FOX: Yeah.
7. MS. O'CONNOR: So it's time --
8. MR. FARMER: I believe that's correct
9. with -- we adopted to 2010 codes. So it was -- I
10. know elevators have gone through in 2010 or '12.
11. I'm sorry.
12. MS. O'CONNOR: So it's time.
13. CHAIRMAN FOX: I think the last
14. changes we made here would have been '10, and we
15. went --
16. MR. HALE: For Amusement?
17. CHAIRMAN FOX: Yeah.
18. MR. HALE: Okay.
19. MR. FINKS: Yeah. With the elevator
20. code, the amendment was filed on August 7th, 2012;
21. it was effective January 29th, 2013. That was with
22. the elevator. Amusement devices --
23. CHAIRMAN FOX: I remember we had a
24. very long workshop and made several -- or suggested
25. several rule changes.

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1. MR. FINKS: It looks like 2010 would
2. be Amusement devices. It looks like it was 2010.
3. CHAIRMAN FOX: Okay. All right. I
4. guess that begs the question. Do we want to have
5. another workshop in between our regularly scheduled
6. meetings and talk about these things, put them on
7. the agenda in the workshop and hammer them out at
8. that point?
9. MS. O'CONNOR: If we need to.
10. MR. MOORE: Yes, sir.
11. MR. BURCH: Could we meet in Florida?
12. CHAIRMAN FOX: Sure. I prefer either
13. Key West or Miami. I don't know what the rest of
14. you --
15. MR. HALE: I vote Key West.
16. CHAIRMAN FOX: Key West. Okay.
17. MR. MOORER: No. I couldn't.
18. MR. BAILEY: Could I just make a
19. suggestion or --
20. CHAIRMAN FOX: Yes, sir.
21. MR. BAILEY: -- yeah, I guess it's a
22. suggestion. If you're talking about going through
23. the whole document, which includes the amusement
24. device portions of it, unless it's urgent, I
25. would -- I think it might be wise to wait to see if

1. the budget is approved to hire some amusement device
 2. inspectors --
 3. CHAIRMAN FOX: Uh-huh.
 4. MR. BAILEY: -- and then let them
 5. come on and be part of that process.
 6. MS. O'CONNOR: That's a good point.
 7. MR. BAILEY: Just a suggestion.
 8. MS. O'CONNOR: That's a good very
 9. good idea.
 10. CHAIRMAN FOX: I think that's an
 11. excellent suggestion. We're just -- you know, we're
 12. just tickled to death to have you two guys here to
 13. give us good counsel like that.
 14. MR. BAILEY: Thank you.
 15. CHAIRMAN FOX: You keep us honest;
 16. keep us good. All right. So with that in mind,
 17. do -- can we -- when that would take place, when
 18. would we know for certain one way or the other?
 19. MR. FINKS: Well, the legislature
 20. usually passes -- that's the last -- one of the last
 21. things they do when they pass the budget. So it'll
 22. be after the Legislature adjourns -- it'd be right
 23. before the Legislature adjourns, and they would pass
 24. the budget. And at the point in time, we would know
 25. for sure about these positions, because the budget

1. would have been finalized and passed.
 2. So I'm not sure when the Legislature
 3. is scheduled to adjourn this year -- when they're
 4. looking to adjourn this year, but they would be --
 5. one of the last things they do, typically is one
 6. of the last acts they do before they adjourn.
 7. MR. BAILEY: But would you be able to
 8. hire them before July --
 9. MR. FINKS: No, we wouldn't be able
 10. to hire them. Yeah, probably wouldn't be able to
 11. hire them until, yeah, after July.
 12. MR. BAILEY: July? Yeah.
 13. CHAIRMAN FOX: Okay. So after --
 14. between the June meeting and the September meeting,
 15. we would meet on a workshop; is that fair?
 16. MR. BAILEY: Yeah.
 17. CHAIRMAN FOX: Or whatever --
 18. MR. FINKS: If you had the people to
 19. hire --
 20. CHAIRMAN FOX: -- you need time to
 21. hire them.
 22. MR. BURCH: -- I guess.
 23. MS. O'CONNOR: Sometime in the summer
 24. would be --
 25. MR. HALE: Even if they just get the

