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ILLINOIS DEPARTMENT OF LABOR
AMUSEMENT RIDE & ATTRACTION SAFETY BOARD

BOARD MEETING

THURSDAY

JANUARY 15, 2015

CROWNE PLAZA
3100 SOUTH DIRKSEN PARKWAY
WINTER GARDEN ROOM
SPRINGFIELD, ILLINOIS

1 BOARD MEMBERS PRESENT:

2 Mr. Joe Costigan, Director
(via telephone)

3

Mr. Daniel Kirschner, Chairman

4

Mr. Angelo Mazzenga, Member

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Ms. Linda Givand Rhodes, Member

6

Mr. Dan Schwabe, Member

7

Mr. Dennis E. Smith, Member

8

Mr. William Wayne Sparks, Member

9

Ms. Patricia Sullivan, Member

10

Mr. Anthony Urbik, Member

11

12 ALSO PRESENT:

13 Mr. Ron Willis, Board Legal Counsel
(via telephone)

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Mr. Ryan Culton, Division Manager

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1 CHAIRMAN KIRSCHNER: We're going to
2 begin the meeting now, call the meeting to order.

3 The first matter of business is
4 approval of the minutes which are contained in the
5 board packets. If board members have had a chance
6 to approve those, is there a motion to approve the
7 minutes?

8 MEMBER URBIK: Motion made.

9 CHAIRMAN KIRSCHNER: Second?

10 MEMBER RHODES: Second.

11 CHAIRMAN KIRSCHNER: All in favor.

12 (Whereupon a voice vote was
13 taken.)

14 CHAIRMAN KIRSCHNER: Any opposed?

15 (No verbal response heard.)

16 CHAIRMAN KIRSCHNER: Before we get into
17 the next order of business, I thought it would be
18 helpful if we could just go down the line and the
19 members of the board can state their name and
20 introduce themselves.

21 MEMBER SPARKS: Bill Sparks. What else
22 did you want?

23 CHAIRMAN KIRSCHNER: That's fine.
24 Works for me.

1 MEMBER SCHWABE: Dan Schwabe.

2 MEMBER RHODES: Linda Rhodes, one of
3 the public members.

4 CHAIRMAN KIRSCHNER: Dan Kirschner.

5 MEMBER SMITH: Dennis Smith. I'm a
6 public member also.

7 MEMBER URBIK: Tony Urbik. I'm the
8 insurance representative.

9 MEMBER MAZZENGA: Angelo Mazzenga,
10 engineer.

11 CHAIRMAN KIRSCHNER: In the past, a
12 number of years ago, as many of you recall, the
13 January meetings were divided over two days. The
14 last couple years we've kind of consolidated and
15 brought together that process.

16 So the next order of business on the
17 agenda today is the public comment and questions
18 section. It's a small enough room and we don't
19 have microphones, so if there is anyone that has a
20 question from the upcoming season or any permitting
21 processes for Ryan, if you want to kind of step up
22 in the middle aisle there.

23 Anybody with comments want to step up?

24 We can take those at this time.

1 MS. VAUGHN: Can we get a copy of the
2 minutes from the last meeting? Is there one
3 available now that you've approved them?

4 MR. CULTON: Yeah, we could probably
5 give you a copy.

6 MEMBER URBIK: I have them.

7 MEMBER RHODES: And since we don't
8 usually have copies, can I state that they're --
9 just for everybody's information, they are -- are
10 they -- they are available online?

11 MEMBER URBIK: I believe they will be.

12 MEMBER RHODES: They will be.

13 MEMBER URBIK: After we approve them.

14 MEMBER RHODES: Gotcha. So they will
15 be available online.

16 CHAIRMAN KIRSCHNER: One thing I just
17 always mention with each meeting, there is a court
18 reporter present. The court reporter can only take
19 down one person talking at a time. She can't take
20 down huh-uhs and uh-huhs. So anybody who wishes to
21 speak, obviously wait to be recognized and try not
22 to talk over people. And with respect to board
23 members as well, just kind of keep conversations
24 verbal with words as opposed to uh-huhs so the

1 court reporter can take it down.

2 DIRECTOR COSTIGAN: Dan?

3 CHAIRMAN KIRSCHNER: Yes.

4 DIRECTOR COSTIGAN: If it just can be
5 recorded that I'm here, too, along with Ron Willis,
6 our department counsel. We're in Chicago.

7 CHAIRMAN KIRSCHNER: We did the
8 introductions. You didn't speak up.

9 DIRECTOR COSTIGAN: I know. I kind of
10 missed that. Sorry.

11 CHAIRMAN KIRSCHNER: Any members of the
12 public wish to pose questions or comments to the
13 board at this time?

14 MR. PUSEY: I got a question. Why did
15 you decide --

16 CHAIRMAN KIRSCHNER: Do me a favor and
17 can you just introduce yourself just by name?

18 MR. PUSEY: Don Pusey, CDAC Amusements.

19 I just wondered why you moved the
20 meeting up so early in the day. It makes it a
21 little tough for some of us to get here. We've got
22 people here from Chicago and Peoria. I don't know
23 if you can check into the hotel this early.

24 Consequently, I was surprised when I heard from

1 Matt that it was going to be 1:00. Is there any
2 particular reason for that?

3 CHAIRMAN KIRSCHNER: You know, I think
4 there are any number of reasons. There wasn't any
5 one specific reason. There are a number of people
6 on the board from Chicago who came down as well. I
7 think part of it is in terms of saving costs for
8 the state. And when we have evening meetings, then
9 that requires a hotel stay for each of the board
10 members. This way we're saving the state over a
11 thousand dollars by moving it up a couple hours to
12 give people the time to then drive back.

13 MR. WILLIAMS: Dave Williams.

14 I have a question about -- it's been a
15 25-year tradition, maybe longer -- I don't know how
16 long the board's been in force here, but it's been
17 probably approximately that long. That meeting's
18 always been held at 5 or 6:00 in the evening on
19 Thursday night. Everybody makes their schedule
20 according to that. Don't you think it would be a
21 little more proper to give people a little more
22 notification than three days? Some of us found out
23 at 9:00 this morning for the first time that this
24 meeting had been changed to 1:00. That's not being

1 very active with the people who actually serve --
2 that you're serving. Without the people sitting
3 out here in these seats, we don't need a board. So
4 I would think you would take into account the
5 people who have to travel, many of them way farther
6 than you came from Chicago, and to get back, that
7 you should take into account.

8 At least, if you're going to make a
9 change like that, give people enough notice so they
10 can make those changes. There's people who aren't
11 here that would like to be here. You affect their
12 livelihood. You affect their lives with decisions
13 you make. But if you make it where they can't get
14 here on that kind of short notice, that's being
15 very insensitive to the group.

16 MEMBER SMITH: This is published in the
17 paper, this meeting is.

18 MR. WILLIAMS: What paper?

19 MEMBER SMITH: Whatever paper the state
20 uses to notify.

21 MR. CULTON: We have to publish if
22 there's like a public hearing on an act. I mean,
23 that's a statewide statute. But the meeting notice
24 for the public meetings goes -- it was posted in

1 physical form at two of the offices and then it was
2 -- the actual meeting notice was posted up on the
3 website. I'm not for sure, but I think it was
4 about a week -- a couple weeks ago.

5 MR. WILLIAMS: But if you're going to
6 make that major change to something that's been
7 happening for 25 years, I think we deserve more
8 than a week's notice to make a decision like that.
9 That's being very insensitive to this group.

10 CHAIRMAN KIRSCHNER: Thank you for
11 coming. We'll take that under advisement. Thank
12 you.

13 MS. VAUGHN: I think maybe next year --

14 CHAIRMAN KIRSCHNER: Can you wait to be
15 recognized first?

16 MS. VAUGHN: I'm sorry.

17 CHAIRMAN KIRSCHNER: Can you state your
18 name for the court reporter?

19 MS. VAUGHN: Yeah, Margaret Vaughn.

20 Now, in the past, not only did they
21 have the meeting later in the day, but then they
22 would have a public meeting on Friday mornings, so
23 there was actually two meetings. And the reason
24 they did that is because this conference doesn't

1 really start officially until tomorrow and a lot of
2 the folks actually were flying in from other states
3 this afternoon thinking it was going to be this
4 evening. And then when the meeting got changed
5 with seven days notice, they didn't have a chance
6 to rearrange their flight.

7 What might be better next year is if
8 you're trying to, you know, do it with your travel
9 schedule is maybe have it Friday morning, like late
10 morning, maybe 10:00 in the morning to give you
11 guys a chance to drive down from Chicago. These
12 folks -- it wouldn't interfere -- you know, they
13 could still come to their convention. I think it
14 would be better attendance for both parties. You
15 guys could still come down from Chicago and go back
16 the same day. The carnival people could still come
17 to town and, you know, they wouldn't have to come a
18 day and a half early, and I think it might be more
19 productive for everyone.

20 CHAIRMAN KIRSCHNER: I mean, any
21 feedback you want in terms of scheduling -- this is
22 certainly thinking that it would be easier for
23 people coming down and going back not to have to
24 put the cost on the state.

1 MS. VAUGHN: The only reason they do it
2 here is because it's in conjunction with the
3 convention.

4 CHAIRMAN KIRSCHNER: I understand.
5 That's why we're here today.

6 MS. VAUGHN: Right. So, I mean,
7 otherwise --

8 CHAIRMAN KIRSCHNER: The notice was
9 given in accordance to the statute. But I
10 understand your concerns and we'll take that under
11 advisement in terms of scheduling for next year.

12 MEMBER RHODES: I especially appreciate
13 the feedback about advance notice. I can't think
14 of a downside for making sure the notice is longer.

15 MEMBER SULLIVAN: I would also suggest
16 that notice is given to the Fair Board
17 organization, because in the paperwork they sent
18 out the meeting is at 6:00 tonight.

19 MR. CULTON: Well, the only thing I
20 would add is I think the Fair Board helped with the
21 scheduling of this meeting room and so they would
22 know what time the -- they would have known what
23 time the meeting was.

24 MEMBER SULLIVAN: When was that

1 decided, though?

2 MR. CULTON: When was --

3 MEMBER SULLIVAN: I mean, what I'm
4 saying is the material they send out may be already
5 up and ready before that. I don't know.

6 MR. CULTON: Maybe it was a typo on
7 their end. I'm not for sure. But I think when we
8 spoke with Bill to set the meeting up, he had the
9 meeting times.

10 CHAIRMAN KIRSCHNER: Yeah. In fact,
11 long before the materials go out to the board, Ryan
12 circulated an e-mail to all the board members
13 advising them of the date of this meeting and time
14 of this meeting, making sure we'd have a quorum. I
15 understand that there was not enough time for some
16 people who may anticipate --

17 MR. WILLIAMS: We need to know that
18 months in advance.

19 CHAIRMAN KIRSCHNER: Excuse me. Can
20 you wait just a moment, please?

21 The date and time had been known to
22 individual board members, including carnival
23 industry representatives, for longer than a week.

24 Any other public comments?

1 I'm sorry. I didn't mean to cut you
2 off. I just wanted to finish my statement. Is
3 there anything else you want to say?

4 MR. WILLIAMS: No.

5 CHAIRMAN KIRSCHNER: Thank you.

6 MR. JOHNSON: Bill Johnson.

7 Can you go over some of the new rules
8 for this year that you may vote on tomorrow or some
9 of the new rules that you talked about?

10 CHAIRMAN KIRSCHNER: There's no meeting
11 tomorrow. Everything is consolidated.

12 MR. JOHNSON: Later today. I'm sorry.
13 Later today, at the board meeting. If you can go
14 over some of the new rules. I'm looking at Section
15 6000.100 and I just need some clarification on
16 that. I'm not sure if -- it says carnival and
17 fair, so I'm not sure if you're including that all
18 the fairs have to basically do what we're doing as
19 far as the police check and all of that, that
20 you're going to be responsible for making sure the
21 fairs -- the way that this bill -- I mean, maybe
22 I'm wrong.

23 CHAIRMAN KIRSCHNER: Can I break that
24 down into two parts for you? In terms of new rules

1 I'm going to direct you to Ryan.

2 MR. JOHNSON: Okay. But can you read
3 over what the new rules may be so we can --

4 CHAIRMAN KIRSCHNER: You're talking
5 about ones that have already been implemented.

6 MR. JOHNSON: Well, something they're
7 going to propose because --

8 MS. VAUGHN: No, this was adopted back
9 in August.

10 MR. JOHNSON: This was adopted back in
11 August, but aren't we supposed to discuss any --
12 any new rules that you have, don't you talk at an
13 open meeting about that and we discuss that? Am I
14 wrong?

15 CHAIRMAN KIRSCHNER: Are you talking
16 about pending decisions about rules which aren't in
17 place or are you --

18 MR. JOHNSON: I'm just -- there's two
19 parts to my theory, too, as far as new rules that
20 may go into effect or new rules that went into
21 effect that aren't we supposed to discuss them at
22 the open meeting? Aren't you supposed to discuss
23 any new rules at an open meeting so you can have
24 discussion from us? Or am I wrong on that?

1 CHAIRMAN KIRSCHNER: I'm not sure which
2 specific rules you're referring to.

3 MR. JOHNSON: I'm talking any rules.
4 Anything that you guys decide to change, aren't we
5 supposed to have discussion at an open meeting?

6 CHAIRMAN KIRSCHNER: Let me introduce
7 one idea. And I think there's always this
8 misconception about what this board is. We don't
9 change anything. We're an advisory board. It is
10 the Department of Labor and the director of the
11 Department of Labor who conceives of or proposes
12 potential rules and rule changes and to bring those
13 to this board for our advice and consent. We don't
14 change rules. We don't promulgate rules. That's
15 the director of the Department of Labor.

16 So that's why I'm referring you in
17 terms of rules that are out there in terms of if
18 you're asking how the current rules are going to
19 affect you and be enforced, I'm going to direct you
20 to Ryan.

