

STATE OF ILLINOIS
DEPARTMENT OF LABOR
CARNIVAL AND AMUSEMENT RIDE INSPECTION DIVISION

BOARD MEETING

Hearing held on January 20, 2012 at the Crowne
Plaza, 3100 South Dirksen Parkway, Plaza F, First Floor,
Springfield, Illinois, scheduled for the hour of 8:00 A.M.

PRESENT:

MR. JOSEPH COSTIGAN,
Director

Mr. Daniel S. Kirschner,
Chairman

Ms. Patty Sullivan,
Vice Chair

Mr. Angelo A. Mazzenga
Mr. Bill Sparks
Mr. Dennis E. Smith
Ms. Linda Givand Rhodes
Board Members

Ms. Cynthia M. Smith, CSR

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1 APPEARANCES:

2 MS. KATHERINE ANTHONY
3 Chief Legal Counsel
4 Illinois Department of Labor
5 Michael A. Bilandic Building
6 160 North LaSalle Street, Suite C-1300
7 Chicago, Illinois 60601

8 Appeared on behalf of the Department of Labor.

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17 ALSO PRESENT:

18 Mr. Doug Rathbun, Manager
19 Ms. Sara Meek, Legislative Liaison
20 Ms. Margaret Royer, Inspector
21 Mr. Chuck Drager, Inspector
22 Mr. Matt Rohman, Inspector
23 Mr. Bill Szerletich, Inspector
24 Mr. Brian Brown, Inspector

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1 MR. KIRSCHNER: Why don't we call the meeting to
2 order. I think that everyone that is going to be here is
3 here -- oh, let's wait for Patty.

4 MS. SULLIVAN: I'm here.

5 MR. KIRSCHNER: There you go.

6 Thank you everyone for joining us this morning for
7 our annual January board meeting. Welcome to our new
8 board members. Welcome back to our old board members.

9 I will call this meeting to order.

10 Has everyone had a chance to review the agenda of
11 this morning's meeting?

12 MS. SULLIVAN: I will make a motion to approve.

13 MR. KIRSCHNER: Is there a second to that?

14 MS. GIVAND RHODES: Second.

15 MR. KIRSCHNER: All in favor?

16 (Group response.)

17 MR. KIRSCHNER: All opposed?

18 (No response.)

19 MR. KIRSCHNER: Has everyone had a chance to review
20 the minutes?

21 (No response.)

22 MR. KIRSCHNER: Do I have a motion to approve the
23 minutes?

24 MR. SPARKS: I make a motion to approve the minutes.

1 MR. KIRSCHNER: All in favor?

2 MS. SULLIVAN: Aye.

3 MR. KIRSCHNER: All opposed?

4 (No response.)

5 MR. KIRSCHNER: One in favor and no opposed.

6 Okay. Old business. There aren't too many matters.

7 MS. SULLIVAN: You might go down and do a

8 reintroduction.

9 MR. KIRSCHNER: Thank you. That's my vice chair.

10 Why don't we start at the end and introduce everyone.

11 MR. SPARKS: Bill Sparks.

12 MS. SULLIVAN: Patty Sullivan.

13 MR. SMITH: Denny Smith.

14 MR. KIRSCHNER: Dan Kirschner.

15 MS. ANTHONY: Katherine Anthony.

16 MR. COSTIGAN: Joe Costigan.

17 MS. GIVAND RHODES: Linda Givand Rhodes.

18 MR. MAZZENGA: Angelo Mazzenga.

19 MR. KIRSCHNER: Okay. Thank you.

20 There are a couple of matters that are on the back
21 burner that we are still discussing. One is that there
22 is some matters of revising the code as it applies to
23 the amount of insurance required just to bring the code
24 up to date with respect to the amount actually available

1 in the limits. That is the current old business.

2 Is there any other old business that I did not
3 mention that you want to put out there?

4 (No response.)