1. managers hired.
 2. CHAIRMAN FOX: Yeah. We can meet
 3. after September, how's that?
 4. MR. FARMER: The hiring --
 5. CHAIRMAN FOX: Okay.
 6. MR. FARMER: -- process in the
 7. State's kind of slow.
 8. MS. O'CONNOR: Yeah.
 9. MR. BAILEY: Yeah.
 10. MR. FARMER: So don't -- it'd be --
 11. if they get the okay in July, it may be October --
 12. MS. O'CONNOR: Yeah.
 13. MR. FARMER: -- before somebody hits
 14. the ground.
 15. CHAIRMAN FOX: Okay. All right.
 16. Well, let's kind of hold that in abeyance until we
 17. kind of gather our thoughts, how's that? All right.
 18. The other --
 19. MR. FINKS: And one other thing on
 20. the --
 21. CHAIRMAN FOX: Yes, sir.
 22. MR. FINKS: -- hiring process, if
 23. we're looking to come up with the job description --
 24. we talked about that earlier. The job description
 25. that, Chairman Fox, that you and the Board had asked

1. to have input into that job description, that
 2. would -- process would have to take place before we
 3. can -- obviously, before we can hire anybody. And
 4. that's another -- so that would be the first step in
 5. the process would be to come up with the job
 6. description and to receive input from the Board as
 7. to what --
 8. MR. HALE: Okay.
 9. MR. FINKS: -- you guys --
 10. MR. HALE: I was thinking June.
 11. MR. FINKS: -- would want to -- would
 12. recommend and so that we can take those
 13. recommendations into consideration.
 14. CHAIRMAN FOX: I think if we had
 15. that, we could address it in June. We'll be ready
 16. to -- so you all could be ready to hire as of July
 17. the 1st. We meet what day in June?
 18. MR. HALE: The 7th.
 19. MS. O'CONNOR: On a 7th.
 20. CHAIRMAN FOX: The 7th. Okay. Is
 21. that fair?
 22. MS. O'CONNOR: Yes, sir.
 23. CHAIRMAN FOX: Okay. All right. One
 24. other issue that came up under -- I'm sorry.
 25. Anything else on that?

1. MR. FINKS: No, sir.
 2. CHAIRMAN FOX: Okay. One of the
 3. things that came up or came to my attention was
 4. required verbiage when a third-party inspector
 5. submits an inspection report stating devices are
 6. safe and operable and meet ASTM standards.
 7. The person approached me and said,
 8. how can I -- asked me the question, said, how can
 9. I state that it's safe after I leave there? And I
 10. said, well, I don't know. That's something I
 11. would want to address with whomever.
 12. Their position was that they can
 13. say -- the inspector can state at the time that
 14. it's in substantial compliance and meets ASTM
 15. standards, but this person conveyed to me that
 16. they did not want to say it was safe because if
 17. you -- for lack of a better name here, when you
 18. take the ACME fair and move it from one place to
 19. another, they have lost control of that situation.
 20. There's only a snapshot in time that they can say,
 21. yes, it's safe, but when it moves from position A
 22. to position B, they can't say that again, because
 23. it's not been reinspected. And they had a problem
 24. with saying it was safe; it does meet ASTM
 25. compliance, and it does meet the ASTM standards.

1. But your thoughts on that?
 2. MR. FINKS: Yes, sir. I -- before --
 3. I was with talking to Carlene about -- but I
 4. think -- and correct me if I'm wrong, Carlene, but
 5. really, I think if it's safe and operable or similar
 6. language; is that what you said? Is that --
 7. MS. BENNETT: Yes. Sometimes they'll
 8. say it meets standards or codes or whatever, and
 9. it's at the time they're inspecting, you know, that
 10. it's safe and operable. It's not when they leave,
 11. you know, but that inspection report will stand that
 12. it's mechanically sound.
 13. CHAIRMAN FOX: Right.
 14. MR. HALE: So that's acceptable
 15. verbiage if that inspector says that it meets the
 16. standards at the time of inspection.
 17. MS. BENNETT: Yes. That it -- well,
 18. I mean, Kim likes for it to say "safe and operable"
 19. but I've run into a lot of pushback from people
 20. regarding that because of those reasons. And
 21. sometimes it's just implied. You know. You assume
 22. that if it meets standards and it meets codes and
 23. it's safe at the time they inspect it, then, you
 24. know, that's the best you can do.
 25. MS. O'CONNOR: Can we use the term