21 MR. JOHNSON: Okay. Can he --

22 CHAIRMAN KIRSCHNER: So that's why I
23 say if you have a specific question about a
24 specific rule --

1 MR. JOHNSON: Well, there was one rule
2 that -- the 6000.100 is one of the rules that I was
3 looking at and I'm trying to get where it --

4 CHAIRMAN KIRSCHNER: For the record and
5 for the other board members, can you tell us what
6 the title of that rule is?

7 MR. JOHNSON: I just have one page and
8 it says Section 6000.100, Employment of Carnival
9 Workers, Appeals or Permit Denials. Maybe I didn't
10 print the -- maybe I have another page here. There
11 was something that said carnival -- there it is.
12 No person that owns and operates a carnival or fair
13 shall employ a carnival worker who's been convicted
14 of an offense, Article 11, Criminal Code.

15 But I'm just -- the fairs were asking
16 me about it because it says fair on there, and I
17 didn't -- so you're going to have to go to every
18 fair --

19 MR. CULTON: I think I can answer that,
20 Bill.

21 MR. JOHNSON: Okay.

22 MR. CULTON: So that section that
23 you're talking about there, so there's three
24 definitions in there that I think you have to look

1 at. So there is carnival, fair, and carnival
2 worker. So you have a carnival and you have a
3 fair, and those are defined in the act. And it's
4 usually a -- just what you think it is.

5 But then there is a carnival worker.
6 So a carnival worker is somebody who runs a ride,
7 you know, operates an amusement ride or is an
8 attendant on that ride. And so it's strictly
9 defined as operator.

10 MR. JOHNSON: Okay.

11 MR. CULTON: So even though you might
12 own a fair and a carnival, you probably --

13 DIRECTOR COSTIGAN: Ryan, let Ron --

14 MR. WILLIS: It's anybody who employs a
15 carnival worker. If a fair happens to operate its
16 own rides and they employ a carnival worker, then
17 they would have to go and conduct a background
18 check. But it's only where you employ or use a
19 carnival worker, who's a person who operates a
20 ride.

21 And it's not -- that definition was not
22 an expansion. It was not a change. That's how
23 it's always been.

24 MR. CULTON: Yeah. I think that's what

1 I just said, so --

2 MR. JOHNSON: Okay. It was
3 highlighted, so I thought that there was a change
4 that I was missing something.

5 MR. CULTON: No.

6 MR. JOHNSON: Okay.

7 MR. CULTON: No. So it --

8 MS. VAUGHN: It's just codifying what's
9 in the statute.

10 MR. CULTON: Right. All that
11 statute --

12 MR. WILLIS: If I can explain one other
13 point on the regulation, just to clarify for the
14 person who asked the question, every change --
15 these regs that went into effect were reviewed with
16 the board. And all board meetings are open
17 meetings. So anybody can come to a -- any of the
18 carnival meetings that they so desire. And then
19 what happens is, even after they are done by the
20 board, there's a process of at least 60 days of
21 posting, then there's public comments, then it goes
22 through the whole review process by the
23 legislature, and that's only then does a rule get
24 passed. So nothing the board does or the

1 department does without the public process going
2 into effect allows a rule to go into effect.

3 CHAIRMAN KIRSCHNER: Any other
4 questions or comments?

5 MS. VAUGHN: Do you know if the
6 department notified --

7 CHAIRMAN KIRSCHNER: Just for the court
8 reporter, can you state your name so she knows
9 who's speaking?

10 MS. VAUGHN: Sure. Margaret Vaughn.

11 Do you know if the department -- the
12 rules were filed like back in August. Do you know
13 if the department notified the board when they were
14 actually filed with JCAR?

15 MEMBER SULLIVAN: No, we weren't.

16 MR. CULTON: Ron, did you hear that?

17 MR. WILLIS: Can you repeat the
18 question? We're having trouble hearing.

19 MS. VAUGHN: Yes. Did the department
20 -- because with JCAR you never know when it's going
21 to pop up. Did the department notify the carnival
22 board at the time they were going to be actually
23 physically filing these rules with JCAR? Because
24 we don't know if they were actually identical to

1 what was approved at the last meeting in January.

2 MR. WILLIS: What are you saying?

3 CHAIRMAN KIRSCHNER: I think he's
4 asking you to clarify your question, please.

5 MS. VAUGHN: I don't think anyone knew
6 back in August that these rules were being filed.
7 The department did but --

8 MR. WILLIS: Everybody in the room
9 knows that they're being published because they're
10 handled like every other rule in all state
11 government, Margaret. There's a process. You
12 publish the rules. You give public notice. Every
13 rule we publish, then you have a right to make
14 comment. Then every rule that makes comments, we
15 have to respond to every comment. And then our
16 responses and everything else goes to the JCAR
17 process. But these carnival rules are no different
18 than the 23 other --

19 MS. VAUGHN: Yeah, I wasn't questioning
20 the JCAR process.

21 CHAIRMAN KIRSCHNER: Margaret --

22 MS. VAUGHN: Yeah, I was --

23 CHAIRMAN KIRSCHNER: Margaret --

24 MS. VAUGHN: -- questioning whether --

1 CHAIRMAN KIRSCHNER: Margaret, you're
2 out of order right now. We can't interrupt people.
3 Please let him finish.

4 MR. WILLIS: There's public notice.
5 The carnival is handled no different than every
6 other rule that we do. And that is public notice
7 is given and there's given at least 60 days for the
8 public to comment. And we treat the carnival no
9 different in the process than anybody else and
10 where there are even other boards or other -- and
11 that's how it is processed. And that's like every
12 other rule in state government, which you're
13 familiar with, that it's handled a certain way and
14 people understand.

15 There are people that are paid to just
16 look at all published rules. Because like, for
17 example, the chamber of commerce constantly makes
18 comments on all rules throughout state government.
19 And that's how it happens. People are paid just to
20 look at rules.

21 MS. VAUGHN: But the chamber of
22 commerce isn't a board, you know, underneath your
23 agency.

24 CHAIRMAN KIRSCHNER: Margaret, I

1 appreciate you want to have a dialogue back and
2 forth. There are other people with their hands up.

3 Sir.

4 MR. SALERNO: How you doing? My name
5 is Robert Salerno. I own a company All Around
6 Amusement.

7 Can you tell me if it was published in
8 my local newspaper say around Lockport? Because I
9 don't ever remember ever seeing it.

10 CHAIRMAN KIRSCHNER: If what was
11 published?

12 MR. SALERNO: The rules. Like they're
13 stating it was published. Was it published where I
14 could read it or I have to subscribe somewhere down
15 in Springfield?

16 CHAIRMAN KIRSCHNER: Ron, can you
17 explain the prescribed mechanism for publishing
18 rules?

19 MR. WILLIS: The Secretary of State
20 sends out notice and publishes them. And there's a
21 journal like all rules that are handled through the
22 Secretary of State. We're required by law to file
23 with the Secretary of State. The Secretary of
24 State then issues a notice of publication of the

1 rules, and then the public has a right to comment.
2 That is the procedure we're required to follow. We
3 don't go -- we follow the state's procedure that
4 governs every law that is in effect in the state
5 and that's how it's handled for every rule that our
6 department -- every department.

7 CHAIRMAN KIRSCHNER: Yes, the woman in
8 the back.

9 MS. IVERSON: My name is Rachel
10 Iverson.

11 CHAIRMAN KIRSCHNER: I'm sorry. Can
12 you speak up just a little bit?

13 MS. IVERSON: My name is Rachel
14 Iverson. And my question is: On the agenda today
15 there's a consideration related to climbing walls.
16 Could you elaborate on what you'll be considering
17 today?

18 CHAIRMAN KIRSCHNER: I can't until we
19 discuss it. I mean, I -- I don't know what we're
20 going to discuss until we discuss it.

21 MS. IVERSON: Okay.

22 CHAIRMAN KIRSCHNER: The issue -- I
23 mean, generally speaking, what the issue is going
24 to be -- I don't want to speak because no one's

1 really -- but the issue is in terms of the
2 mechanics of pulley systems and mechanized
3 transporting of customers and to what extent does
4 that either fall under the rules and regs or should
5 it be a permitted process.

6 But I don't want to limit it because
7 it's going to be a discussion. I don't know what
8 board members' ideas are and where it's going to
9 go. I can't tell you what they're going to say --
10 I don't think anyone can -- until we have that
11 discussion.

12 MS. IVERSON: Okay. Well, can I
13 offer --

14 CHAIRMAN KIRSCHNER: Let me -- I don't
15 mean to cut you off, but let me state one thing.

16 There's nothing on the agenda today
17 which is slated to be called up for a vote.
18 Everything on the agenda today is really up for
19 general discussion. I don't anticipate there's
20 anything here that the board necessarily is going
21 to vote upon that's going to be definitive or
22 rulemaking or anything along that line. That
23 wouldn't happen anyway because there's a whole
24 process for rulemaking that has to go through the

1 department, hearings and all that.

2 But go ahead.

3 MS. IVERSON: So tell me if this would
4 be helpful or not. So I run a climbing wall by a
5 university, so I'd like to share my opinions on
6 whether that would be included or my concerns with
7 that. Is that appropriate?

8 CHAIRMAN KIRSCHNER: I think part of
9 the discussion will certain -- no matter what the
10 issue is, always involves the scope of it and what
11 industry, what aspect, what venues.

12 MEMBER RHODES: It sounds as though she
13 wants to make a comment about climbing walls.

14 MS. IVERSON: Yes.

15 CHAIRMAN KIRSCHNER: Oh, sure. Yeah.
16 You're welcome -- I'm sorry. Go right ahead.

17 MS. IVERSON: Okay. So I recently
18 worked in Massachusetts where there are rules and
19 regulations for climbing walls under amusement
20 parks. And so my concern is that some of the -- if
21 it were any kind of adoption for inspection and
22 licensing, in my experience in Massachusetts were
23 not really applicable to the systems that were used
24 at the climbing wall. And so my concern here is

1 the same. So if -- when you are considering
2 adopting climbing wall regulations, I would ask
3 that you make sure that you are -- like get
4 information about how those climbing walls work.
5 Because I think in many ways it can be different
6 than amusement park rides. So I would want to make
7 sure that what gets adopted would be relevant as
8 opposed to like, for example, having an amusement
9 park inspector come to a climbing wall, whereas we
10 already have accredited inspectors that have set up
11 our whole wall that inspect it. So there's some
12 redundancy that I think may be unnecessary, may not
13 necessarily hit the safety considerations that our
14 walls may have.

15 CHAIRMAN KIRSCHNER: Thank you for your
16 comments.

17 MR. SALERNO: Robert Salerno again.

18 Is there any forms or applications we
19 can sign to get on the receiving of these
20 applications that are -- the notifications?
21 Because I live in Lockport. I'm sure Bill Johnson
22 lives in other suburbs. And a lot of carnivals I'm
23 probably sure that we fell through the cracks and
24 we weren't notified. How do we get on some type of

1 application we can fill out so when Springfield or
2 whoever does put out the passage of these bills
3 that we can get notified of it?

4 CHAIRMAN KIRSCHNER: Are you talking
5 about any notification or notification of proposed
6 rules?

7 MR. SALERNO: Notification of proposed
8 rules.

9 CHAIRMAN KIRSCHNER: Ron, do you want
10 to talk about the mechanics of notification for
11 proposed rules?

12 MR. WILLIS: Well, we're different than
13 other -- under our act we go to the board. There
14 is a board and we go to the board before we
15 actually submit our proposed rules. So anything
16 would be, you know -- and so that's one difference
17 from any other -- most agencies don't have a board
18 where you go beforehand. They just -- the director
19 just publishes rules and sends them to the
20 Secretary of State. Ours go to the board.

21 All the board members -- and there's
22 industry members and public members and to the
23 extent that -- you know, and I know that -- and you
24 know, our meetings are open. There's industry

1 representatives who always come to our meetings
2 when they know when we're going through rules. And
3 there's nothing else that we send out that goes out
4 to people other than what we're doing at board
5 meetings, and then they go through the Secretary of
6 State's office, who publishes it.

7 So I guess the best thing I can say is
8 to contact, you know, a board member or an industry
9 member or somebody who's at our board meetings and
10 -- or contact the department after a board meeting
11 to know if there's anything, I guess, to -- if
12 there's anything with rules. The department will
13 be more than happy to tell somebody whether
14 something was discussed after a board meeting
15 because it's always going to be brought to a board
16 meeting. So I guess that's the best way to do it.

17 Now, there would be an infinite number
18 of notices otherwise that we'd have to send out, so
19 we don't send out notices. But, you know,
20 certainly if someone were concerned, all they'd
21 have to do is contact the department and the
22 department -- you know, Ryan at the department
23 would say, yes, this is something that was
24 discussed, there are, you know, regulations that

1 are proposed.

2 DIRECTOR COSTIGAN: This is where
3 they'll be published.

4 MR. WILLIS: Here's how they'll be
5 published and here's where they're going, and you
6 have a right to make a public comment, which goes
7 back -- the way it works then is the public
8 comments go back to the department.

9 CHAIRMAN KIRSCHNER: So there are
10 several phases. Think back in terms of an example
11 of ziplines, for example. There was maybe a year,
12 year and a half long process where there was
13 initial public comment and helping formulate the
14 ideas in terms of what's involved. Then there's a
15 drafting of proposed rules in committee. That
16 comes back before the board at public hearing.
17 Then there's a finalized rule that goes up for
18 public hearing.

19 So usually in order for a rule to get
20 implemented, it's -- you know, for example, there's
21 no ad hoc rulemaking done by this board at our
22 meetings. We're not a rulemaking board. We're
23 just an advisory board. And all of our business is
24 conducted pursuant to the Open Meetings Act.

1 There's no work by this board outside of the public
2 eye in terms of rulemaking. So in terms of any
3 specific rules, it's not something that something's
4 going to happen in front of you while you're
5 sitting here watching us talk, if that can make
6 sense.