5 MR. KIRSCHNER: Okay. Moving on to the Division
6 Manager Report. Where is Doug?

7 MR. RATHBUN: Here.

8 MS. SULLIVAN: Are we not going to discuss old
9 business?

10 MR. KIRSCHNER: We will discuss the old business.
11 Sorry. We will get to you.

12 MR. RATHBUN: Sure. Okay.

13 MS. SULLIVAN: What's the insurance issue?

14 MR. KIRSCHNER: In the statute, the amount -- the
15 minimum amount required doesn't comport with the amount
16 actually available in the marketplace. So if you would go
17 out to secure a policy, the policies are all million
18 dollar policies. The amount in the statute is outdated
19 and actually a lower amount that you can't even purchase
20 in the marketplace. So we would like to make the statute
21 mirror what's available in the marketplace so there is no
22 confusion to operators out there to get insurance when
23 they say I would like to get X and the statute says that's
24 not what I need.

1 MS. SULLIVAN: As long as we don't raise it to the
2 highest amount available.

3 MR. KIRSCHNER: It needs to mirror what is available
4 in the marketplace and has been available to every
5 operator. It just means taking the statute and making it
6 reflect what they currently have available.

7 MS. SULLIVAN: Which is a million?

8 MR. KIRSCHNER: Which is a million minimum. They can
9 buy more if they want.

10 MS. SULLIVAN: Okay.

11 MR. KIRSCHNER: Is there any other discussion on old
12 business?

13 (No response.)

14 MR. KIRSCHNER: Moving on to the Division Manager's
15 Report.

16 MR. RATHBUN: Okay. Currently there are no planned
17 outreach activities. Other than working with the -- we're
18 trying to get a task force together to discuss sprinkler
19 systems in haunted houses. And that's being headed up by
20 Mike Casagrande (phonetic) of the Kankakee Fire
21 Department. He is pulling that together.

22 There is some discussion as far as how the National
23 Fire Protection Association has written Life Safety Code
24 101. And basically the argument is the way that the code

1 is written now -- depending on how you interpret it and
2 there are two interpretations -- is that the size of a
3 building/room that requires a sprinkler system is 160
4 feet, 160 square feet. Which is basically the size of a
5 living room, if you have a small living room.

6 And a lot of the fire chiefs as well -- they feel
7 that's pretty -- it's too restrictive. It's unrealistic.
8 And so they are going to draft -- they are going to try
9 and draft some verbiage to give to the National Fire
10 Protection Association so that issue can be addressed.

11 Spring Press Release. Obviously that will go out.
12 It hasn't been drafted yet. That will be worked on in
13 conjunction with Anjal Julka who is our PR person. Excuse
14 me. And typically she sends that out in the spring just
15 to remind people. And most of you have seen 'em before.
16 If you haven't, it's just a general information article
17 for the public saying, you know, follow the rules and stay
18 within the guidelines, et cetera. So -- and that will be
19 worked on and forthcoming.

20 And Training. There have been three people approved
21 to go to NAARSO this year. And for those of you that are
22 new, I'm sorry if I use an acronym that you don't
23 understand. By all means stop me and ask me to explain
24 it.

1 NAARSO is the National Association of Amusement Ride
2 Safety Officials. There is typically two major training
3 contingencies in the country. One is AIMS which is the
4 Amusement Industry Manufacturers & Suppliers. And NAARSO.
5 And we go to one of those two trainings. There are two of
6 our inspectors who already have NAARSO certification. And
7 it has just been traditional that inspectors attend
8 NAARSO.

9 NAARSO brings together a great array of instructors.
10 So they get expertise and instruction in the various
11 aspects of amusement rides that may not be readily
12 available without paying a lot of money. So we've got two
13 people and myself slated to go to that. Actually, it's at
14 the end of this month. It will be January the 29th
15 through February the 4th.

16 MS. SULLIVAN: Who are the two people?

17 MR. RATHBUN: It will be Matt and Chuck.

18 And you know I'm in conversation with Chuck about
19 that because he may have an issue. And Matt -- and so
20 Matt should be eligible to test. Chuck will be. And so
21 we're kind of undecided about that.

22 The Non-Destructive Test Update. Let me find it. I
23 didn't see it yesterday. And for those of you who are not
24 familiar with Non-Destructive Testing -- I know Bill

1 provided a handout on that.

2 Non-Destructive Testing is -- to simplify it, if you
3 are not familiar with it, it's a way to examine metal for
4 cracks without destroying the material that you are
5 testing. Like I said, the handout lists the different
6 types. But usually, when I explain it to lay people, the
7 way that I explain it is that it's like being able to
8 x-ray a piece of metal.

