

STATE OF TENNESSEE
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD

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

March 28, 2023

ORIGINAL

CASSANDRA M. BEILING, LCR# 371
STONE & GEORGE COURT REPORTING
2020 Fieldstone Parkway
Suite 900 - PMB 234
Franklin, Tennessee 37069
615.268.1244

1 APPEARANCES:

2 Robbie Fox, Chairman
Fixed Amusement Device

3 David Hale, Board Member
4 Tennessee Fair Association Representative

5 Lewis Moorer, Board Member
Public-at-Large Representative

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

8 Mitch Rader, Board Member (not present)
Insurance Company Representative

9 James Roy Pope, Board Member
10 Traveling Amusement Device Representative

11 Victor LaPorte, Board Member
Manufacturer Representative

12 Kelly O'Connor, Board Member
13 Public-at-large Representative

14 Mike McPherson, State of Tennessee
Elevator Inspector Chief

15 Mike H. Hardy, State of Tennessee
16 Amusement Device Manager

17 Thomas Herrod, State of Tennessee
Assistant Commissioner

18 Daniel Bailey, Esq.
19 Legal Counsel, State of Tennessee

20 Deniece Thomas, State of Tennessee (not present)
Commissioner

21 Dewayne Scott, State of Tennessee
22 Deputy Commissioner

23 Jennifer Murphy, State of Tennessee
Board Secretary, Amusement Device Unit

24 Kenneth Neely, State of Tennessee
25 Assistant Administrator

1 APPEARANCES CONTINUED:

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Jamie Diefenbach, State of Tennessee
Executive Administrative Assistant, WRC

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Stone & George Court Reporting
Cassandra Beiling, Court Reporter

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*Reporter's Note: All names are phonetically spelled unless otherwise provided to the Reporter.

A G E N D A

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2
3 I. Call Meeting to Order
4
5 II. Introductions and Announcements
6
7 III. Adoption of Agenda
8
9 IV. Approval of the December 6, 2022 Minutes
10
11 V. Elevator Unit's Report
12
13 VI. Amusement Device Unit's Report
14
15 VII. Old Business
16 * None
17
18 VIII. New Business
19 * Manuel Zeitlin Architects
20 * J&J Global-Smoky Mountain Alpine Coaster-
21 Penalty Order
22
23 IX. Open Discussion
24 * None
25
26 X. Calendar-Scheduled Board Meetings
27 * June 6, 2023 - 9:00 a.m. CDT
28 * September 6, 2023 - 9:00 a.m. CDT
29 * December 5, 2023 - 9:00 a.m. (CST)
30
31 XI. Adjournment
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1 * * * * *

2 CHAIRMAN FOX: Good morning,
3 everyone. If we can, we'll start with the
4 introductions.

5 Mr. LaPorte, would you like to start
6 on your end, please?

7 MR. LaPORTE: Sure. Vic
8 LaPorte, board member.

9 MR. MOORE: Larry Moore, board
10 member.

11 MR. MOORER: Lewis Moorner,
12 board member.

13 CHAIRMAN FOX: Robbie Fox,
14 board member.

15 MR. POPE: James Roy Pope,
16 board member.

17 MR. HALE: David Hale, board
18 member.

19 MS. O'CONNOR: Kelly O'Connor,
20 board member.

21 CHAIRMAN FOX: Mr. McPherson,
22 would you start your end, please, sir.

23 MR. McPHERSON: Mike
24 McPherson, Chief Elevator Inspector.

25 MR. HARDY: Mike Hardy,

1 Amusement Device Unit Manager.

2 MS. MURPHY: Jennifer Murphy,
3 board secretary.

4 MR. NEELY: Kenneth Neely,
5 Assistant Administrator, WRC.

6 MR. HERROD: Tom Herrod,
7 Assistant Commissioner, WRC.

8 MR. BAILEY: Dan Bailey, legal
9 counsel.

10 MR. SCOTT: Dewayne Scott,
11 Deputy Commissioner.

12 CHAIRMAN FOX: Glad to have
13 you-all here.

14 Yes, ma'am.

15 MS. MURPHY: If you will,
16 please use your microphones so that Cassandra will
17 be able to hear you well.

18 CHAIRMAN FOX: Okay.

19 MS. MURPHY: You just push the
20 button. It will turn green. You can use it.

21 CHAIRMAN FOX: I would
22 entertain a motion to adopt the agenda as
23 presented.

24 MS. O'CONNOR: Kelly O'Connor.
25 I'll move to approve the agenda as presented.

1 MR. HALE: David Hale. I'll
2 second the motion.

3 CHAIRMAN FOX: We have a
4 motion and a second.

5 Any discussion?

6 (No verbal response.)