7 Gentleman in the back with the Nike
8 sweatshirt.

9 MR. MASSIE: Donnie Massie, Alpine
10 Amusement Company.

11 It seems like most of this stuff people
12 are bringing up here is all about communication, so
13 I just wondering if the board would be against --
14 or, I would make a recommendation that the board or
15 the department send out and put an e-mail blast
16 together with any kind of proposed rules that would
17 affect the carnival industry or anybody that's
18 interested in that to be on an e-mail blast.

19 I mean, I know you said that proposed
20 rules are -- they're printed out there or
21 something, but just like this meeting and changing
22 the time, some people didn't know about it. So my
23 recommendation would just be to the department to
24 maybe put an e-mail blast out with some of these

1 things that are --

2 MR. WILLIS: One other clarification,
3 Dan.

4 CHAIRMAN KIRSCHNER: Yeah.

5 MR. WILLIS: Once we publish a rule, we
6 are not allowed to communicate with anybody
7 regarding those rules. Then it becomes a whole
8 different reporting mechanism and that's why we're
9 very careful -- I mean, there's the one extra step.
10 And that's why I said anybody -- all they would
11 have to do is contact the department after a
12 meeting because we do go to the board beforehand,
13 as opposed to other rules in the state. Like, for
14 example, the Illinois Commerce Commission or even
15 under the minimum wage law or any other law, no one
16 gets contacted. Our board members get contacted.
17 And that's why if you'll just contact the
18 department, they'll tell you whether or not there's
19 been proposed rules.

20 Once we -- once we send it out there
21 and we send them to the Secretary of State, we
22 cannot -- we shouldn't be discussing them with
23 anybody. And then we get into problems where we
24 have communications with other people because they

1 say you must have discussed this with such and such
2 a person or such and such a person. Our position
3 is we can't do that ex parte discussion during the
4 rulemaking process. Those are strictly prohibited.

5 CHAIRMAN KIRSCHNER: The lady in the
6 pink shirt.

7 MS. SALERNO: Juanita Salerno, All
8 Around Amusement.

9 My question is: When does the safety
10 board meeting -- or, safety board meet?

11 CHAIRMAN KIRSCHNER: By statute,
12 there's no specific time set. It's basically on an
13 as-needed basis. So some years you'll notice we
14 may have two meetings; some years we may have five
15 meetings. It depends on what business is before
16 the board, what needs to be discussed.

17 MS. SALERNO: Right. But you say that
18 we're allowed to go to the meetings, and I've never
19 seen a notification that there is a board meeting
20 going to take place except here.

21 MEMBER RHODES: She's referring to the
22 meeting Ron spoke of.

23 MS. SALERNO: Right. He said you get
24 together at meetings throughout the year.

1 CHAIRMAN KIRSCHNER: The agendas and
2 the dates are always posted on the department
3 website.

4 MS. SALERNO: Okay.

5 CHAIRMAN KIRSCHNER: And there's a time
6 frame required by statute. They're posted in
7 accordance with the time frame. The board itself
8 doesn't maintain any administrative --

9 MS. SALERNO: I understand.

10 CHAIRMAN KIRSCHNER: -- action or
11 website.

12 MS. SALERNO: Right. So just when
13 you're going to meet is posted on the website?

14 CHAIRMAN KIRSCHNER: On the board
15 website, yes.

16 MS. SALERNO: Okay. Thank you.

17 MS. GERMAIN: Hi, Lori Germain, Jerry
18 Germain Rides.

19 Just to go back to a blast to the past,
20 when Marcia Joiner was the secretary for your --
21 for the department, she did used to send an e-mail
22 blast to everyone on the list from Illinois here
23 saying that meetings were changed, the times of the
24 meeting. And she wouldn't tell us about any

1 changes, but she would send a reminder, check the
2 web -- your alls -- the website. And instantly, as
3 soon as I knew I got that from Marcia, I knew to
4 hit your website for what was going on in the
5 world. We've saved a thousand dollars today by
6 having this meeting at 1:00. Surely a five-minute
7 e-mail wouldn't cost too much money to send out.
8 Marcia did it all the time the whole time she was
9 there. I know -- and she was -- she was a gem.

10 CHAIRMAN KIRSCHNER: She was terrific.

11 MS. GERMAIN: Right. But this -- our
12 conversation could -- could have probably been
13 avoided with an e-mail being sent.

14 CHAIRMAN KIRSCHNER: Yes, ma'am.

15 MS. SPARKS: Belva Sparks, American
16 Banner Amusements.

17 I'm kind of confused here and I have a
18 question. Where do the rules come from then if you
19 are only an advisory board? Does the department
20 send the rules to you or do you come up with rules
21 and send them to the department?

22 CHAIRMAN KIRSCHNER: We are a creature
23 of statute. We exist because the legislature says
24 we do and we exist within the confines of what that

1 statute says.

2 MS. SPARKS: Okay. But where -- when a
3 rule happens, where -- where does it originate?

4 CHAIRMAN KIRSCHNER: Under the statute
5 the way it's drafted -- and, Ron, you can chime in
6 as well. My understanding is that we exist to
7 advise the director of the Department of Labor. So
8 when the Department of Labor wishes to propose a
9 rule or a rule change, we exist so they can bring
10 that before us for our advice and consent in terms
11 of --

12 MS. SPARKS: So it's originated at the
13 department level.

14 MR. WILLIS: For example, the last time
15 we changed the rules, we sent the drafts to the
16 board and the board made comments. We made some
17 changes as a result of what the board's comments
18 were. Then we went back to the board, gave them --

19 DIRECTOR COSTIGAN: With those changes.

20 MR. WILLIS: With those changes. And
21 then after everybody was explained the changes,
22 then the department submits the rules for public
23 comments, additional comments, for 60 days -- at
24 least 60 days, and that's when other people in the

1 public can then comment on any of those rules, and
2 they submit those in writing. And then the board
3 has to send a -- the department has to respond to
4 those comments.

5 CHAIRMAN KIRSCHNER: So this board is
6 -- we are not a legislative body. We are not a
7 rulemaking body. We are an advisory board to an
8 administrative body that has rulemaking ability.

9 MS. SPARKS: But --

10 DIRECTOR COSTIGAN: All this was
11 explained at the last meeting when we were going
12 through this as to the process.

13 MEMBER URBIK: But the genesis of it,
14 too, can come from any of you folks or a legislator
15 or someone from the public that brings the idea to
16 the board. And just like the -- banning cell
17 phones on operators, we were planning on doing
18 that, and you guys said, no, we need that, we need
19 that for our communication. So we changed our
20 thinking as to how to bring that rule and then we
21 sent it on to Department of Insurance -- or,
22 Department of Labor, and then they do their thing
23 with the legislature.

24 CHAIRMAN KIRSCHNER: Go ahead.

1 MS. SPARKS: So then --

2 CHAIRMAN KIRSCHNER: Could you just say
3 your name again for the record?

4 MS. SPARKS: Belva Sparks.

5 So then with that, then you do like at
6 least put into motion the beginning of rules --

7 MEMBER URBIK: Yes.

8 MS. SPARKS: -- with the department.
9 Because you don't wait for them to originate
10 whatever and never have the idea about the cell
11 phones or something like that.

12 MEMBER URBIK: Or the director might
13 find a four-wheel drive truck driving kids around a
14 maze and come in and say, hey, you guys, is this
15 covered under our purview? And if it's not
16 specifically, then we have to look and say, should
17 it be?

18 MS. SPARKS: So actually --

19 DIRECTOR COSTIGAN: So that goes very
20 specifically -- look at how ziplines -- it was
21 something that wasn't covered. It was developed.
22 It evolved. And because -- it was something that
23 was covered by the law but we didn't have anything
24 to address it.

1 To the extent that that one member of
2 the public spoke about climbing walls, and I can't
3 say what the discussion would be, but to the extent
4 that there should be something that it's covered
5 and to the extent there should be some unique
6 criteria that's established to it, the department
7 would obviously have to consider everything that
8 was provided by the industry and everybody else in
9 this room. So it wouldn't be covered under some
10 general rule but more specifically under a specific
11 rule like ziplines, rather than just get a
12 catchall, to try to make sure that at least an
13 operator is addressed to -- narrowly addressed to
14 the issue that should be looked at, not just have
15 it as shotgun to make an interference with the
16 operator's ability to operate.

17 CHAIRMAN KIRSCHNER: And because the
18 department's authority is a creature of statute and
19 we're a creature of statute and we operate within
20 the confines to the extent that the director may be
21 receptive to ideas coming from the board, those
22 ideas still have to be within the confines of that
23 statutory authority, you know. So if we have an
24 idea that's outside what the Department of Labor is

1 able to do, then it's not for us to discuss, and
2 we're just wasting everyone's time.

3 MR. WALSH: Robert Walsh, American
4 Banner Amusements.

5 To clarify about today's agenda, is
6 this the only section of the meeting where we have
7 the ability to speak as the public or as you guys
8 bring up proposals are we going to be able to have
9 discussions? I'm curious that after this session
10 of whenever you say any more questions from the
11 public and nobody else brings anything up, is that
12 going to be it for the only time that we are
13 allowed to actually chime in or are we going to be
14 able to have a voice whenever you guys actually
15 bring up the questions?

16 CHAIRMAN KIRSCHNER: The conducting of
17 the board business is not an interactive process
18 with the public. We extend a section for the
19 public comment and questions so any issues that you
20 have, any questions you have can come up. The
21 actual discussion of the board is not an
22 interactive process with the public. So in terms
23 of this section of the agenda, this is the time
24 that the public will have to communicate.

1 But like I said in terms of that issue,
2 there is no rulemaking going on here today. There
3 are no votes that are going to happen in terms of
4 implementing something that may affect you. If
5 that's going to occur, that's going to be something
6 down the line. Where we may have something we're
7 discussing that may be important to you which may
8 get sent to the committee for discussion,
9 eventually may be a proposed rule or proposed rule
10 change which will come back before you for public
11 comment to come back and say, hey, boneheads, why
12 did you do that or, you know, that's a great idea,
13 thank you very much. But in terms of back and
14 forth, there's not the mechanics for that.

15 MR. WALSH: When would the next time be
16 available for us to give our rebuttal to that or
17 comment on that?

18 MEMBER URBIK: You can do that anytime
19 directly to the department. You can call either
20 Ron if it's a legal matter or Joe or Ryan and
21 express your concerns or what better you think
22 might happen.

23 CHAIRMAN KIRSCHNER: Or I can tell you,
24 we've seen in the past people write letters. Hey,

1 you guys discussed this, I think you're missing
2 this point. And that's circulated to the board
3 members so the next time we have a discussion
4 involving that topic we have that letter and say,
5 hey, so and so wrote in and he had this concern,
6 let's address it.

7 MEMBER RHODES: And if I could just add
8 just to go to value of the feedback from the people
9 in the group, the cell phone example was a good
10 example and so was the climbing wall comment. The
11 fact that we are an advisory board advising the
12 director is great, but what makes it greater is the
13 fact that we get feedback from you and from others
14 to help us advise accordingly. I just thought that
15 was important to make that comment. That's why if
16 there is a comment, we want to hear it. We
17 consider what you say, we consider what our
18 opinions are, and then that helps to form what we
19 advise the director.

20 CHAIRMAN KIRSCHNER: We're one of the
21 few boards --

22 DIRECTOR COSTIGAN: Just to add a
23 comment. I appreciate Linda's comments, but, you
24 know, Ryan, first of all, takes questions all the

1 time. And there have been a number of occasions
2 where we've done conference calls with the industry
3 organized by, you know, Bill Johnson and others,
4 you know. So I would assume those kinds of
5 discussions are appropriate and would continue.
6 So, you know, we're -- we're -- as Linda said in
7 her comments that are very applicable, that, you
8 know, your comments, your ideas, are all things
9 that we take very seriously under consideration and
10 value as we move forward on these issues.

11 CHAIRMAN KIRSCHNER: Yeah. Just to
12 kind of underscore that, the only time in which
13 public comment is mandated is when there's a
14 proposed rule. The Open Meetings Act does not
15 mandate there be a provision for public comment and
16 questions. As a board, I think we're one of the
17 few boards that really make an effort at every
18 meeting to have on the agenda a line item for
19 public comment and questions to give the public
20 that opportunity. It's ineffective at the board
21 meeting to try and have it dovetail throughout the
22 meeting and having that back and forth, but we do
23 try and make an effort every meeting to have the
24 line item for public comment and questions, which

1 is not required by the Open Meetings Act.

2 MS. ROYER: Margaret Royer. I'm one of
3 the ride inspectors.

4 I also believe -- just to put the
5 website out there again, I believe all the board
6 members' contact information is on our website. Am
7 I correct?

8 MEMBER URBIK: Yes.

9 MEMBER RHODES: That's correct.

10 MS. ROYER: And so if anytime you guys
11 have questions or concerns, you can contact these
12 people. I mean, these are the people that are
13 representing you, and so by all means -- I mean,
14 Ryan is always a resource. But I mean all of the
15 people on the board have their contact information.
16 You definitely can contact them with your concerns,
17 questions, or whatever.

18 CHAIRMAN KIRSCHNER: Yeah. Don't --
19 exactly. Don't feel like you have to sit on your
20 hands until January.

21 MEMBER URBIK: A board meeting.

22 CHAIRMAN KIRSCHNER: I mean, anytime
23 you can e-mail, write letters.

24 DIRECTOR COSTIGAN: And like I said,

1 we've conducted numerous discussions with various
2 parties on issues all throughout, you know, the
3 years that I've been here at the department, on
4 issues from legislation to other specific concerns
5 that have been raised.

6 CHAIRMAN KIRSCHNER: Did I see another
7 hand up?

8 MR. JOHNSON: Bill Johnson, Fantasy
9 Amusement Company and a trustee of the OABA.

10 I'm just checking, last year we spoke
11 on rider responsibility, and I'm not sure, has the
12 board talked about that? Has anything -- you know,
13 we bring it up and then, as you say, you're
14 supposed to talk about it. I know we didn't have
15 any contact or you guys haven't contacted the OABA
16 and Bob Johnson. So I'm not sure, is it something
17 you're thinking about that people have to be
18 responsible for their own actions, any discussion
19 at all?