9 And granted there is a lot more to it than that, but,
10 for simplicity sake, you take a look at that metal using
11 whatever technique is appropriate and have it looked at.
12 You know the only two -- and we keep a running list of
13 what we require in Illinois. Which is on our web site.
14 The only two we've added is ski lifts. There are some ski
15 lift stuff that Borvig has changed. And we've worked with
16 the ski lift operators so that they are familiar with the
17 requirements.

18 And the other is the Chance Sea Dragon where the mast
19 broke. And it -- basically, it's a pirate ship with a
20 mast, a sail in the middle of it for decoration mostly.
21 And where the two pieces of the mast come together there
22 was an accident. I believe it was in New Jersey where the
23 mast cracked and fell on a patron and injured them.

24 So now it's an annual requirement that they have that

1 NDTd to verify that, that is structurally sound or they
2 have the option of removing the mast. So those are the
3 two additions.

4 As a point of clarification -- which did not change
5 the way that the NDT List is written. The Zierer Wave
6 Swinger, the company has extended the length of their
7 NDT/overhaul requirements to 12 years versus ten years.
8 And I think Freddie Miller has one. There is one on Navy
9 Pier and -- does Six Flags have one?

10 MS. ROYER: Yes.

11 MR. RATHBUN: Six Flags has one.

12 So it actually benefits the operator. The Wave
13 Swinger has been in use long enough and they've had time
14 to examine it and it's structurally sound. And they've
15 took the option of extending the overhaul requirements for
16 that particular ride.

17 The Year End Statistics. Like I said, this year was
18 Brian's first year. So Brian and Bill worked together a
19 lot. We had the total of 3,780 inspections. And 2,000 -

20 211 of those were assisted. There were 2,576 initial
21 inspections. There were six stop orders. I said five
22 yesterday. And there were 27 corrected sticker
23 replacements. This is pretty much standard as to what
24 we've done in the past. There weren't any major

1 fluctuations. There were no large increase or decrease
2 per items.

3 So are there any questions on that?

4 (No response.)

5 MR. RATHBUN: Okay. So the next item on the agenda
6 is WOW Balls. Now we would like to give everybody a
7 little history so that you've got a grasp of how all of
8 this progressed.

9 Okay. At the last meeting we had, I knew at the time
10 WOW Balls were going to be controversial. So I made it a
11 point to bring a WOW Ball into the meeting so that the
12 people on the board would have the opportunity to look at
13 it for themselves close up and personal and -- and so that
14 there could be a dialogue.

15 On Monday, March the 31st, the Consumer Product
16 Safety Commission came out with a public statement that --
17 and this is not the actual letter. This is a -- I have
18 got the actual letter, but that basically said in a
19 nutshell that there is no safe way to operate these
20 devices. I mean they were very blunt, pointblank.

21 The ruling is that there were suffocation issues.
22 And the walls of the original WOW Balls were only single
23 walled. And they considered that a hazard as well. So I
24 took that to our legal staff and -- and said, you know,

1 this is what the CPSC said, what should we do.

2 The legal staff made the opinion that, Doug, CPSC
3 says that they are unsafe. We have to take the expertise
4 of that third party. And they have the testing
5 facilities, et cetera. And if they determine that they
6 are unsafe to operate, we pretty much have no latitude to
7 say otherwise. And it would be a possible liability issue
8 for us to allow them to operate after that public
9 declaration has been made by the Consumer Product Safety
10 Commission.

11 So going from there -- and after many conversations
12 with the CPSC -- because as more and different varieties
13 of WOW Balls evolved -- and WOW Balls are Walk On Water.
14 That is a generic term. There are many companies that
15 build these type of devices/attractions, however you want
16 to word it. And they come in many different
17 configurations.

18 So -- and they have come out with cylindrical ones.
19 They came out with round ones. And so basically
20 throughout the summer the policy of the department was no
21 WOW Balls will operate period -- any type, any shape, any
22 flavor. After many months -- at the end of the summer and
23 many conversations with CPSC and other states, the CPSC
24 finally said if these attractions, devices have double

1 walls and have a free exchange of air and are -- and meet
2 the manufacturer's requirements meaning that they were
3 designed to be used on water, then we will say that they
4 are not unsafe and those types of attractions can operate.