7 CHAIRMAN FOX: Hearing none,
8 all in favor of the motion, let it be known by
9 saying "aye."

10 (Affirmative response.)

11 CHAIRMAN FOX: All opposed,
12 like sign.

13 (No verbal response.)

14 CHAIRMAN FOX: Moving to the
15 approval of the meeting minutes for the
16 December 6, 2022, meeting, I would entertain a
17 motion.

18 MR. POPE: Motion. James Roy
19 Pope.

20 MR. MOORE: Second.

21 CHAIRMAN FOX: We have a
22 motion and a second.

23 Any discussion?

24 (No verbal response.)

25 CHAIRMAN FOX: Hearing none,

1 all in favor of the motion, let it be known by
2 saying "aye."

3 (Affirmative response.)

4 CHAIRMAN FOX: All opposed,
5 like sign.

6 (No verbal response.)

7 CHAIRMAN FOX: Next item would
8 be the Elevator Unit's report.

9 Mr. McPherson.

10 MR. MCPHERSON: Yes, sir.

11 I would first like to recognize Mike
12 Roddy. He was an inspector for us in the
13 Chattanooga area, and he's retired now after
14 32 years of service with us. It was a great run
15 there, for sure.

16 Our Elevator Unit now will consist of
17 31 inspectors. We've got one more position
18 available for Inspector 1 and also an assistant
19 inspector.

20 We've also added three admin staff to
21 help in the office. So I think we'll be able to
22 get permits and things like that out more on time
23 as well.

24 Next week we'll have our annual
25 training at Paris Landing State Park, April 3rd

1 through the 6th. We'll cover in-office new detail
2 as well as new code topics, and we'll also do our
3 QEI continuing education that we have to do eight
4 hours every year.

5 The week of April 17th through the
6 21st, we will go to Sevier County again and do our
7 Tram Team inspection. It's that time of year. I
8 mention Sevier County. That's the number two
9 busiest county right now, along with Davidson
10 County being number one.

11 At this time, we don't have any
12 serious incidents to report. It's mainly just
13 typical slips and trips and falls. We get, I'd
14 say, less than 20 of those, possibly, a year.

15 Our delinquency rate is now down to
16 1.7 percent. We're still doing good there.

17 We're on pace to complete over 31,000
18 inspections this year. That's about an average of
19 2,600 inspections a month. We're still turning
20 over roughly 500 new elevators every year. We're
21 taking in roughly 750 new applications a year for
22 different types of conveyances.

23 That's really all the report I have
24 if anyone has got any questions.

25 CHAIRMAN FOX: Any questions

1 from the Board?

2 (No verbal response.)

3 CHAIRMAN FOX: Mr. McPherson,
4 just making a suggestion here. Not sure that it
5 will ever happen, but when you do go to Paris
6 Landing, I understand that the fish are biting
7 pretty well out there. They're in that time of
8 year. And obviously, the Board needs, you know,
9 some rest and relaxation. So if you-all wanted to
10 invite us out there, I'm sure we could make
11 arrangements.

12 So moving right along. Anything
13 else, Mr. McPherson?

14 MR. MCPHERSON: No, sir.

15 CHAIRMAN FOX: Okay.

16 Mr. Hardy. Elevator report, sir.

17 MR. HARDY: Thank you,
18 Chairman.

19 I would like to thank Jennifer
20 Murphy. Jennifer is a member of the Amusement
21 Device Unit, and she also serves as Board
22 Secretary for this Board, and I think she does a
23 super job of setting everything up and keeping
24 everyone in the loop, and I appreciate her, and I
25 would like to thank her this morning.

1 And Deputy Scott, appreciate you
2 being here this morning as well.

3 The first slide -- you guys get to
4 see the slides? You have it in your booklets.
5 We've issued 271 operating permits thus far for
6 the fiscal year. That's through Week Number 38.

7 The green bar that you see is a
8 prorated projection as far as to issue 371 permits
9 through the end of the fiscal year. However, I
10 want to point out that this projection is
11 calculated from July 1st of '22 through last week,
12 or Week 38, and it includes our slower period,
13 normally from October through March. So we fully
14 expect to meet or exceed the 425 permits that were
15 issued for the last fiscal year, of Fiscal Year
16 '22.

17 We have issued permits to 62 new
18 companies thus far in the fiscal year.

19 And again, the green bar prorated
20 projection is to issue 85 permits to new
21 companies, but we have no way of knowing how many
22 new companies we will, first of all, discover and
23 permit between now and the end of the fiscal year.
24 However, we are, again, very confident that we'll
25 meet or exceed the 76 number of new companies that

1 were permitted last year.