20 CHAIRMAN KIRSCHNER: The board does not
21 conduct business outside the board meetings. So
22 any business that's been discussed with the board
23 has been out in the open here in terms of board
24 discussion.

1 MR. JOHNSON: Okay. Is there --

2 CHAIRMAN KIRSCHNER: And since that
3 last meeting nothing's been brought to this board.

4 MR. JOHNSON: Okay. So you haven't --

5 CHAIRMAN KIRSCHNER: Go ahead.

6 MR. JOHNSON: Bill Johnson again.
7 You haven't had another meeting then?

8 MEMBER URBIK: No.

9 CHAIRMAN KIRSCHNER: No. In fact, at
10 the last meeting I invited if anybody wanted to
11 bring it up for board business, and in the past
12 year nothing has been brought to the board's
13 attention.

14 MEMBER SULLIVAN: Yes. Excuse me. I
15 have. I asked for it to be on the agenda. I have
16 the paperwork here to be able to pass out. So I am
17 planning to, as you invited us to do, bring
18 something to the board to discuss for patron
19 safety.

20 CHAIRMAN KIRSCHNER: Okay. It's my
21 understanding you were asked to submit things to
22 the board ahead of time. You haven't submitted
23 anything for today. We have nothing submitted from
24 you. Am I wrong?

1 MEMBER SULLIVAN: I was out of town. I
2 was out of state. By the time that I got the date
3 for this meeting, I had not even been back to my
4 office until this morning to make copies of these.
5 And I should be able to be -- to bring anything. I
6 asked for it to be on the agenda, and I don't think
7 it's fair that it's not on the agenda.

8 MR. SALERNO: I'd like to get the
9 paperwork.

10 MEMBER SULLIVAN: And I do have
11 paperwork to pass out.

12 CHAIRMAN KIRSCHNER: You are welcome to
13 pass out anything you want to this board. I did
14 ask it a year ago. So you had a year, not a couple
15 days, to pass out to this board. Let's be clear
16 about that.

17 MEMBER SULLIVAN: You said bring it to
18 the next meeting and so I have.

19 CHAIRMAN KIRSCHNER: Any other
20 questions or comments?

21 MR. SALERNO: It seems to me that not
22 one -- myself, Bill Johnson, Don Massie, and a few
23 other carnival guys in here, all we're asking is
24 better communication. You said your board takes

1 recommendations. I've heard several times today
2 that we'd like to get an e-mail blast from you
3 guys. All right? Is that under clarification? Or
4 what do we need to tell you that we'd like to get a
5 little bit different? Why do we always have to do
6 what you guys say is right? Why can't your board
7 see what we think is right and -- how do you say --
8 do what we need, instead of always doing what you
9 need?

10 CHAIRMAN KIRSCHNER: The communications
11 do not come from this board. The communications
12 are from the Department of Labor.

13 MR. SALERNO: Make a recommendation.

14 CHAIRMAN KIRSCHNER: The Department of
15 Labor is here. They're listening to you. It's --
16 all the -- under the statute, the administrative
17 responsibilities fall on the Department of Labor.
18 The board does not have any administrative -- we
19 have no employees. We're not employees of the
20 state. We don't have an office. We don't have
21 computers. None of the administrative
22 responsibilities in these board meetings are
23 handled by the board. That's handled by the
24 Department of Labor.

1 So in terms of the work Margaret was
2 doing, you know, those are -- those are comments
3 you can call up and direct them at any time to the
4 Department of Labor, say, hey, Margaret used to do
5 that, can you guys start doing that again?

6 MR. SALERNO: I hear what you can't do.
7 Can you hear what I'd like you to do? Since we're
8 all registered with the state and we're all on --
9 they've got our phone numbers, our e-mails with the
10 state, why can't you push a button after it's all
11 done and over with?

12 CHAIRMAN KIRSCHNER: Because I don't
13 have a button to push. That's what I'm telling
14 you. I don't have a button to push. You're
15 talking to me. You need to talk to the Department
16 of Labor, not the board. That's what I'm telling
17 you.

18 DIRECTOR COSTIGAN: Can I just say
19 something? We're listening to your comments.
20 We're going to -- we'll discuss internally and
21 we'll figure out a way to make that work.

22 MR. SALERNO: Thank you.

23 MR. WILLIS: Dan, can I --

24 CHAIRMAN KIRSCHNER: Ron.

1 MR. WILLIS: I think that's the
2 important thing.

3 CHAIRMAN KIRSCHNER: It's true. I
4 mean, I don't mean to be obtuse. If you're asking
5 us as the board to say, Department of Labor --

6 MR. SALERNO: Make a suggestion.

7 CHAIRMAN KIRSCHNER: -- can you improve
8 communication, that's easy. I think we all agree
9 with you. I think they're hearing what you're
10 saying. You don't need me to then repeat it
11 because they're right here listening.

12 MR. SALERNO: It would be nice if we
13 heard you say something to the board in behalf of
14 us.

15 MS. SALERNO: The department.

16 MR. SALERNO: The department.

17 CHAIRMAN KIRSCHNER: Joe, do what he's
18 asking you to do.

19 DIRECTOR COSTIGAN: Yes. Wait a
20 second, okay? Here, we've got a comment.

21 MR. WILLIS: I was just going to say
22 the last point on this is -- and I think it's
23 important to understand -- and you clarified it
24 very well -- the board's responsibilities are set

1 forth in the statute. I think the department as a
2 matter of practice has gone beyond that and used
3 the board to bring up issues that theoretically
4 aren't even within the board's responsibilities,
5 but because we want to know what board members and
6 people who -- what people are thinking in the
7 industry. But the board's responsibilities are
8 very specific and it's not like this is -- there's
9 some statutes where boards have broad, broad
10 responsibilities. This statute sets forth the
11 responsibilities of the board, and in fact, sets
12 forth the responsibilities of the board members.

13 Theoretically, there are certain board
14 members that are supposed to be speaking on behalf
15 of the public, not on their own best interest.
16 There are certain people who are supposed to speak
17 on behalf of the insurance industry because that's
18 who they're the representative of. The board
19 members theoretically are supposed to be there
20 within their appointment and speak on those issues
21 and give their opinions in light of their
22 responsibilities to the constituency they represent
23 and how they were appointed and what kind of
24 position they were appointed as.

1 DIRECTOR COSTIGAN: Like, for example,
2 public members are supposed to be the public at
3 large, not industry representatives. There are
4 industry representatives, and there are insurance
5 representatives, and there are engineering
6 representatives.

7 MR. WILLIS: And if you go through the
8 other two points on the legislation, it's very
9 specific what the board's responsibilities are.
10 And so I think the comment is directly if the
11 public feels there should be better communication,
12 obviously that should go directly to the
13 department. If they feel that there are issues,
14 that should go directly to the department. If you
15 want to write letters, they should go directly to
16 the department because the department has the
17 obligation to responsibly consider those, where a
18 board member may not have the obligation.

19 CHAIRMAN KIRSCHNER: Okay.

20 MR. JOHNSON: This is Bill Johnson
21 again.

22 I just want to probably tell everybody
23 in the room -- some of you don't know yet -- the
24 department, Joe and Ron and Margaret Vaughn and Bob

1 Johnson and Ryan and myself -- and I don't know --
2 Andy Schoendienst, we had a couple members that
3 were board members of the OABA, and we did speak
4 with the Department of Labor. And we do appreciate
5 that, that you included us. So please make sure
6 you include us again.

7 The OABA, fifty years this year. So,
8 obviously, they're fighting for our industry and
9 safety, and we do appreciate that.

10 DIRECTOR COSTIGAN: Well, and we value
11 -- we value that kind of discussion and we
12 appreciate that as well. It's helpful to the
13 department. And, you know, those kinds of things I
14 believe will continue on into the future.

15 We always try to be responsive to the
16 issues and concerns of anybody who brings issues to
17 our department. And so, you know, I suspect that
18 that will continue. And, you know, we hear the
19 comments and we appreciate them.

20 CHAIRMAN KIRSCHNER: Thank you very
21 much.

22 MEMBER RHODES: And I was just going to
23 say at the risk of getting hung up any longer on
24 the communication issue, I thought it was stated

1 CHAIRMAN KIRSCHNER: Yeah. There's no
2 concerted effort to cut anyone out of the loop or
3 to cut short someone's opportunity to attend a
4 meeting. So if there's better ways we can
5 communicate, go through the Department of Labor
6 because I don't have a button to push.

7 MR. SALERNO: Thank you.

8 CHAIRMAN KIRSCHNER: Yes, the lady in
9 the back.

10 MS. NOERPER: Theresa Noerper with
11 Archway Amusements.

12 I just want to make an official
13 recommendation that the advisory board does discuss
14 the rider responsibility and takes everything into
15 consideration. I think it's very vital to our
16 industry.

17 CHAIRMAN KIRSCHNER: Okay. That
18 concludes the public comment and questions section
19 in the agenda.

20 Moving on to old business, Joe, you
21 still there with us?

22 DIRECTOR COSTIGAN: Yeah, for a little
23 bit yet, yes.

24 CHAIRMAN KIRSCHNER: The agenda says

1 you have a message.

2 DIRECTOR COSTIGAN: Well, I just wanted
3 to be able to take the opportunity to announce that
4 tomorrow will be my last day as director of the
5 department. I will be leaving government service
6 at the end of the workday tomorrow.

7 And I just wanted to say it's been a
8 pleasure over almost three -- three and a half --
9 three, almost four years that I've been here.
10 We've really tried to deal with some -- you know,
11 some difficult issues. I've taken -- right from
12 the beginning, I took on a lot of concerns that
13 were raised and tried to address those.

14 I'm proud of the fact that I was able
15 to bring some changes to the department and
16 specifically to this division. I brought on a new
17 director, who I believe is, you know, second to
18 none in terms of doing this work and is as
19 committed as anybody to the issues and concerns
20 about the safety and the operations and the smooth
21 operations of carnival and amusement rides. And I
22 just hope that you'll continue to give him the kind
23 of support and help and assistance that he needs so
24 that we can continue to make the kind of changes

1 that are useful and helpful to the smooth running
2 of this division.

3 Secondly, I would like to say thanks to
4 our inspectors in our division. These are the
5 people on the front line. Some of them are there
6 today. I don't know all of -- I'm not in the room.
7 But I've talked to them previously and they're
8 aware that I'm leaving. And I just want to thank
9 them publicly for the work that they've done over
10 the past several years as well and that they
11 continue to do that work. It's very important work
12 to make sure that these rides are inspected
13 carefully and properly, to make sure that --
14 because they are ensuring and looking out for the
15 safety of the public.

16 We've made some other changes. We've
17 got legislative changes. You know, we don't have a
18 huge number of inspectors, but we have a lot of
19 inspections, and we try to do as best we can to be
20 as many places as we can, and sometimes that's
21 service that's not thanked and not understood. But
22 we've put in place new legislation. Fees will now
23 come back to the department that people are paying
24 for and that's going to enable us to -- we need to

1 provide more bodies of inspectors so that we can
2 have a broader reach and better serve the community
3 and the industry, you know, quickly. And you know,
4 sometimes we don't have a lot of time to get from
5 place to place to ensure that these rides are
6 opening up and, you know, it's something that, you
7 know, we've really tried to deal with. So we now
8 will have the resources to bring on a couple new
9 inspectors going forward and those fees will go
10 directly towards supporting the work of this
11 division.

12 We've put in place electronic changes.
13 We've put in place, you know, as we talked about,
14 some new rules.

15 You know, we're not perfect. I know
16 there are -- we hear you what you're saying about
17 the concerns and how the issues of how we worked in
18 the past. The fact is that people come and leave
19 -- leave state government, and we aren't always
20 able -- you know, we do our best to try to serve
21 the mission of the department.

22 So it's been a pleasure for me to serve
23 with my colleagues at the department. And I just
24 wanted to thank all of the members of the board for

1 also the discussions that we've had over the years.
2 We've had some pretty serious issues to discuss.
3 We take those issues seriously. This is one of the
4 -- I believe one of the finest groups of people to
5 come together to discuss these issues, issues of
6 this type in state government, and I want to
7 commend and thank all the board members for their
8 service and for my being able to work alongside
9 you.

10 So that's -- that's my just personal
11 message today and I just wanted to conclude with
12 that, with a hearty thank you to all of the board,
13 to our staff, and to the members of the general
14 public who are supporting the mission of the
15 department to make sure that we're ensuring the
16 safety of the public as far as carnival and
17 amusement rides and our inspections go.

18 So thank you.

19 (Applause)

20 CHAIRMAN KIRSCHNER: Joe, I know the --

21 DIRECTOR COSTIGAN: Let me just finish
22 with -- you know, let me just say one other thing I
23 wanted to.

24 You know, there will be -- the new

1 administration is days into their administration,
2 and they -- you know, there will be a new director
3 coming on board. And I -- you know, we -- I have
4 not met that person, but I'm sure, you know, that
5 you as a board and you as an industry and all the
6 people in the room, I would ask that you give the
7 new director the courtesy and the insight that
8 you've been able to give me over the next -- over
9 the last three and -- three-plus years. So that
10 will be happening, you know, in a matter of
11 probably weeks. And they'll -- you know, they'll
12 -- the department will continue on and still, you
13 know, engage in this mission, but it'll have new
14 leadership here. That's all I wanted to add to
15 that.

16 CHAIRMAN KIRSCHNER: Joe, thank you
17 very much. You've been wonderful to work with. I
18 know everyone on the board feels that way and
19 inspectors feel that way.