5 At that point, we took -- I took that to legal and I
6 took that to the director. And I said, you know, this is
7 what the CPSC is saying. This is the ruling. And it was
8 agreed that, okay, if the attractions meet these
9 specifications, we will allow them to operate.

10 Now that was -- that basically took place over the
11 whole summer. So quite frankly there was some confusion.
12 And I did try very much to speak with the various
13 operators of the balls. Obviously they weren't happy that
14 they were shut down. It was costing them money. And they
15 had invested money to buy them. But it was the decision
16 of the department that, based on the information provided
17 to us, that, that was the conservative and the appropriate
18 course of action to take.

19 Now would you like to add anything to that? Are
20 there any questions?

21 MR. COSTIGAN: Well --

22 MR. KIRSCHNER: Why don't we do this. We can do this
23 one of two ways. We can either discuss things as Doug
24 brings them up one by one --

1 MR. COSTIGAN: Okay.

2 MR. KIRSCHNER: -- or we can let Doug finish the
3 report.

4 MR. COSTIGAN: Sure.

5 MR. KIRSCHNER: Doug, finish your report.

6 MR. RATHBUN: Yes. Sure.

7 And there is one side note. At the time that this
8 was being discussed by the department, we had made some
9 very intense efforts to get a board meeting together.
10 Based on the board members schedules, et cetera, they were
11 unavailable to -- to hold a meeting to discuss this issue.

12 So -- so the department did try to make that effort.
13 Obviously in the middle of the summer there is a lot going
14 on. People are busy. And it just seemed to be an
15 impossibility to be able to pull together to get a quorum
16 to discuss this issue.

17 The Haunted House Update. Right now we are over 100
18 houses. In the past three years, we've gone from
19 inspecting seven haunted houses to inspecting well over
20 100 haunted houses. I think that, that has gone very
21 well. I think that we've made a safety impact throughout
22 Illinois.

23 I think that the fire marshal and the inspectors
24 working with the different fire departments have formed a

1 good team together where we are making a difference. This
2 year we didn't shut any down. Everything went well. But
3 the -- the expectations are definitely rising.

4 Actually, did we shut one down? I'm thinking of the
5 one with the building inspector in DuQuoin or Champaign.

6 MR. SZERLETICH: Oh, yes.

7 MR. RATHBUN: We did shut one down.

8 MR. SZERLETICH: Temporarily.

9 MR. RATHBUN: What was the issue? Insurance?

10 MR. SZERLETICH: No. They didn't have enough
11 emergency lighting --

12 MR. RATHBUN: Okay.

13 MR. SZERLETICH: -- in the right places.

14 MR. RATHBUN: Not enough emergency lighting.

15 And I think at that time we also had a forged
16 insurance certificate.

17 MR. SZERLETICH: Uh-huh.

18 MR. RATHBUN: We did have a couple of minor issues.
19 We worked through it. But all in all that whole part of
20 the inspection program has gone quite well.

21 As far as Division Activities -- like I said, right
22 now we are getting ready to go to training. Currently
23 we're working on updating all of our manuals and stuff.
24 And the inspectors are doing some inspections. We are --

1 we have already started inspecting for 2012. Which
2 started actually in 2011. We are trying to knock out all
3 of the fixed sites that the inspectors can get into.
4 Obviously we have had much better weather than normal. So
5 they are making the effort to get what they can. If there
6 is any inflatable companies that they can get, they are
7 going ahead and getting them. And obviously this spring
8 things will break out. And once it hits 65 or 70 degrees,
9 obviously this is a -- for you board members that are new,
10 you may not have met Marcia. This is our first board
11 meeting where Marcia has not been here. And we miss her.
12 She is going to be working with us part time. And so we
13 are looking forward to that. And that's where we are at
14 there.

15 The Accident Report. We had nine accidents. We had
16 one that was a Go-Kart that swerved into the wall and that
17 was deemed patron error. We had one where the stair tread
18 separated from the ride and the person fell down. We had
19 another Go-Kart accident. We had a patron that slipped
20 going up the steps. And another who entered the ride from
21 outside of the fence. And then the person who fell over
22 the control bar while waiting to get on the ride.