2 Amusement devices inspected, we have
3 received 2,457 inspections and registered those
4 inspections on devices thus far for the fiscal
5 year.

6 And again, the prorated projection is
7 to obtain and register 3,362 devices to companies
8 by the end of the fiscal year. There's normally a
9 direct correlation to the number of companies
10 permitted to the number of inspections received
11 and the devices registered companies. And we,
12 again, anticipate that we will meet or exceed the
13 3,819 total devices that were inspected and
14 registered for Fiscal Year '22.

15 We have not logged any reportable
16 accidents thus far for Fiscal Year '23, and that's
17 why we're here. So what the unit is saying, that
18 there have been no accidents on devices that are a
19 direct result of the device, a malfunction of the
20 device or the operation of the device.

21 I want to mention fair season. Our
22 fair season is right around the corner. It
23 generally kicks off in full swing during the month
24 of June. We're working with the Tennessee Fair
25 Association for their 2023 schedule, which

1 includes carnivals that will be operating at the
2 various fairs.

3 We've already seen some traveling
4 carnival activity within the state. All the
5 companies that we've seen thus far have had valid
6 operating permits to the Amusement Device Unit.
7 And again, it is our intent to visit all fairs and
8 festivals and spot-check all the companies for
9 compliance and verification of the devices
10 registered.

11 Lastly, we're working with Mr. Herrod
12 on a new link on our website, which I'm proud of
13 our website, by the way. I think it's very
14 informative and user friendly. But we want to
15 include bulletins, alerts, and notes as they're
16 typically issued by manufacturers on amusement
17 devices when safety issues come about. We
18 typically will send an email blast to our
19 customers who opt in on our website to receive
20 those.

21 We're in the process of ensuring that
22 all of the qualified third-party inspectors that
23 are inspecting devices in our area are included on
24 these email blasts, and we're going to do a
25 general cleanup on the blast as well to make sure

1 that everyone is informed when we have information
2 that we need to send or we need to forward these
3 bulletins, alerts, and notices from the
4 manufacturers of the devices.

5 So that's all I have on the amusement
6 device report. I would be glad to entertain any
7 questions.

8 CHAIRMAN FOX: Any questions
9 from the Board?

10 MS. O'CONNOR: I actually have
11 one comment.

12 Just congratulations and kudos. I
13 think this amusement device reportable accident
14 report having zero, while I realize we're in the
15 slow time, that's what we're all trying to
16 achieve. So congratulations to the whole unit on
17 that. I mean, that's exceptional. We're
18 thrilled. We realize that that, unfortunately,
19 probably isn't always going to be the case, but
20 that's what we really strive for and that's why
21 we're all here, so thank you and good job.

22 MR. HARDY: Thank you,
23 Ms. O'Connor. Appreciate that.

24 Any more questions?

25 (No verbal response.)

1 CHAIRMAN FOX: Okay. Moving
2 right along into Old Business. We do not have any
3 Old Business. So at this time, I'd recognize
4 Mr. Herrod.

5 Is there anything we need to know,
6 sir?

7 MR. HERROD: Mr. Chairman, I
8 have nothing I can report to the Board other than
9 this is the first meeting we've had in person in
10 some time, and going forward, all of our meetings
11 will be in person now. It looks as if, based on
12 the business and any new business coming up, we
13 may spread these meetings out to six months apart.
14 There's no requirement in the law that we have
15 four meetings a year. So we will probably not
16 meet in June unless something comes up between now
17 and then, and the next meeting will be in
18 September. So -- but we'll see what happens and
19 make changes as we need to and make adjustments.

20 So that's all I have for the Board to
21 be aware of at this time.

22 CHAIRMAN FOX: Okay. We have
23 two items under New Business.

24 Is there anyone here to speak to
25 Manuel -- I apologize -- for the name, Manuel

1 Zeitlin Architects? Anyone here to speak to that?

2 MR. McPHERSON: They decided
3 to change their mind and not show up.

4 CHAIRMAN FOX: Okay.

5 MR. McPHERSON: They want to
6 cancel.

7 CHAIRMAN FOX: Okay.

8 J&J Global, Smoky Mountain Alpine
9 Coaster. Is there anyone here to speak to that?

10 MR. HARDY: I'll speak on that
11 on behalf of the Amusement Device Unit.

12 CHAIRMAN FOX: Okay.

13 MR. HARDY: More of an
14 informative.

15 We received a public records request
16 on January 11th of this year, 2023, regarding an
17 accident that occurred in East Tennessee, on May
18 the 14th of 2022. After contacting the company
19 involved, we found that an accident had, in fact,
20 occurred and it went unreported to the unit. So
21 at that time, we issued a penalty order for
22 failure to report an amusement device accident;
23 the accident that meets the criteria of a serious
24 incident or serious physical injury in accordance
25 with the statutes.