20 Patty.

21 MEMBER SULLIVAN: Joe, I wanted to say,
22 too, on behalf of not only the board but all the
23 folks who are here, we appreciate all the
24 cooperation that you have given us, and we -- we

1 know that you have been sincerely interested in
2 helping make this a safer industry, and we
3 appreciate all the cooperation that you have given
4 us. It's been a pleasure to work with you. And we
5 just hope the next person is as cooperative and is
6 as interested in our mission as you have been. And
7 we thank you.

8 DIRECTOR COSTIGAN: Thank you.

9 CHAIRMAN KIRSCHNER: Thank you, Joe.

10 That concludes our old business.

11 New business. Ryan, if it's okay,
12 could I swap the bullet points with Ridgway and
13 you?

14 MR. CULTON: Absolutely.

15 CHAIRMAN KIRSCHNER: Is that okay with
16 you?

17 The next matter of business under new
18 business, we -- and I mentioned before welcoming
19 letters from the public. We received a letter from
20 Mayor Rebecca Mitchell, who is the mayor of the
21 village of Ridgway, which is the popcorn capital of
22 the world, letting the Department of Labor know
23 about a concern they had about an incident
24 involving a dry slide and asked that the board

1 address that issue today.

2 Mayor Mitchell is here, along with
3 Police Chief Condon. I think what might be helpful
4 is if one of the two of you would like to kind of
5 stand up and address the board in terms of what the
6 incident was and what your concern is.

7 Thank you for joining us, by the way.

8 MAYOR MITCHELL: I'm Mayor Mitchell
9 from Ridgway, Illinois. We are a village of 869
10 southeast, and when I say south, you go as far down
11 almost as you can in Illinois southeast.

12 We have an Annual Popcorn Days
13 celebration each year. In September of 2014 we had
14 a very cruel incident on what's called the dry
15 slide, which I'm sure many of you know what that
16 is.

17 When I started checking into it, and
18 the police chief checked into it also, dry slides
19 are not inspected. And the reason I understand
20 that they are not inspected is that they do not
21 meet the height requirement and they have no
22 mechanisms, mechanical mechanisms on them. After
23 this incident, I was thoroughly confused of why
24 they weren't inspected. And we have discussed

1 this.

2 My police chief, Mr. Condon, also has
3 some more information I would like you to have
4 available. And I -- I don't know how to go about
5 -- I've contacted my representative and he also is
6 on board with me. But I just think that this needs
7 to be accountable. This is a ride that severely
8 injured a small child. And I think the -- we need
9 to have more safety on this kind of a -- I call it
10 a ride. I guess it's not a ride, but I call it a
11 ride. And I would like to have Mr. Condon give
12 you a little bit more information of what happened
13 on that day.

14 CHIEF CONDON: Good afternoon. How's
15 everybody doing?

16 We're glad that you guys are actually
17 here, because a couple months ago when this
18 happened, I wish I would have had at least
19 somebody's number. Because police officers are not
20 as smart as you think. When it comes to a ride,
21 they don't know what's broken, what's not broken.
22 I'm going to give you a real quick detail of what
23 happened. I'm going to change the person's name to
24 Sara. That is not her actual name. We're going to

1 keep the child's name out of it.

2 Sara is ten years old. She goes to the
3 top of a -- of a slide. It's under 20 feet.

4 I have some pictures here. Maybe you
5 can see the slide. It's one of those where you
6 climb up the stairs to the top, get on a burlap
7 sack, and you slide down. Can you see that?

8 The problem is, these things are not
9 inspected. I want you to take another better look.
10 Do you see this little white dot right here in the
11 middle of lane what I'm calling 1, 2, 3? That is
12 broken fiberglass, and they took Bondo and put over
13 it. Unfortunately, whoever Bondo'd it did not sand
14 it. If you look closer, if you look down in this
15 area right here, this area right in here, it had
16 another break. Here's a quick picture of the
17 break. So the flow, that's how it's sitting, just
18 like that. There's the flow. You can see that.

19 Some here -- I believe the carnival
20 ride owners -- I'm glad there was so many. I
21 didn't know you guys were going to be here today.
22 Because as the chief of police, we don't deal with
23 this that often. I could not see my ten-year-old
24 daughter getting on that. And in looking at your

1 faces, it don't look like you could, either. Thank
2 goodness.

3 As she slid down, here's the
4 fiberglass. This is the flow downhill. So she was
5 going against those razor blades.

6 May I approach?

7 CHAIRMAN KIRSCHNER: Of course. It's
8 not a court. There's no judge. You can get right
9 up here in our faces.

10 CHIEF CONDON: I still ask.

11 And it was broke in another section,
12 which is here, which is way down here. Okay? Does
13 that make sense?

14 CHAIRMAN KIRSCHNER: You guys, just --
15 it's a small room. The voices carry a lot up
16 front.

17 CHIEF CONDON: So this piece right
18 here, ma'am --

19 COURT REPORTER: Sir, I need to hear
20 you, too.

21 CHIEF CONDON: Oh, I'm sorry.

22 So this is going to be a little
23 descriptive, but it's the only way that I can
24 explain this. This girl was cut --

1 CHAIRMAN KIRSCHNER: I'm sorry. If I
2 can have all the talking stop, because the court
3 reporter can't take down Officer Condon with other
4 voices in the air there. Thank you.

5 CHIEF CONDON: This little girl when
6 she got on this slide and came down it -- people
7 had been riding the slide that morning but
8 obviously not that lane. When she came down it,
9 she was cut from her vagina across the inner thigh,
10 up her buttocks, and across her back. But we do
11 not require these to be inspected.

12 I know you're just an advisory board.
13 That needs to change in my opinion. And by looking
14 at most of the people out here, I think they would
15 agree. This can't be. This right here in my
16 opinion puts a frown onto all of your livelihood,
17 somebody who would be allowed to do that.

18 Sara's ten. Multiple -- she was
19 AirLife -- we had to take her out with helicopter,
20 had to send her over to Indiana. The local
21 hospital couldn't do nothing for her.

22 Think about that. It needs to change.
23 Another child should not ever have to go through
24 this.

1 When the police arrived -- and it's in
2 the official police report -- the EMT, who had been
3 an EMT for 17 years, said that it was the worst
4 laceration he had ever seen in his career. To
5 quote him, she looked like a carved fish.

6 Something I found interesting -- and I
7 don't know all the laws on the rides. The ride
8 operator was at the end texting. He didn't know
9 she was hurt till people started jumping over the
10 fence.

11 This isn't something that's going to go
12 away for her in the next five, ten years. She's
13 going to remember this the rest of her life. I
14 know I will.

15 Thank you.

16 CHAIRMAN KIRSCHNER: Thank you.

17 Patty.

18 MEMBER SULLIVAN: I would -- I'm not
19 sure why the 20-foot cap was put on slides. My
20 guess might be because there are so many slides in
21 parks and things like that that can be used by the
22 public. But for a dry slide like this that is a
23 mobile slide, I -- I don't know about the other
24 board members, but unless Ryan knows a reason why

1 we can't change our regulations, I think we'd be
2 all in favor of taking the cap off of that, and as
3 long as it's a portable ride or an amusement park
4 ride, I think we would be happy to -- because
5 that's the only thing over which we have
6 jurisdiction.

7 CHIEF CONDON: Yes, ma'am.

8 MEMBER SULLIVAN: But I think we would
9 be more than happy to consider taking the top off
10 of that height requirement and try to do anything
11 we can to help you and help make the industry
12 safer. That's what we're all interested in,
13 everybody here.

14 CHAIRMAN KIRSCHNER: Ryan, do you have
15 any insight as to how many slides of this nature
16 under 20 feet are in operation in the state?

17 MR. CULTON: No, not under 20 feet.

18 CHAIRMAN KIRSCHNER: I notice from your
19 report you indicate that after the incident the
20 department was out there.

21 MR. CULTON: Correct.

22 CHAIRMAN KIRSCHNER: I think they were
23 contacted by the village or --

24 MR. CULTON: Correct. Because of the

1 nature of the incident we went, not at the time
2 knowing -- and it didn't matter to us -- not
3 knowing the height of the slide. It wasn't until
4 after we had shown up and done a follow-up
5 inspection and realized how high the slide was,
6 that it didn't need to be inspected and permitted.
7 Because that was the first thing we noticed is that
8 it did not have a permit on it.

9 MEMBER SPARKS: Just for the record,
10 Patty, I would agree a hundred percent with what
11 you're saying.

12 MEMBER URBIK: I don't think I would
13 limit it just to mobile slides but all slides used
14 as an amusement device, perhaps even tag it with if
15 you charge a fee to ride it, then it's going to be
16 inspected.

17 MR. WILLIS: Just so you understand --
18 this is Ron speaking. Okay?

19 If I remember the regulations correctly
20 as they're revised, it does not cover like, for
21 example, a park, just a public park where there
22 would be a slide. We don't inspect those. Those
23 are exempt from inspection. As long as it was done
24 by an operator who was a, you know -- in this case

1 if the height limitation were eliminated, it would
2 have been under inspection. In fact, if I
3 remember, this case was so bad that by the time --
4 we got out there, what, within a day, Ryan?

5 MR. CULTON: I don't recall. I think
6 it might have --

7 MR. WILLIS: They'd dismantled it.

8 But, yes, it would be covered -- if you
9 just took way the 10, it would basically be -- took
10 away the 20, then it would be covered as like any
11 other -- as long as it fell within, you know, the
12 definition of it, it would be covered.

13 MEMBER SCHWABE: Can I make a comment?

14 CHAIRMAN KIRSCHNER: Dan.

15 MEMBER SCHWABE: I think the key of
16 what Patty said about it being mobile is every time
17 something gets moved there's a possibility of
18 getting some damage similar to what has occurred.
19 As far as charging, that's another way to look at
20 it. But are you going to regulate toboggan sleds
21 that get charged for or other things of that
22 nature? I think the mobility of it is the
23 possibility of damage similar to that occurring.

24 CHAIRMAN KIRSCHNER: Ryan, do you have

1 a sense how many similar slides there are in
2 operation that may be at or just above 20 feet?

3 MR. CULTON: Do you guys know ballpark?
4 20? Over 20?

5 MS. ROYER: Over 20.

6 MR. CULTON: Yeah, over 20.

7 MS. ROYER: Margaret Royer.

8 As far as I know, almost all of our
9 shows, including rental companies, have at least
10 one dry slide over 20 feet.

11 I do want to add something else. I
12 absolutely do not disagree with you. I think that
13 we should be inspecting them also. I do think it
14 should be noted that it actually is stated in the
15 law, not the regulations but in the law, that dry
16 slides over 20 feet we inspect. So it would also
17 need to be brought to the legislature, however all
18 that works. But it actually states in the law that
19 it is a dry slide over 20 feet is one of the items
20 that we inspect.

21 CHAIRMAN KIRSCHNER: And that's kind of
22 an important point because it goes beyond this
23 board's advisory ability in terms of the
24 department. Rather, it's something that probably

1 everyone in this room, when you leave here, you
2 should call your state representative and, hey, I
3 just heard this at this meeting today, you're my
4 state rep, do something about it. Because it
5 requires a change in the law, not an amendment or
6 change in the rules of the department.

7 Any other discussion or comment from
8 the board?

9 DIRECTOR COSTIGAN: I mean, obviously,
10 the board could make a recommendation -- and there
11 again, I won't be here -- to the new director, you
12 know, that they approach and consider this as a
13 change in the law and then bring it up accordingly.
14 I think if the board were to agree, it would
15 certainly be more influential, considering, you
16 know, if the board says they think it should be,
17 then I -- someone's going to ask, What's the
18 opinion of the board? And so I think it might be
19 an appropriate time if the board has an opinion to
20 register that opinion so it can go forward.
21 Because I think this is something that obviously
22 the board would be agreeable that there wouldn't be
23 -- it should be -- you know, in light of this
24 incident which should be the -- you know, just

1 explain why it's something that should easily go
2 through and be done. Because the faster it's done,
3 the faster it can be implemented and we can avoid
4 issues like this in the future, especially with the
5 season coming.

6 CHAIRMAN KIRSCHNER: Ryan, I apologize
7 if you were asked this. Do you know -- were you
8 able to uncover any legislative history or minutes
9 of meetings when that 20-foot threshold was --

10 MR. CULTON: No. And I looked.

11 CHAIRMAN KIRSCHNER: Go ahead,
12 Margaret.

13 MS. ROYER: From what I understand --
14 and I don't know, maybe some people in the room
15 have been here and know. I think when that
16 originally was put in, it might have been even when
17 the law was originally written, strictly because
18 of, like Patty said, there were dry slides in parks
19 that we did not want to be responsible for, so to
20 speak, that we wanted them to be the mobile
21 version.

22 I also know that -- and again, maybe
23 one of the operators can correct me, but there was
24 a time where the dry slide was over 20 feet and

1 then -- and I don't think it's been all that long
2 ago, maybe less than 20 years, that they actually
3 started making a slide that was under 20 feet. I
4 don't know if it was for travel purposes or, you
5 know, weight or something like that, but I know
6 that there became a point where they actually
7 started making slides under 20 feet because we were
8 not inspecting those.

9 CHAIRMAN KIRSCHNER: Chief Condon.

10 CHIEF CONDON: Chief Condon, Ridgway
11 Police Department.

12 On this slide -- I'm not a -- so maybe
13 one of the game people can help me out here. On
14 this particular slide, if they wanted to go to ten
15 feet, they can. Because what it is, it's on a
16 hydraulic-type trailer back here and they had
17 cylinders back there. We watched them as they took
18 it down. They could blow this thing up, and then
19 as it blew up and would come up in the air, then
20 stairs came up so that -- I don't know how it
21 works. But when we -- we went in there as the
22 police department and we shut it down immediately,
23 and they -- they lowered it so nobody else would
24 get on it. Even though it was lowered, they had to

1 pull the stairs away because you could still walk
2 up the stairs and get on it and slide down it. So
3 I -- that's -- I don't know. I just figured I'd
4 bring that up.