23 The two what I would consider more serious injuries
24 we had were -- was where a child got caught up in her

1 mother's leg on a teacup ride and the results of that was
2 a broken leg. And then we had the fatality. And that was
3 when the child exited the car and was subsequently run
4 over.

5 MS. SULLIVAN: When the child exited the car, did the
6 child have restraints on or did the child --

7 MR. RATHBUN: The child did have --

8 MS. SULLIVAN: Did the child stand up?

9 MR. RATHBUN: The child had a lap bar restraint and
10 he was in the front car with his twin brother. And this
11 was a small kiddie coaster. The child met the
12 specifications for the appropriate height to ride the
13 ride. And the lap bar was in place. It was a lap bar
14 that covered both brothers. It was not an individual lap
15 bar per individual.

16 Does that answer your question?

17 MS. SULLIVAN: Well, my question is did he stand up
18 or did --

19 MR. RATHBUN: It is -- Margaret, would you like to
20 answer that?

21 MR. KIRSCHNER: We can have a discussion about this.
22 Let's get Doug through his report. I promise you there
23 will be discussion.

24 MS. SULLIVAN: Okay.

1 MR. RATHBUN: The Safety Bulletins. Which we went
2 over last night. As I said, there were a multitude --
3 like probably eight or nine different bulletins that
4 related to ski lifts. I'm not going to go through all of
5 that. They are going to be posted on our web site. But
6 we have spoken to the ski lift operators and -- and
7 addressed the issues and made them aware that bulletins
8 were available.

9 As I said, there was an accident involving a
10 eurobungy. Basically they did not follow the operator's
11 manual. And so that's been dispersed to the inspectors.
12 So when they look at the eurobungies -- which is the bungy
13 trampolines where the kids wear the harnesses around their
14 waist and jump on the trampoline. If they had followed
15 the manufacturer's requirements, they would have been
16 fine.

17 MR. KIRSCHNER: When you say they, you mean the
18 operator?

19 MR. RATHBUN: They, the operator. Correct.

20 MR. KIRSCHNER: (Nods affirmatively.)

21 MR. RATHBUN: The Moser Spring Ride. There was an
22 occasion where the pulley broke up at the top of the ride.
23 This was not from the manufacturers. This was actually
24 from another state just saying, hey, we found this on the

1 spring rides, make sure your inspectors know to look
2 closely to this area as they are inspecting these types of
3 rides. So obviously this was passed on to the inspectors
4 so that they would have that information.

5 The Reverchon Log Flume had an accident. They just
6 wanted everybody aware of it. They have not come to any
7 major conclusions as to the cause yet. And they are still
8 working on that.

9 MR. KIRSCHNER: When was that? What was the
10 accident?

11 MR. RATHBUN: The device has got -- it's like a
12 little boat. It was a mother and daughter. And they were
13 ejected. So they don't know if they got caught on
14 something as they were going down the flume. They don't
15 know what the exact cause was.

16 MR. KIRSCHNER: What were the injuries?

17 MR. RATHBUN: Bill?

18 MR. SZERLETICH: I think it was a low water issue.

19 MR. RATHBUN: Initial investigations suggest that the
20 passenger log was released following a temporary halt for
21 technical reasons, and then failed to slow down to a safe
22 residual speed in the water tank. This resulted in the
23 passengers being ejected from the log.

24 The water level in the tank is a critical safety

1 feature as it is the only form of brakes for the logs. If
2 the water level is too low, the log will not be slowed
3 such that it cannot safely negotiate the following bend.

4 This is out of England. We don't have one operating
5 in Illinois.

6 MR. KIRSCHNER: Fair enough.

7 MR. SZERLETICH: They use sensors to show how high
8 the water is and the sensor location is the issue. It
9 wasn't allowing enough water in to give the proper
10 breaking when they come down. So I think that, that was
11 the gist of it.

12 MR. RATHBUN: And then we have J&J Go-Karts. It's
13 basically to make sure that you have your drive pulley
14 axle cover installed. Every year just about there is a
15 case of a child getting their hair caught in the drive
16 train of a Go-Kart and it pulls their scalp off. And
17 it's typically because the appropriate guards were not
18 in place or the operator did not make sure that the
19 patron had their hair up so it couldn't become entangled.