1. "in compliance"?
 2. MS. BENNETT: Yeah. That would be
 3. fine.
 4. MR. HALE: Well --
 5. MS. BENNETT: I mean, if it's okay
 6. with Kim. I mean, that's not my call.
 7. MR. FINKS: We'd have to check with
 8. Ms. Jefferson on that.
 9. CHAIRMAN FOX: Okay.
 10. MR. HALE: But even from a
 11. perspective of a fixed facility, there's no way the
 12. inspector knows when he gets in his car and drives
 13. off the property that somebody didn't go in and
 14. defeat a safety device or whatever. All he can say
 15. is, when he was there, it met the standards as
 16. required and --
 17. MS. BENNETT: And most of the ACCT
 18. inspection reports, they do have that disclaimer,
 19. you know, that it's at the time of inspection. And
 20. so it's just understood, like I said, it's just
 21. implied that it's at that time.
 22. CHAIRMAN FOX: Okay.
 23. MR. SMITH: Sir, if I could make a
 24. comment. My insurance company would not insure us
 25. to say it's safe --

1. CHAIRMAN FOX: That's --
 2. MR. SMITH: -- and operable.
 3. CHAIRMAN FOX: That's my point. And
 4. I want to --
 5. MR. SMITH: And it becomes a --
 6. CHAIRMAN FOX: -- just make sure that
 7. that's where we're at. Thank you. So we need to
 8. just visit with Ms. Jefferson on that, then, sir?
 9. MR. FINKS: Yes, sir.
 10. CHAIRMAN FOX: Okay. All right. The
 11. next item, Permit Application Fees/Device Fees.
 12. Probably, what I would ask to do on that is do we
 13. need to -- Ms. Bennett, do we need to come back on
 14. that one in June for a fee structure?
 15. MS. BENNETT: I would think so. And
 16. this is talking about rules, so if you're going to
 17. change the rules, that would be the time to --
 18. CHAIRMAN FOX: Okay.
 19. MS. BENNETT: -- include this in the
 20. discussion.
 21. CHAIRMAN FOX: All right. Okay. And
 22. the LULA lift, we've already made a motion to take
 23. that on up, right?
 24. MR. FINKS: Yes, sir.
 25. CHAIRMAN FOX: Okay. Folks, for all

1. of you out there, I want to thank you for being here
 2. today. Your information has been invaluable to us.
 3. It helps us be a better board; it helps us provide a
 4. better product out there, and I just want to say
 5. thank you.

6. On the two standards, we'll try to
 7. get those in process, and our two companies are
 8. two ACCT and PRCA. We'll get those -- we'll look
 9. at those two and try to make a decision as soon as
 10. possible. I don't know when that'll happen, but
 11. we will notify you as to when we're going to make
 12. that decision. It'll be a public announcement.

13. I go back to the five inspectors or
 14. safety consultants or whatever they are.

15. MR. FINKS: It's not five safety
 16. consultants; it's the three safety consultants, an
 17. administrative staff person, and a supervisor
 18. manager.

19. CHAIRMAN FOX: Okay.

20. MR. FINKS: Or it's three safety
 21. consultants.

22. CHAIRMAN FOX: Please know that I
 23. think, on behalf of this Board, we sincerely
 24. appreciate the effort, as we said earlier, the
 25. efforts of the Commissioner and Ms. Jefferson to

1. about the meeting. How many of you are here because
 2. you got that e-mail? Okay. I just want to make
 3. sure that it's working, you know, so -- and thank
 4. you for attending.

5. CHAIRMAN FOX: Anything else on that?

6. MS. BENNETT: That's it. Just wanted
 7. to take a survey to see how many were here because
 8. of that e-mail that was sent out, make sure it's
 9. going out to everybody.

10. CHAIRMAN FOX: Okay. Mr. Hale
 11. reminded me of one other quick issue, was the
 12. inflatable law or the inflatable issue that I heard
 13. about by television. Has that law passed, failed,
 14. or does anybody --

15. MR. FINKS: There are committee
 16. meetings on that this morning. That's where
 17. Ms. Jefferson -- that's one of the things
 18. Ms. Jefferson is attending this morning. There are
 19. committee meetings -- it's still in committee. It
 20. has not passed or failed in the Legislature. It's
 21. going through the committee process and that's --
 22. like I said, I know that's at least one of the
 23. meetings that Ms. Jefferson is attending. That's
 24. why she could not -- one of the reasons why she
 25. could not be here for this meeting is because of

1. push this through, as we said in the e-mail, to push
 2. this through, make this happen. Again, this takes
 3. us to a great place, and I hope it's designed to, as
 4. I said, make Tennessee safer and we owe a debt of
 5. gratitude to the Commissioner and Ms. Jefferson for
 6. making that happen. And at least they're still
 7. there today or at least they were in the budget.