5 CHAIRMAN KIRSCHNER: Patty.

6 MEMBER SULLIVAN: Well, I would ask,
7 are any of the board members opposed to making the
8 recommendation to the department? Is anybody
9 opposed to it?

10 CHAIRMAN KIRSCHNER: Do you want to put
11 a motion in?

12 MEMBER SULLIVAN: Yes, I want to put a
13 motion in.

14 MEMBER RHODES: May I request to make a
15 comment before you make the motion?

16 MEMBER SULLIVAN: Sure.

17 MEMBER RHODES: Just a comment. I'm
18 also in support, by the way, of making sure that
19 inspections include slides that fit this category
20 of amusement despite the fact that it may be below
21 20 feet. I can't imagine why there would be a
22 distinction.

23 My comment, though, is, I'm still
24 learning how the budget process works. So what I

1 want to throw out there is, it makes sense for
2 someone to figure out, anything that gets added to
3 the inspectors, there should be some kind of due
4 diligence done to make sure they realistically can
5 still do the same high-quality work on their
6 inspections everywhere else, including whatever
7 else we add. So maybe it's not a big add or maybe
8 it is, but I just suggest that there's some due
9 diligence done to understand the impact to the
10 inspectors' workload.

11 DIRECTOR COSTIGAN: Can I --

12 CHAIRMAN KIRSCHNER: Go ahead.

13 DIRECTOR COSTIGAN: Let me make a
14 comment on this. You know, this is a function of
15 the inspectors are already in these -- at these
16 sites. Currently they aren't looking at these
17 types of -- this type of equipment. You know, it
18 wouldn't seem to me to be that much of a burden to
19 -- you know, to take a look at these were they on
20 that site. So we -- you know, I think the
21 department would do all that it could to, you know,
22 to provide an inspection of this type if this were
23 the direction that we were to go.

24 And second of all, in terms of the

1 budget, you know, the one thing that, as I
2 addressed earlier, is that we have now -- we are --
3 you know, we have addressed the issues of trying to
4 get more resources to the department as the
5 inspection dollars -- or, the registration dollars
6 for inspection do come back to the department and
7 should be able to provide -- you know, the plan was
8 to provide additional inspectors to be able to help
9 do our work. So it wouldn't seem to me, just right
10 off the bat, and I could defer to others, but it
11 wouldn't seem to me to be able to take this on and
12 that it would be overly burdensome for the
13 department to take this on.

14 MEMBER RHODES: That's good to know.

15 MEMBER SULLIVAN: Yes. I would move
16 that we send a recommendation to the Department of
17 Labor -- or, the director of the Department of
18 Labor to ask them to encourage the legislature to
19 change to take the 20-foot cap off of dry slides
20 and also to recommend that we do -- that we promote
21 -- or, promulgate a rule that will address those
22 slides and for all slides that are in amusement
23 parks or mobile amusement -- in the mobile
24 amusement industry.

1 MEMBER SMITH: I'll second.

2 CHAIRMAN KIRSCHNER: I'm sorry, before
3 we get to that, Angelo, you had your hand up. Did
4 you want to say something?

5 MEMBER MAZZENGA: Yes. I was going to
6 ask a question and relate it to your comment
7 regarding everyone in this room contacting their
8 representative because of some -- the fact that
9 inspection of the 20-foot slide is matter of a law.
10 So recently there's some issue that came up in my
11 -- you know, my occupation where a group drafted a
12 form letter, you know, a form letter that included
13 details about a specific item of interest that
14 should -- could be endorsed by individuals and sent
15 to their representatives. So is it outside the
16 scope of the board or the Department of Labor to
17 assist with distributing a form letter that would
18 be available to the public if in fact this is a
19 legal issue?

20 CHAIRMAN KIRSCHNER: Well, Ron, you can
21 chime in. I don't want to speak to the Department
22 of Labor. In terms of the function of the board,
23 we function in accordance with how the statute
24 proscribes we function, and the statute proscribes

1 that we function to advise the Department of Labor.
2 So our communication is to the director of the
3 Department of Labor. We can make that
4 recommendation to the director of the Department of
5 Labor, and then what he or she chooses to do with
6 it they can do with it.

7 MEMBER SULLIVAN: As well as contacting
8 our own senators and representatives.

9 CHAIRMAN KIRSCHNER: As individuals,
10 right. As a board, our voice is to the director.

11 MEMBER SULLIVAN: Yes.

12 CHAIRMAN KIRSCHNER: There was a second
13 on the motion.

14 MEMBER URBIK: I have a comment.

15 CHAIRMAN KIRSCHNER: The second is
16 tabled. The comment will be heard.

17 MEMBER URBIK: In Patty's motion it's
18 mobile devices and located in amusement parks.

19 MEMBER SULLIVAN: Yes.

20 MEMBER URBIK: I'm aware of a super
21 slide on Lake Street in Addison -- it's certainly
22 over 20 feet -- next to a miniature golf course.
23 It's not an amusement park and it's not mobile.
24 It's fixed.

1 MR. WILLIS: Who operates it?

2 MEMBER URBIK: It's right next to a
3 miniature golf course. The guy who owns the land
4 put up a super slide there.

5 MR. WILLIS: That would be -- again, if
6 it fell within the definition over 20 feet and fell
7 within the definition in the act that it was owned
8 by him -- and I don't know whether he charges or --

9 MEMBER URBIK: Yeah, he charges.

10 MR. WILLIS: -- or you can use it
11 because when you go the amusement park, you can
12 then go over there and use it?

13 MEMBER URBIK: It's just a miniature
14 golf course and the super slide.

15 MR. WILLIS: If it was covered by the
16 act and it was over 20 feet, we would have to
17 license it. Correct, Ryan?

18 MR. CULTON: Correct.

19 MEMBER SULLIVAN: Well, also, the fact
20 that it's open to the public I think is another one
21 of the requirements for an amusement ride or device
22 to be under the purview of this board.

23 MR. WILLIS: Right. I would agree with
24 you.

1 MEMBER URBIK: And there would be no
2 provision for not-for-profits or somebody using it
3 on their own property? Would they still have to be
4 inspected?

5 MR. WILLIS: Even though the act says,
6 you know, on a -- the definition under the
7 legislature says an amusement ride being any dry
8 slide over 20 feet in height, alpine slide, or
9 toboggan slide. It's a separate issue versus a
10 mechanical device.

11 MEMBER URBIK: Okay.

12 MR. WILLIS: And so therefore, if you
13 were to change the legislation, it would read any
14 dry slide any height or you could say any dry
15 slide, mobile dry slide. It depends upon what you
16 believe the board recommends and I guess what you
17 believe should be covered. The reg could then say
18 we're only going to look at X, Y, and Z. That's
19 why I think Patty made -- and I don't want to speak
20 for Patty. But I think if you wanted to change the
21 legislation, then how that legislation is
22 interpreted by the department could be done by
23 regulation. If that makes any sense.

24 MEMBER SULLIVAN: Yeah.

1 MR. WILLIS: I thought that's why she
2 had a two-part motion. Maybe I'm wrong, Patty.

3 MEMBER SULLIVAN: No, that's -- that is
4 correct.

5 DIRECTOR COSTIGAN: The motion being to
6 change the legislation to cover dry slides and by
7 regulation address it to the mobile and ones open
8 to the public, that type of thing.

9 CHAIRMAN KIRSCHNER: The motion being
10 to recommend to the director that the director
11 communicates with the legislature about changing
12 the legislation.

13 MEMBER SULLIVAN: Yes.

14 CHAIRMAN KIRSCHNER: And there was a
15 second.

16 MEMBER SMITH: Yes.

17 MEMBER SULLIVAN: And that the board
18 promulgate a rule about --

19 DIRECTOR COSTIGAN: Consistent with
20 legislation.

21 MEMBER SULLIVAN: Yes.

22 CHAIRMAN KIRSCHNER: The only thing I'd
23 change is that the board work with the department
24 to promulgate the rule.

1 MEMBER SULLIVAN: Well, that's -- yes.

2 CHAIRMAN KIRSCHNER: My suggestion is
3 let's task Ryan and see what he comes up with and
4 then present something to the board. Does that
5 make sense?

6 MEMBER SULLIVAN: Sure.

7 CHAIRMAN KIRSCHNER: All in favor say
8 aye.

9 (Whereupon a voice vote was
10 taken.)

11 CHAIRMAN KIRSCHNER: All opposed?

12 (No verbal response heard.)

13 CHAIRMAN KIRSCHNER: The ayes carry the
14 day.

15 And then in terms of what I was going
16 back to before with respect to members of the
17 public, and this is a great example of you probably
18 are all sitting here, you know, with ideas and
19 wanting to say something, something is on the tip
20 of your tongue. This is -- nothing has been
21 resolved. This is really saying go to work now.
22 Now, this is the time get on the phone with Ryan,
23 send a letter to the department, say, hey, I was
24 sitting there listening to the discussion, I think

1 they missed this point, I think they should think
2 about this. Let him know so that when he comes
3 back to us in terms of his idea in terms of what
4 kind of rule should be promulgated, he can take
5 into account and incorporate all your thoughts on
6 that matter.

7 MEMBER URBIK: Thank you, Mayor. Thank
8 you, Chief, for coming.

9 DIRECTOR COSTIGAN: I just personally
10 wanted to thank the mayor and the police chief for
11 that presentation and for your assistance with this
12 issue today.

13 MAYOR MITCHELL: As mayor, I want to
14 thank the board for your time. I want to thank the
15 Department of Labor. They were instantly sending
16 someone that was a great help for us, and anytime I
17 called, they were gracious to take my call and help
18 me out, so I appreciate all of you so much.

19 CHAIRMAN KIRSCHNER: Thank you, Mayor.
20 Thank you, Chief.

21 DIRECTOR COSTIGAN: And just
22 furthermore, I mean, I think this -- just this
23 issue helps show the importance of why we have this
24 board and are able to have discussions about these

1 kinds of issues and be responsive to elected
2 leaders and local officials as we go forward with
3 our work.

4 CHAIRMAN KIRSCHNER: Thank you.

5 MEMBER SULLIVAN: Thank you.

6 CHAIRMAN KIRSCHNER: The next order of
7 business, division manager report. Ryan.

8 MR. CULTON: Give me one second. This
9 may have to warm up real quick. Can everybody see
10 that okay? We didn't have a screen because it
11 would have cut off some of the board members, so I
12 apologize for that.

13 Thanks for coming today. I'm Ryan
14 Culton, the division manager for the Department of
15 Labor, officially now the Amusement Ride &
16 Attraction Safety Division according to the change
17 in the act. So that's the official name.

18 The other thing I wanted to point out
19 is this is our website. It's what we call a vanity
20 URL, but it's easy to remember.

21 ridesafety.illinois.gov. And I'm bringing that up
22 specifically because there -- you know, I believe
23 we -- with our chief information officer and our IT
24 people, we've done a good job of adding a lot of

1 useful information on that site. And this is also
2 one of the things that Director Costigan wanted not
3 just my division but other divisions in the
4 Department of Labor is to have more information
5 available to the public. And in this day and age,
6 we try to put as much stuff up there as we can. We
7 have NDT reports. We have an RSS feed for news
8 information that comes out.

9 So I just want to encourage everybody
10 to go to this website. I think we have a lot of
11 good information there. It's where you can get
12 your application. You can look up NDT
13 requirements, as I mentioned. We have a checklist
14 that says step by step by step what you need to
15 send into the office in Springfield, what you need
16 to have on site for the inspectors, for their
17 review. So, again, I think
18 ridesafety.illinois.gov, please go there and take a
19 look at the website.

20 So this is a review of 2014. I'm going
21 to go over some statistics, because I'm an engineer
22 and I love statistics; an accident report that
23 nobody likes to talk about but we need to talk
24 about and review; some safety bulletins, I'm going

1 to go over those briefly; and department updates
2 for 2015.

3 So these are just statistics.

4 And I'm sorry, Board Members, that you
5 have to kink your necks to see that.

6 So this is an historical view of, you
7 know, the last six years or so of show dates,
8 follow-up inspections, inspections issued, total
9 locations -- I'll tell you what that means -- and
10 total companies. This is the number of the total
11 companies that have registered with the Department
12 of Labor. Total locations are the number of show
13 dates or number of places that we have -- that have
14 been reported to us as a potential show date for
15 operation of amusement rides.

16 This is the total number of inspections
17 that our five inspectors have issued over the year.
18 So you can kind of see this historical average.
19 Why is that a little lower? Well, there are 2,744
20 total rides that were inspected. And we have four
21 inspectors and one inspector in training since
22 July. So that actually reduces the number because
23 we still have one person who has -- who during the
24 training period is not issuing permits per se.

1 And I'll get to that at the end, too, of the whole
2 report.

3 So I do believe that and our hope is to
4 increase these number of follow-up inspections and
5 the total -- which would increase the total number
6 of inspections issued. Because part of our goal is
7 if we can -- if we have more tools at our exposure,
8 we can do more inspections and that just increases
9 the public safety when we have another set of eyes
10 looking at the rides more.

11 Accident reports. For the sake of
12 time, and I know we have other people here at the
13 public meeting to discuss some new business for the
14 climbing walls or facilities, so I don't want to go
15 through each one of them individually. But there
16 -- so what I'll do is I will actually skip here to
17 the end and talk about the summary.

18 So, unfortunately, there were -- let me
19 go back here. In 2013 there was 18 accidents. In
20 2012 there was 12, in '11 nine, in '10 nine, and in
21 '09 15. So you can kind of see the trend here.
22 Unfortunately, these last three years the trend is
23 not going in the direction we hope. And there was
24 24 accidents. So those are 24 reportable

1 accidents.

2 What is a reportable accident? A
3 reportable accident is when a patron who is injured
4 seeks medical attention by a physician and then
5 it's reported to the Department of Labor.