20 Climbing Carabiners. Which are relative -- which are
21 relative to climbing walls. Photon Carabiners were
22 recalled due to a risk of injury. And that was a Consumer
23 Product Safety Commission recall. This has been passed on
24 to inspectors so when they look at rock walls they will

1 know to make sure that the carabiners are not in use.

2 Chance's Giant Gondola Wheel. The axle hub fastener.
3 It's basically to make sure that the appropriate screws
4 are being used on this part of the Chance Gondola Wheel.
5 Again, the inspectors have this.

6 And -- and the Revolution -- Chance's Revolution was
7 a matter of putting drainage holes into the ride because
8 water was accumulating. And that's basically to let the
9 operator know to put these holes in so that the water can
10 drain out.

11 The See Dragon. We've covered the Sea Dragon. It is
12 the NDT I referred to earlier where the mast broke off.
13 And it basically says, you know, after many years of
14 operation the structural integrity degrades if it's not
15 appropriately cared for and that speeds up the rusting and
16 corrosion process. The accident happened and now there is
17 the requirement of getting an NDT annually.

18 And the last one is the Falling Star by Chance. We
19 don't have a Falling Star in the state. So it's really
20 not a super factor.

21 But the bottom line is that these are, as I said, on
22 our web site. If you want to read them in their entirety,
23 they are available.

24 And that's the end of my report.

1 MR. KIRSCHNER: Thank you.

2 MS. GIVAND RHODES: I have a question about the
3 pulleys. I had a quick question about the bulletins.
4 When there are bulletins about attractions that we
5 currently don't have is there something that we do to make
6 sure that the inspectors are reminded about them should
7 those attractions be introduced?

8 MR. RATHBUN: They are provided with a copy of them.
9 They all have laptop computers. When I get a bulletin, I
10 send it to the inspectors and the various shows, if they
11 have it. And, if not, we do keep it on file as a ready
12 reference. So anytime an inspector comes to a new ride
13 they know that they should go through and look at all of
14 the technical data that we have on that ride to help them
15 in their inspection.

16 MR. KIRSCHNER: Let's go through those and see if
17 there is any discussion on any one of the topics. Let's
18 start with the Haunted Houses. With regard to the safety
19 code inspection, is there any discussion on that issue?

20 (No response.)

21 MR. KIRSCHNER: Hearing none, are there any comments,
22 discussions or questions --

23 MS. SULLIVAN: I do have a question.

24 MR. KIRSCHNER: Okay.

1 MS. SULLIVAN: When -- when they come up with a --
2 with what they are going to present at the NEC meetings --

3 MR. RATHBUN: Uh-huh.

4 MS. SULLIVAN: -- do -- can we get some information
5 so that we --

6 MR. RATHBUN: Sure.

7 MS. SULLIVAN: So that -- so that our industry here
8 has input?

9 MR. RATHBUN: Yes, ma'am.

10 MS. SULLIVAN: Because I think that our operators
11 should have input into that before it goes through there.
12 This is a relatively small group. It's not as big as,
13 like, ASTM that work on those --

14 MR. RATHBUN: Right.

15 MS. SULLIVAN: -- requirements. And I think that it
16 would be good for people who own the haunted houses to
17 have -- to have some input before it goes to NEC.

18 MR. RATHBUN: I don't think that, that will be a
19 problem, Patty.

20 MS. SULLIVAN: (Nods affirmatively.)

21 MR. KIRSCHNER: Is there any comment, discussion or
22 questions on the Spring Press Release?

23 (No response.)

24 MR. KIRSCHNER: Hearing none, are there any comments,

1 discussions or questions on training?

2 MS. SULLIVAN: Well, I have a question. I know that
3 Doug has gotten a promotion to the Weights and Measures.

4 MR. RATHBUN: Uh-huh.

5 MS. SULLIVAN: Is there somebody else we should be
6 sending to the training if you are moving out of the
7 department ultimately and have somebody trained who is
8 going to be in the department?