1 At this time, we have not heard
2 anything or received any response from the company
3 upon their receiving the penalty order. The unit
4 will send a 60-day past due notice to the company
5 next Monday and will follow that up with a 90-day
6 past due notice by the end of April.

7 Just for your information, from May
8 the 14th, 2022, to January 12th, 2023, encompasses
9 242 days. And in accordance, again, with the
10 statutes, at a penalty of \$300 a day, that comes
11 to a penalty of \$72,600 that was assessed.

12 So I would also entertain any
13 questions regarding this penalty order, if there
14 are any.

15 CHAIRMAN FOX: Good job.

16 MR. HARDY: Thank you.

17 CHAIRMAN FOX: Thank you.

18 All right. That being said, we'll
19 move on into Open Discussion. Do we have any
20 topics for Open Discussion this morning?

21 Mr. Herrod, I noticed in here, as bad
22 as I hate to talk about this, because it's been
23 rule changes. We did a lot of work, back several
24 years ago, on the rule changes and that sort of
25 thing. Is there a point in time that we would

1 update those or make any changes whatsoever? You
2 can say no.

3 MR. HERROD: Well, I can tell
4 you this: Until we get the go-ahead from
5 commissioner, we will not do anything with rule
6 changes and take anything before the legislature.
7 It's kind of a quiet time for us, and we want to
8 do what the Governor's office asks us to do. So
9 when we see an opening and an opportunity, we'll
10 do that. But at this time, there's no -- nothing
11 in rule changes that we can make at this point in
12 time.

13 CHAIRMAN FOX: Okay. Very
14 good.

15 MR. BAILEY: It will be
16 sometime after 2023. I can tell you that.

17 CHAIRMAN FOX: Okay.

18 MR. HERROD: Could be the
19 first of next year. So 2024 may be the first
20 opportunity we have.

21 CHAIRMAN FOX: Well, this is
22 not a task that one cherishes, you see. But maybe
23 something that we would look at. Anyway, thank
24 you very much.

25 Anything else under Open Discussion?

1 All right. Sir?

2 MR. POPE: I just want to
3 say -- again, I'm James Pope, board member. I
4 just want to say, I just want to commend the Ride
5 Safety Unit, Ms. Murphy, Mr. Hardy. For sure, in
6 the carnival business and the traveling amusement
7 business, they've become well respected. We just
8 had a big convention in Florida. The Tennessee
9 unit is talked about well. They're doing their
10 job. They're to be commended.

11 It's hard to start with just any kind
12 of a program and make it turn into something, and
13 it has. And I think we're on the right path. I
14 really do.

15 CHAIRMAN FOX: I would concur.

16 Anything else?

17 (No verbal response.)

18 CHAIRMAN FOX: Okay. Moving
19 right along, the next item is the calendar.

20 And you say that, tentatively, our
21 next meeting would be September the 6th?

22 MR. HERROD: That's correct,
23 sir.

24 CHAIRMAN FOX: Okay. And
25 then, obviously, the next would be in 2024.

1 MR. HERROD: Yes, sir. Right.

2 CHAIRMAN FOX: Okay. Well,
3 this was easy.

4 Is there a motion for adjournment?

5 MR. POPE: Motion.

6 CHAIRMAN FOX: Motion by
7 Mr. Pope to adjourn. Do I have a second?

8 MR. HALE: Second.

9 CHAIRMAN FOX: Mr. Hale has
10 seconded.

11 We are adjourned, ladies and
12 gentlemen.

13 END OF PROCEEDINGS.

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C E R T I F I C A T E

STATE OF TENNESSEE)

COUNTY OF WILLIAMSON)

I, Cassandra M. Beiling, a Notary Public
in the State of Tennessee, do hereby certify:

That the within is a true and accurate
transcript of the proceedings taken before the
Elevator and Amusement Device Safety Board and the
Chief Inspector or the Chief Inspector's Designee,
Tennessee Department of Labor and Workforce
Development, Division of Workplace Regulations and
Compliance, Elevator and Amusement Device Unit, on
the 28th day of March, 2023.

I further certify that I am not related to
any of the parties to this action, by blood or
marriage, and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 7th day of April, 2023.



A handwritten signature in blue ink, appearing to read "Cassandra M. Beiling".

Cassandra M. Beiling, LCR# 371
Notary Public State at Large
My commission expires: 3/10/2024.