6 Now, let me go back a couple of slides.
7 Why that number I believe is a little higher this
8 year is because on a roller coaster -- you know, in
9 some of the instances we see quite a bit, there's
10 just one person in the tub. If they're injured,
11 it's just one injury. However, when it's a roller
12 coaster, there's several people in the tub. There
13 were three people that were injured in one
14 incident. So if we were measuring incidents, that
15 would be different, but we're measuring the number
16 of accidents.

17 The other thing I wanted to point out
18 was that towards the end of the year we had a new
19 -- a new amusement ride simulation where it was
20 brand new to the state. It's simulated skydiving.
21 And it -- what we discovered when we inspected and
22 followed up on each one of the accidents was that
23 people were getting injured simulating skydiving.
24 As they jump out into this wind tunnel, pushing

1 them up, people who have had dislocated shoulders,
2 for whatever reason, playing football, whatever, a
3 car accident, I don't know, that force will pop the
4 patron's shoulder out of place. Their shoulder
5 would get out of place. They would immediately
6 call the medics and -- the paramedics, and they
7 would take them to the hospital, so they are
8 treated by a physician, which is a reportable
9 offense. And I don't want to say offense. It was
10 a reportable incident. So we followed up on it.
11 Since this is a relatively new operator, we
12 followed up on every one of them.

13 There was -- we checked to make sure
14 that they had proper training, which they did.
15 Most of their trainers are actually ex-military,
16 whether it's Air Force or Army, Air Force Rangers.
17 But we think it's a bit of outlier because it's a
18 relatively new amusement attraction, where -- you
19 know, and they were just following the rules. So
20 we had a couple of dislocated shoulders. But there
21 was one incident where it was a fractured humerus,
22 and that was when the patron actually hit the wall
23 while riding. But they've gone through a series of
24 new training regimens and they've altered how they

1 actually put the patrons inside the ride.

2 So there's three. Another three on one
3 roller coaster. That was six. That would then be
4 more in line with, you know, the historical past
5 here. So, you know, the numbers are what they are.
6 And of those 24 accidents, 15 were non-mechanical,
7 three were undetermined, six were mechanical in
8 nature.

9 Okay. Moving on, safety bulletins.
10 These are the compiled lists that we have of the
11 safety bulletins that have been published this year
12 that would affect a lot of the people in this room
13 who have these rides. And we just go through it
14 briefly so that everybody's kind of familiar with
15 it.

16 Again, any -- if it requires any kind
17 of NDT, whether it's a magnetic particle or
18 ultrasound, all those requirements are posted on
19 our website under the NDT -- I'm sorry, the --
20 yeah, the NDT requirement page.

21 So we have the -- under A.R.M. we have
22 the Ali-Baba, Rock Star, Full Tilt, that whole
23 family, they issued basically a service bulletin
24 that at five years of age on select models to

1 inspect the spline drive gears and output shafts
2 and every month thereafter. It's a good thing to
3 point out because it's just something you have to
4 state in your maintenance manuals that you're
5 keeping up with that inspection.

6 Chance, on all of the Zipper models
7 seat support frames. This is actually a very
8 lengthy bulletin. I know a lot of people have the
9 Zipper. But there was some structural integrity
10 being compromised from corrosion -- excuse me --
11 corrosion being inside the lap bars.

12 Chance Gondola Wheel, both parked and
13 portable. This is an issue of a visual check of
14 cracks in the bolting flange in the area of the
15 main axle. You have to complete this 30 days
16 within the receipt of the bulletin and annually
17 thereafter. Again, this is a service bulletin, not
18 necessarily a bulletin that requires a
19 non-destructive test, but nonetheless something to
20 follow up on, make sure you're in compliance with.

21 The Mini Miami, this was actually a
22 letter that was issued I think by another authority
23 having jurisdiction pointing out a weld defect on
24 the lap bar locks.

1 Again, we're going to put all of these
2 up under the safety bulletins. We have an RSS feed
3 that lines out each one of them and what they are
4 that were published.

5 The Park Roller Coaster, this is an
6 NDT. There's a crack in the main support shaft of
7 the wheel bogie. There's an immediate 100 percent
8 NDT of wheel bogies.

9 Mulligan Engineering Sea Ray, all model
10 years, main axle, every three years you have to do
11 an NDT test. This bulletin wasn't written very
12 well. It appears, though, it says an annual
13 magnetic particle thereafter. You may -- again, if
14 you want clarification, you should always contact
15 the manufacturer, whoever was publishing this
16 bulletin, you know, for clarification of the NDT
17 requirements.

18 Wadkins Expo Wheel, all the wheels with
19 original bronze bushing axles must have an
20 ultrasound test for cracks.

21 And then this one came out later in the
22 year, the Zamperla Crazy Bus, Crazy Sub, there's a
23 whole family of those, there's installation of a
24 redundancy kit.

1 MEMBER SULLIVAN: What is it redundant
2 -- redundant to what?

3 MR. CULTON: Well, there's a -- I guess
4 certain models have a vertical drive and a
5 horizontal drive. The redundancy kit -- I'd have
6 to read it again, Patty, actually. It's been a
7 while. I think it has something to do with the
8 drive belts. I'm sure a lot of these folks out
9 here could you tell you exactly because they're
10 probably installing it right now or are getting
11 ready to. But, I'm sorry, I'd have to actually
12 read it again because it's been several months.
13 It'll be out there on the website with the Zamperla
14 bulletin number. So that turns -- you know, feeds
15 nicely into non-destructive testing.

16 I wanted to mention again you can visit
17 our website. There's a wealth of information
18 there. We encourage you to go to the website. We
19 have frequently asked questions. We have ride
20 safety tips for parents and kids. We have NDT
21 requirements on there that are searchable. It has
22 a nice filter layout where you can select what
23 manufacturer or you can select what ride, and it
24 will tell you exactly what NDT requirements are

1 available for that ride or what is required. So
2 then that's -- you can find all that on the
3 website. And how to submit it. It just has a
4 small checklist of what we kind of expect on the
5 NDT requirement. It's simple stuff, but we get --
6 we get a lot of NDTs in from all different parts of
7 -- and in different states. So it seems like
8 everybody's requirements are different, but we
9 state pretty clearly what we want to see, you know,
10 bulletin number, date. So we just wanted to direct
11 everybody's attention to that.

12 Department policies 2015. There --
13 this is a tricky one. One of the things I just
14 wanted to reiterate this year is just getting in
15 your applications 30 days prior to the operation to
16 avoid delays in permitting, also to avoid any of
17 the expedited inspection fees that were instituted
18 a little later last year that are part of the
19 administrative rules now.

20 And so we're going to be having a new
21 administration, a new director. As the board
22 alluded to before and Director Costigan that we
23 don't know yet some of the new policies. We don't
24 know any kind of new direction. I'm sure there

1 could possibly be budget issues. There could be a
2 whole host of things that we don't know about yet.
3 So that's really about -- about all that I can say
4 about that at the moment.

5 Questions?

6 Before we have questions, we do this
7 year have -- as of now we have five inspectors
8 because Pete Tomczuk will be -- he's in the back of
9 the room somewhere.

10 MS. ROYER: He's in the hall.

11 MR. CULTON: He's in the hallway.

12 MS. ROYER: Do you want me to get him?

13 MR. CULTON: No, it's all right. Pete
14 is -- he's our fifth inspector. He's up by -- he's
15 in the southern collar counties around Chicago. So
16 he's in Will County, Du Page County, part of Cook
17 County. He's up by Margaret. And we're really
18 excited to have him. He's gone through his
19 training and probationary period. So Pete Tomczuk
20 is his name. I'm sure some of you have probably
21 met him throughout the summer. And he's in the
22 hallway, so say hello to him.

23 That's all right, Margaret. We can
24 embarrass him. Yeah, let's go ahead and get him.

1 Why not?

2 I told Pete today, I said, you know,
3 congratulations, you got the job. Unfortunately,
4 you are a state employee. So either way, it's --
5 he had good news and bad news.

6 There he is.

7 (Applause)

8 MR. CULTON: Yeah, give him a round of
9 applause.

10 Okay. So questions? Anybody? The
11 board actually.

12 CHAIRMAN KIRSCHNER: Does anybody have
13 any questions for Ryan?

14 (No response)

15 CHAIRMAN KIRSCHNER: Thank you very
16 much.

17 MR. CULTON: That was easy. Thank you.

18 CHAIRMAN KIRSCHNER: The next matter on
19 the agenda, discussion of indoor paintball, laser
20 tag, indoor climbing wall facilities, and airsoft
21 play facilities.

22 Ryan, do you want to kind of introduce
23 to the board what this issue is all about?

24 MR. CULTON: Yeah. Okay. I'll just --

1 I'm going to restate an analysis, call it whatever
2 you want, an analysis that I had written to the
3 board members regarding this new business agenda
4 item for discussion of indoor paintball, laser tag,
5 indoor climbing wall facilities, and airsoft play
6 facilities on whether they're included as an
7 amusement attraction.

8 Over the past year, the department has
9 received various inquiries regarding whether
10 paintball facilities, indoor climbing walls, and
11 airsoft play facilities meet the definition of an
12 amusement attraction. Airsoft play is much like
13 paintball where patrons interact in simulated
14 combat with air-powered rifles.

15 The operator of the facility listed
16 above -- I'm sorry -- the operators of the
17 facilities listed above argue that paintball or
18 using a climbing wall is for sport recreation or
19 exercise, in particular with indoor climbing walls.

20 The department has taken the position
21 on outdoor paintball parks to only inspect the
22 trams defined under the act and no other part of
23 the operation.

24 Airsoft play facilities are not

1 inspected.

2 Indoor and outdoor mobile climbing
3 walls are inspected and permitted by the department
4 under the definition of the act, due mostly in part
5 that the harnesses, pulleys, and lanyards are
6 typically inspected in other rides under the
7 jurisdiction, for example ziplines, and are an
8 intricate part of the amusement attraction.

9 The department's position is that
10 mobile climbing walls are defined under the
11 Amusement Rides Safety Act. The outdoor paintball
12 parks and airsoft play facilities do not fall under
13 the Amusement Ride Safety Act.

14 Indoor climbing wall facilities are
15 more ambiguous. An argument could be made that,
16 considering the nature of the activity, it could be
17 a recreational sport, not an amusement attraction.

18 So what all that is saying is that the
19 outdoor paintball parks typically sometimes are in
20 Halloween season. If they have a tram which is
21 inspected and regulated by the department, we go
22 and inspect that. But we don't inspect the rest of
23 the paintball facility.

24 In airsoft play, like simulated combat,

1 indoor paintball, that's all indoors and isn't
2 inspected, isn't regulated. We don't -- you know,
3 it's not -- patrons aren't being transported by
4 anything. You know, patrons are running and
5 shooting paintballs at each other.

6 But the act actually -- the Amusement
7 Ride Safety Act actually defines or calls out that
8 mobile climbing walls are inspected. And since
9 they're mobile, they travel from place to place to
10 place, and they're, you know, taken down and
11 constructed again, and also due to the history, we
12 inspect them.

13 CHAIRMAN KIRSCHNER: Ryan, is it just
14 the pulley mechanism that's inspected or the whole
15 wall, the footholds and handles?

16 MR. CULTON: The whole wall, yeah. The
17 welds on the climbing wall, harnesses, lanyards.
18 And then there's also the issue of all the
19 attendants. So we would make sure that they have
20 training, background checks, and that sort of
21 thing.

22 MEMBER SULLIVAN: Ryan, that applies to
23 amusement parks and anything, like an FEC that's
24 open to the public, is that -- not just portable?

1 MR. CULTON: Correct. Right. I guess,
2 yeah, our interpretation is that because of the --
3 all the other equipment that's involved in an
4 indoor fixed, stationary climbing wall, like the
5 lanyards and the harnesses and the lines, that
6 that's including everything. The only difference
7 between the mobile and the fixed is one moves
8 around and one doesn't. That's our position.

9 CHAIRMAN KIRSCHNER: Is there any
10 particular guidance or advice or consent you're
11 looking for from the board or is this just advisory
12 and letting us know what's going on?

13 MR. CULTON: It's advisory to let you
14 know what's going on. But we've had a lot of
15 correspondence -- I won't say a lot. We've had
16 correspondence from operators who have made the
17 argument that, hey, an indoor climbing wall is
18 really more like a sport recreation, pretty much
19 like going to play tennis or racquetball in a
20 building somewhere. So I -- I'm just -- it is --
21 and I think that there are people here representing
22 that industry.

23 MR. WILLIS: Ryan?

24 MR. CULTON: Yes.

1 MR. WILLIS: Ryan, you want to mention
2 that the director did receive yesterday and we -- I
3 received three days ago, I guess it was
4 approximately, a copy of which you got, was from --
5 I forget -- the Climbing Association.

6 MR. CULTON: Yeah.

7 DIRECTOR COSTIGAN: It was received
8 from --

9 MR. CULTON: Yeah. On the 8th of 2015,
10 we received a letter from the Climbing Wall
11 Association. I'm sorry. We just received it. I
12 actually got it -- I mean, the letter is dated the
13 8th, but I got it like the next day, so the 9th,
14 which was Friday. So we didn't have time to
15 include this in the packet.

16 MR. WILLIS: Yes. And today I got one
17 -- I got a facsimile from a Mr. Robert Angell on
18 behalf of the Climbing Wall Association and its
19 members, again articulating that position.

20 MR. CULTON: Yeah.

21 MR. WILLIS: That the safety advisory
22 board -- the differences and wanted us to consider
23 his observations, which we didn't get distributed,
24 you know, to the members of the board because it

1 just came in.

2 MR. CULTON: Right. So this is also
3 almost another situation where -- of course, we
4 have the same advisory board, but we'll have a new
5 director coming in, a new -- it's almost something
6 that we -- if we have members from that particular
7 industry who'd like to comment on it, that would be
8 even more information that we'd have, plus I can
9 distribute this to the board so you could read it.

10 MR. WILLIS: I mean, again, they also
11 were trying to distinguish between the recreational
12 climbing industry and the ones that are open to the
13 public.