8. MR. FINKS: Yes, sir. They're in the
 9. proposed budget --

10. CHAIRMAN FOX: Yes, sir.

11. MR. FINKS: -- for the Governor.

12. CHAIRMAN FOX: Again, thank you all
 13. very much. All right. Announcement of Next
 14. Meeting. The next regularly scheduled meeting of
 15. the Elevator and Amusement Device Safety Board
 16. meeting will be held on the first floor of TOSHA
 17. Hearing Room at 9:00 a.m. central time on Tuesday,
 18. June the 7th, 2016 at the State of Tennessee Board
 19. of Labor and Workforce Development building located
 20. at 220 French Landing Drive, Nashville, Tennessee.
 21. Anything else from the Board? Yes, ma'am?

22. MS. BENNETT: I just wanted to ask a
 23. question of the audience. We've tried this new
 24. opt-in on our website where people can opt in for
 25. e-mail blast, and I send them e-mails telling them

1. these meetings. So it is still going through the
 2. legislative process.

3. CHAIRMAN FOX: Okay.

4. MR. HALE: Could we be provided with
 5. some information about where it is in the process of
 6. when those committee meetings are being held?

7. MR. FINKS: Yes, sir. There's -- I
 8. believe it's on the web -- but we could provide that
 9. information, but it's also -- it's available on the
 10. website on the TN.gov website for the Legislature.

11. If we got the bill number for that -- and we have
 12. the bill; I just don't have the bill number with me
 13. right now, but we can provide that bill number.

14. MR. HALE: If you could just send me
 15. the bill number, I know how to research it.

16. MR. FINKS: Yes, sir.

17. MR. HALE: If I just had the bill
 18. number.

19. MR. FINKS: And it's available to the
 20. public. That's public information. That's all
 21. public information.

22. CHAIRMAN FOX: Okay.

23. MR. HALE: I -- personally, I have a
 24. real concern when we start piecemeal exhibiting
 25. people from the statutes but --

1. MR. SELLS: We'd love to make a
 2. comment on that, if you don't mind.
 3. CHAIRMAN FOX: Two minutes.
 4. MR. SELLS: Two minutes is all we
 5. need. Dave Sells with Space Walk Party and Event
 6. Rental. We feel it's highly important that the
 7. inflatable stay in you guys hands and that this
 8. doesn't happen. You know, we -- Tony and I are both
 9. here. We're large companies; we have hundreds of
 10. units between the two of us. It costs us thousands
 11. and thousands of dollars to get this done, but we
 12. think it's really important. It's a hassle on our
 13. side, but we think it's important for the safety of
 14. Tennessee. We hope that you guys carry that and let
 15. people know that you guys feel it's important also.
 16. It's a big fight, and it's being
 17. played in an unfair game right now. It's being
 18. pulled a lot as we show up with the news media
 19. there, it's being pulled off the agenda last
 20. minute because we're there, the news media's
 21. there, and we feel like we'd really like your help
 22. to, you know, make sure that this is done right.
 23. MR. HALE: Well, I can't speak for
 24. the Board; I can speak for myself. Personally, I
 25. have a real concern about pulling the inflatables

1. from being inspected. I think there are too many
 2. opportunities, for lack of a better term,
 3. fly-by-night folks to come in and rent out devices
 4. that are poorly maintained and let somebody back up
 5. to their dock, kick it off in the back of their
 6. pickup truck and say, good luck to you with no
 7. instruction on how it should be anchored, what
 8. should happen if the wind gets above 15
 9. miles-an-hour, and a dozen other things that should
 10. be considered.
 11. And I personally have concerns about
 12. that being pulled. I owned inflatables at one
 13. time; I don't anymore, and I know and understand
 14. the hazards that they present. And I just have a
 15. problem with it.
 16. MR. SELLS: As an example, we spoke
 17. with somebody last night that's operating in
 18. Tennessee. She's got four to five units that she
 19. bought at Sam's and WalMart. She's calling them
 20. commercial and she said that she has insurance
 21. through Geico. Geico doesn't offer insurance --
 22. MR. HALE: Geico doesn't offer it.
 23. MR. SELLS: -- for this high risk.
 24. There's no insurance out -- so she's passing fake
 25. insurance documents. She's renting equipment that's