14 MR. CULTON: Right.

15 MR. WILLIS: For example, the health
16 club which might have a climbing wall for its
17 members versus the climbing wall that might be as
18 part of a, you know, amusement attraction.

19 MR. CULTON: Yeah.

20 MEMBER URBIK: That would infer, Ron,
21 that the health clubs are safer climbing walls than
22 one that a park district might have.

23 MR. WILLIS: Well, again, they were
24 saying that health clubs, you know, are better off

1 regulate -- you know, the nature of the activity is
2 different than one where you have kids, you know,
3 as part of an amusement, you know, where, for
4 example, it could be in an enclosed -- where bouncy
5 house -- you know, bouncy ride thing and then in
6 addition they have a climbing wall, you know, where
7 little kids go on.

8 MEMBER RHODES: It is a little
9 ambiguous, like you were saying, though. Because
10 there's one at my gym that's a little more clear
11 that that is for exercise. But there's also one at
12 a camp, a YMCA camp where we used to take our kids
13 when they were younger. I'm not quite sure where
14 that would fall. I would appreciate a copy of the
15 materials.

16 MR. WILLIS: Yeah. And again, I've
17 seen them where -- in traditional amusement
18 attractions as an addition where they exist as part
19 -- you know, you pay your money, you get to go on
20 the bouncy, you get to climb the climbing wall, you
21 know, in a harness, et cetera. It's just
22 amusement. It's nothing to do with exercise or
23 that type of thing.

24 MEMBER URBIK: Well, striking a hammer

1 to get the ball up to ring the bell is exercise,
2 too. I'm not seeing the differentiation between
3 the two.

4 MR. WILLIS: I'm just articulating
5 their position.

6 And, you know, Ryan, I'll send you --
7 this one just came in to the director today and,
8 obviously, we'll send it -- you know, make it part
9 of the board -- send it out to the board.

10 MR. CULTON: Okay.

11 CHAIRMAN KIRSCHNER: Thank you. Any
12 other comment of the board on that matter?

13 (No response)

14 CHAIRMAN KIRSCHNER: Okay. Concluding
15 the indoor climbing wall.

16 MR. SCHMIDT: Can I make a little
17 clarification about any of that? Because I know
18 it's kind of new to you guys about what's going on.

19 CHAIRMAN KIRSCHNER: I want to be fair,
20 because I kind of indicated that there wouldn't be
21 public comment and questions beyond the initial,
22 and I don't want to be seen as picking and choosing
23 on different issues and begin choosing people. So
24 I just want to be fair across the board. I don't

1 mean to cut you off, but if I recognize you, I
2 don't want to be accused of not recognizing someone
3 else later on or not recognizing someone else
4 earlier.

5 MR. SCHMIDT: Okay. Just real quick I
6 have a question. So after this, do we have an
7 option to talk about it or is that -- is there any
8 reason for me to be here any longer? That's the
9 question.

10 CHAIRMAN KIRSCHNER: Well, I can't
11 answer that for you. No. This is just
12 informational from the board letting -- I mean,
13 from the department letting the board know what's
14 going on. So in terms of any comments you have
15 just in terms of us talking about the other issues,
16 you should contact the department, whether by phone
17 or letter, and let them know what your thoughts are
18 on the matter.

19 MR. WILLIS: Or if Ryan is going to be
20 there afterwards, you know, whatever.

21 CHAIRMAN KIRSCHNER: And that's true
22 with any issue, yeah.

23 MR. SCHMIDT: Okay.

24 MR. WILLIS: For clarification, if

1 someone needs clarification as to the department's
2 position, obviously they can contact Ryan directly,
3 you know, now, tomorrow. Correct, Ryan?

4 MR. CULTON: Right.

5 CHAIRMAN KIRSCHNER: Or after the
6 meeting.

7 MR. WILLIS: Or after the meeting.
8 That's what I meant.

9 MR. SCHMIDT: All right.

10 COURT REPORTER: May I have your name,
11 please?

12 MR. SCHMIDT: Yeah. Chris Schmidt.

13 MEMBER SCHWABE: Dan, can I make one
14 comment?

15 CHAIRMAN KIRSCHNER: Of course.

16 MEMBER SCHWABE: I've also seen these
17 climbing walls in high school gymnasiums. Just a
18 comment.

19 CHAIRMAN KIRSCHNER: In terms of --

20 MEMBER SCHWABE: Climbing walls.

21 CHAIRMAN KIRSCHNER: No, no. In terms
22 of the scope of different --

23 MEMBER SCHWABE: Scope of the
24 regulation or -- yes.

1 CHAIRMAN KIRSCHNER: In that context,
2 Ryan, I guess that would not be considered open to
3 the public. Because we had that same issue with
4 the bounce house that was at a private school event
5 -- not a private school but at a school event, and
6 since that bounce house was at a specific school
7 event not open to the public, even though we
8 regulate bounce houses, we didn't regulate that
9 bounce house in that instance. Is that generally
10 true?

11 MR. CULTON: Correct, correct.

12 CHAIRMAN KIRSCHNER: Thank you for that
13 discussion.

14 Next order of business, other board
15 member comments, discussion.

16 Patty, I understand you have something
17 you want to distribute to the board.

18 MEMBER SULLIVAN: Yes. I'd like to
19 pass these down.

20 MEMBER SCHWABE: Are they all the same,
21 Patty?

22 MEMBER SULLIVAN: There are two pages.
23 Everybody take the two pages. Does everybody have
24 one?

1 MEMBER RHODES: Just to -- well, I
2 guess you're going to cover it, but my question is,
3 is this for us to take with us so we can read and
4 bring ourselves up to speed?

5 MEMBER SULLIVAN: Yes.

6 MEMBER RHODES: Okay. Thank you.

7 MEMBER SULLIVAN: Yes. I'm just
8 proposing that we look at this and consider whether
9 we might want to use this as a, I guess, blueprint
10 as to what we might want in a rider safety bill or
11 a rider safety rule. And because the one that I
12 passed out has been -- this is the South Dakota
13 Amusement Ride Act.

14 And these kinds of acts have been
15 brought into quite a number of states. I think
16 it's over half the states in the United States have
17 rider safety laws. They are not onerous on the
18 rider other than they follow the directions and
19 they don't try to -- basically that they behave.
20 They don't try to do something to the ride or to
21 any part of the ride. They don't engage in
22 reckless activities that could -- especially that
23 could injure other riders. And there's quite a --
24 like no rider may board or attempt to board any

1 amusement ride or an amusement device of a
2 permanent nature if the rider is under the
3 influence of alcohol or any controlled substance
4 which impacts his or her ability to safely use the
5 ride and abide by the posted and oral instructions.
6 And it goes on.

7 And I don't think -- this isn't taking
8 away any rights from the rider. It's just
9 intending to make riding safer for the general
10 public by imposing a -- basically a safety
11 responsibility on the rider. Just like in a plane
12 you get these instructions, no smoking in the
13 lavatory, no disconnecting any smoke alarms, that
14 you keep your seat belt buckled, and all those
15 kinds of things, this is just letting them know
16 what they need to be following on the ride.

17 And hopefully, if we can -- if we can
18 design something that we can all agree on, that
19 this would be posted at every carnival and park
20 just so that people coming in know that, you know,
21 just like there are rules of the road, there are
22 rules of the ride. Goodness knows you have to take
23 a test before you can drive a car. And people just
24 come in and ride on rides without basically any

1 instruction or education and then ignore -- may
2 ignore what the signs say. And this just imposes
3 the responsibility on them to be aware of the rules
4 of the ride.

5 So what I would like to ask is for the
6 board to take this home and look at it and think
7 about it. If you individually have suggestions or
8 additions or deletions that you would like to see,
9 let me know. And then I would like to have this on
10 the agenda of our next board meeting.

11 CHAIRMAN KIRSCHNER: Joe, I know you're
12 not here and you don't have privy to this document
13 handed out today since it wasn't provided to us in
14 advance. Since this board serves as an advisory
15 board to the director in terms of promulgating
16 rules, do you or Ron have any insight to this board
17 as to whether or not so-called rider responsibility
18 falls under the auspices of this board?

19 DIRECTOR COSTIGAN: Hang on a second
20 because I just stepped out and I just came back in,
21 so hang on. I'm sorry. We were just in the other
22 room taking care of something else. Can you repeat
23 that, Mr. Chairman?

24 CHAIRMAN KIRSCHNER: How long were you

1 out of the room?

2 DIRECTOR COSTIGAN: I heard Patty's
3 presentation, but I didn't hear your -- did you
4 have a question?

5 CHAIRMAN KIRSCHNER: Yes. My question
6 for you in terms -- since by statute we're a
7 creature of -- the statute charges that we're an
8 advisory board to the director of the Department of
9 Labor and the question is whether or not in terms
10 of the auspices of your department whether or not
11 so-called rider responsibility laws fall under your
12 intent and thereby is something that the board
13 should take up.

14 DIRECTOR COSTIGAN: I guess as a matter
15 -- it doesn't fall directly within the purview of
16 the board to -- they can't resolve anything or to
17 do it. If it's a partisan legislation, there are
18 issues also, you know, under whether that's within
19 their -- it's certainly not within their
20 responsibility. To the extent that it may come as
21 a proposed amendment, if someone were to say we
22 recommend an amendment to the -- if it falls under
23 the Carnival and Amusement Ride Safety Act as an
24 amendment, that's a different issue. But to the

1 extent it would stand alone as rider
2 responsibility, no. To the extent that it also
3 interferes with the act or did something under the
4 act, that wouldn't be appropriate either. It's got
5 to -- you know, and I haven't seen what -- you
6 know, I just heard, you know, Patty's presentation.
7 But it's really for, I guess, the -- something that
8 should be submitted, I guess, to the next director,
9 who will look at it, see whether this particular
10 stuff falls within it or whether or not -- we
11 aren't going to get into a debate whether it's
12 good, bad, or indifferent. That's inappropriate.
13 The question is whether it's an appropriate
14 amendment to the Carnival and Amusement Ride Safety
15 Act that falls within the powers, you know, of the
16 board. Like we just passed a proposal that the
17 director consider an amendment to the act to
18 eliminate, you know, 12-foot slides but only to the
19 extent that it was an appropriate amendment to the
20 Carnival and Amusement Ride Safety Act.

21 I guess that's a roundabout way of
22 saying if the director concludes it is, then it can
23 be subject to board discussion. If the director
24 were to say we think it's not an appropriate

1 subject matter, then I guess no. That's nothing to
2 say that people as individuals couldn't talk to the
3 director. Is that a roundabout answer?

4 MR. WILLIS: Or bring legislation on
5 their own behalf. I mean, the department all the
6 time is asked to weigh in its position on
7 legislative matters that are brought outside of the
8 -- you know, by outside groups. And introducing
9 legislation is not a difficult thing. But we're
10 often asked to take up positions as to what our --
11 whether we are supportive of legislative issues.
12 And, you know, obviously it would depend, you know,
13 on the new director and also the administration
14 reviewing the actual language of the legislation.

15 DIRECTOR COSTIGAN: For example, you
16 would be saying Article Protection 22.22 should be
17 amended or something of the act. But its broad
18 definition would probably fall outside the
19 definition.

20 CHAIRMAN KIRSCHNER: That seems to be
21 consistent with the department's position the last
22 time this was brought up by Lee Sullivan back in
23 the '90s.

24 MEMBER RHODES: So is the answer it

1 depends on what the new director says?

2 DIRECTOR COSTIGAN: It depends on how
3 it's phased, whether it's an amendment to the act,
4 whether the new director thinks it's an appropriate
5 amendment to the act to put forward, like we just
6 did on the legislative changes regarding 12-foot
7 slides. Okay? Or 20-foot, you know. You're
8 talking about amending the act. But, obviously,
9 you should submit it and it will be given to the
10 new director to look at.

11 CHAIRMAN KIRSCHNER: Any other
12 discussion?

13 (No response)

14 CHAIRMAN KIRSCHNER: Any other new
15 board business?

16 MEMBER SULLIVAN: Can I -- can I say
17 just one other thing under --

18 CHAIRMAN KIRSCHNER: You can say
19 whatever you want.

20 MEMBER SULLIVAN: -- under other
21 discussion.

22 We have -- I think rides are -- or,
23 operators are required to post rules at the rides
24 of what patrons can and cannot do on the ride or

1 what they should do on the ride. And this is --
2 this is a great deal like posting those rules, like
3 stay in your seat at all times and things like
4 that. It's just basic safety information for them,
5 and it doesn't -- there are no -- there's nothing
6 saying they'll be -- they'll be arrested if they
7 don't do something. There's nothing saying that
8 this takes away any of their rights. It's
9 basically this is the same thing that you put on
10 your website to some extent about following rules
11 and checking, you know, checking your children to
12 be sure they're tall enough, those kinds of things.

13 And so I think it would be something
14 that I certainly would go ahead and propose it to
15 the next director, because I think people need to
16 be aware that it's -- when you walk onto a carnival
17 midway or into an amusement park, there's nothing
18 magic there that's going to keep you safe. You
19 still have to follow rules and do what the ride
20 operator and ride instructions tell you to do,
21 basically.

22 So, okay, that's my comment.

23 CHAIRMAN KIRSCHNER: Any other
24 comments?

1 (No response)

2 CHAIRMAN KIRSCHNER: Motion to adjourn?

3 Do I need a motion to adjourn or do we just

4 adjourn?

5 MEMBER RHODES: I'll make a motion to

6 adjourn.

7 MEMBER SCHWABE: I'll make a motion to

8 adjourn.

9 CHAIRMAN KIRSCHNER: All right. So

10 you're the second.

11 MEMBER SPARKS: Second.

12 CHAIRMAN KIRSCHNER: All in favor of

13 adjourning.

14 (Whereupon a voice vote was

15 taken.)

16 CHAIRMAN KIRSCHNER: We're adjourned.

17 Thank you, everybody.

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