1. not commercial. You know, there's a lot of these
 2. guys out there. And that's what we hope to see, you
 3. know, get regulated and go away.
 4. MR. FINKS: And there's a -- I mean,
 5. good way if you have opinions one way or the other
 6. on this issue, to talk to your state legislators,
 7. because it's definitely --
 8. MR. SELLS: And we have. We --
 9. MR. FINKS: -- a topic in the
 10. Legislature.
 11. MR. SELLS: We've been at the
 12. Committees every time. It just -- like I said,
 13. every time we're there, we take the news media with
 14. us and it gets pulled last minute. So it's happened
 15. four times already. So -- but I appreciate your
 16. time.
 17. MR. HALE: And I've voiced my opinion
 18. to several legislators about it. So --
 19. MR. SELLS: And we appreciate it.
 20. Believe me.
 21. MS. BENNETT: And Mr. Fox --
 22. CHAIRMAN FOX: Yes, ma'am.
 23. MS. BENNETT: If you are aware of a
 24. company that's not operating with a permit, on our
 25. website there is an opportunity for you to go out

1. there and give us a tip and we will follow up.
 2. MR. SELLS: We've seen that.
 3. MS. BENNETT: If we can --
 4. MR. SELLS: The hard thing is --
 5. MS. BENNETT: -- find the person.
 6. MR. SELLS: -- a lot of these people
 7. don't have a business name.
 8. MS. BENNETT: Right.
 9. MR. SELLS: They don't have a
 10. website. I've called some of them. I've said, can
 11. I come to your place? I'm sorry, we don't offer
 12. that. Well, do you have a website where I can see
 13. your equipment? No, we don't have that.
 14. MS. BENNETT: I know.
 15. MR. SELLS: And --
 16. MS. BENNETT: I research them daily,
 17. so I'm aware of --
 18. MR. SELLS: It's really hard --
 19. MS. BENNETT: -- how hard they are to
 20. find.
 21. MR. SELLS: -- and I know it takes a
 22. lot on you guys, too, but I think it's really
 23. important.
 24. MS. BENNETT: But any leads that you
 25. can give us would be appreciated.

1. MR. SELLS: Sure.

2. MS. BENNETT: We do follow them all

3. up.

4. MR. SELLS: Thank you.

5. MR. ATWELL: I have a suggestion.

6. I'm sorry.

7. CHAIRMAN FOX: Got to come to the

8. chair, sir.

9. MR. ATWELL: Tony Atwell, Jump Jump

10. Bounce. And as Dave said, he and I are fairly large

11. companies and hundreds of units. Continuously

12. seeing people coming from out of town or out of

13. state, for example. I just -- I have a photo in my

14. phone of someone using 45-pound dumbbell weights to

15. hold a unit down in front of a WalMart in

16. Murfreesboro. They came from Atlanta.

17. So this is something that we do need

18. to gain control of. And I think that one simple

19. way to do it is if someone wants to hold a public

20. event, whether it be a school, a church, or a

21. company, if there was a way to organize a

22. permit -- there doesn't have to be a fee. But

23. say, for example, they go online, they log in to

24. get their permit, they have a list to select from

25. of vendors that are going to provide equipment for

1. their event. If the vendor is not on that list

2. preapproved by Tennessee, then that gives you the

3. opportunity to go out and inspect them or what

4. have you. But I think that would help us organize

5. things, and I think it would really, really help

6. out.

7. MS. BENNETT: Well, I think the

8. safety consultants in each grand division -- I

9. think, ultimately, that's where they're going to be

10. beneficial. They'll be able to walk on site and

11. when this is happening, you know. So they won't

12. actually be inspecting, of course, you know, it's

13. third-party inspectors no matter the device. You

14. know. But they would be able to be our eyes and

15. ears out in the field.

16. MR. ATWELL: Exactly. And that --

17. MS. BENNETT: Uh-huh.

18. MR. ATWELL: -- makes good sense.

19. But with -- if there were a way to organize a list

20. of events that are happening within the state and

21. utilizing those vendors on that list -- if there

22. were someone -- if you -- you know, that was not on

23. the list that was going to be used for that event,

24. if you had a -- someone maybe in each quarter

25. divided up in each quarter of Tennessee, then there

1. would be no more than an hour to an hour and a half

2. away from any of those events.

3. MS. BENNETT: Well, better yet, you

4. know, we have a compliant and non-compliant list on

5. our website.

6. MR. FINKS: Right.

7. MS. BENNETT: And that compliant list

8. is updated monthly. And you know, we're hoping that

9. that's where people will want to spend their money

10. is people who are on that compliant list. And as we

11. bring people into compliance, you know, it --

12. For instance, I was having mothers

13. call me and say, my child is wanting to go

14. ziplining. You know, is this place compliant? Do

15. they have a permit? And I was having to research

16. that for them. But now they can go online and see

17. if the inflatable company that they want to have

18. for their birthday party is compliant or not.

19. So I don't know that we can do it by

20. venue, but we can do it by all compliant

21. companies, you know. So people will know where

22. they want to spend their dollars.

23. MR. ATWELL: Right. Totally

24. understand.

25. MR. HALE: And I certainly see what

1. you're saying about if it's a large event. But by

2. the same token, we need to know that that one

3. inflatable going to somebody's backyard for a

4. birthday party is a safe device that's going out

5. there, as well.

6. MR. ATWELL: Exactly. Exactly. And

7. we still need to --

8. MR. HALE: And if not -- would not be

9. reasonable to believe that every time somebody calls

10. you for an inflatable for a backyard birthday party,

11. that you're going to file a form up here to follow

12. up on it but to be able to say, I have devices which

13. are permitted and meet safety standards, and my

14. staff is properly trained is what's important.

15. MR. ATWELL: Correct. Right.

16. MR. HALE: But I see what you're

17. saying about large public events just like carnivals

18. apply and say, this is our route in Tennessee this

19. year. This is all the fairs and festivals I'm going

20. to be at in Tennessee. Inflatable folks could

21. provide a similar document for, I'm going to have 10

22. devices up at the Saint Mary's Church of Christ or

23. whatever.

24. MR. ATWELL: Exactly. All right.

25. MR. SELLS: If I could, if we looked

1. at Kentucky and took what they're doing -- I don't
 2. know if Tony operates in Kentucky, but we're
 3. inspected in Kentucky. And we have to provide them
 4. with an itinerary. It doesn't matter if I'm going
 5. to your backyard or to a church with 50 units. They
 6. choose where they show up; they have 12 inspectors.
 7. They choose where they show up, but you always know
 8. that they could show up. And so you do it -- you
 9. know, it's our right -- we're supposed to do it
 10. right. But it forces those people to do it right
 11. every time. And I think -- I know this is the first
 12. step and maybe one day we'll get there, but I think
 13. it does work.

14. CHAIRMAN FOX: Okay.

15. MR. SELLS: And they go as far as if
 16. it's not right, they'll cut a cord off a blower in
 17. Kentucky and make it where you can't use it. So --

18. CHAIRMAN FOX: Okay. Anything else
 19. from the Board? Well, thanks --

20. MR. SELLS: I'm sorry. I just got a
 21. notification they did table it again. News 5 was
 22. there, and he pulled it again, so --

23. They asked him in the hallway for
 24. comment and he refused to comment and walked right
 25. in and pulled it off the agenda this morning.

1. MR. HALE: Motion to adjourn.
 2. CHAIRMAN FOX: I have a motion to
 3. adjourn.
 4. MR. BURCH: Motion --
 5. CHAIRMAN FOX: So be it.
 6. END OF PROCEEDINGS.

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1. CERTIFICATE
 2.
 3. STATE OF TENNESSEE)
 4. COUNTY OF WILLIAMSON)

5.
 6. I, Dominique A. Dubois LCR# 686,
 7. Notary Public and Court Reporter, do hereby
 8. certify that I have recorded to the best of my
 9. skill and ability by machine shorthand all the
 10. proceedings in the foregoing transcript, and that
 11. said transcript is a true, accurate, and complete
 12. transcript to the best of my ability.

13. I further certify that I am not an
 14. attorney or counsel of any of the parties, nor a
 15. relative or employee of any attorney or counsel
 16. connected with the action, nor financially
 17. interested in the action.

18. SIGNED this 14th day of April, 2016.

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21.
22.
23.
24.
25.

Dominique A. Dubois, LCR# 686
 Notary Public State at Large
 My commission expires: 8/9/2018

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