9 MR. RATHBUN: Well, actually, Patty, I'm paying for
10 my own training. I'm paying for my own flight. I'm
11 paying for my own rental car. All the department is doing
12 is giving me time.

13 MS. SULLIVAN: Okay.

14 MR. KIRSCHNER: Is there anything else?

15 MS. SULLIVAN: (Nods head no.)

16 MR. MAZZENGA: On the training -- on the -- is there
17 different levels of qualifications?

18 MR. RATHBUN: Yes, sir.

19 MR. MAZZENGA: Is there any basic level of
20 qualifications for inspectors or is it OJT? What's the
21 regimen?

22 MR. RATHBUN: We do not by law mandate that the
23 inspectors have any type of certification. What the law
24 stipulates is that basically the inspectors have the

1 equivalency of a two year technical trade capacity. That
2 is obviously determined by an evaluation by CMS, which is
3 the big personnel for the state.

4 MR. MAZZENGA: Okay.

5 MR. RATHBUN: They set that during their hiring
6 process. But currently there are only a couple of the
7 states that mandate -- and I know Oklahoma is one of 'em.
8 I think that there is another one that mandates that their
9 inspectors have either an AIMS or NAARSO certification.

10 MR. MAZZENGA: Can I ask one follow up to that?

11 MR. RATHBUN: Yes, sir.

12 MR. MAZZENGA: In looking through all of the
13 materials on the web site, there is a lot of references to
14 ASTM F. What's that stand for?

15 MS. SULLIVAN: F 24.

16 MR. MAZZENGA: So am I right in thinking that
17 implementing that ASTM is who is reasonably responsible is
18 the manufacturer? How does that work?

19 MR. RATHBUN: There are obligations by the
20 manufacturer to ASTM and there are also obligations by the
21 operator.

22 MS. SULLIVAN: There are also obligations by the
23 inspectors of -- of how -- of what to inspect and how to
24 inspect. Just standards of how to do that. And so

1 anything that the State of Illinois has -- has included
2 from ASTM in our regulations, then it would become law.
3 Basically ASTM isn't regulatory.

4 MR. MAZZENGA: It's reference material.

5 MS. SULLIVAN: Well, it's international standards.
6 And -- and it's -- and it's made up of people from -- you
7 know who are operators, who are engineers, who are
8 manufacturers, who are the public -- just the general
9 public. And they -- they work together to -- to write --
10 to write the best standards that we can.

11 A lot of the standards are undergoing a lot of change
12 right now. They are getting more into the maintenance
13 part to -- as far as how to set up a good maintenance
14 program in terms of, you know, what things do you include
15 and -- and -- and how to set up a good operator program,
16 training and all of those kinds of things.

17 So it pretty much encompasses not only, you know,
18 what the manufacturer or the engineer's requirement is or
19 the manufacturer's requirement, but quality assurance
20 requirements and inspector -- inspection requirements. As
21 well as testing -- different types of testing like
22 acceleration testing. It's pretty much -- all of those
23 things are included in ASTM.

24 MR. KIRSCHNER: And, to be clear, ASTM is a reference

1 guide with respect to our rules. It is not -- the rules
2 incorporate ASTM and require that ASTM be followed.

3 MS. SULLIVAN: Yeah. Wherever their standards are
4 incorporated, then it becomes law.

5 MR. MAZZENGA: Thank you.

6 MR. KIRSCHNER: End of discussion?

7 (No response.)

8 MR. KIRSCHNER: Okay. Are there any comments,
9 questions or discussion on the Non-Destructive Test
10 Update?

11 MR. MAZZENGA: I do have one question on that, too.

12 MR. KIRSCHNER: Ask away.

13 MR. MAZZENGA: I have noticed in several of the
14 service bulletins that came out -- several of the safety
15 bulletins that came out when a manufacturer encountered
16 some issues they would go to a form. And I was just
17 curious, in that whole big table you have, how do the
18 operators and owners report that they satisfied the NDT
19 requirement? What do they present to the inspectors? Is
20 it like a standard form?

21 MR. RATHBUN: They are required to present to the
22 department a copy of their NDT Certificate from the NDT
23 testing facility demonstrating that they have indeed
24 performed that NDT on a piece of equipment. They have to

1 do that prior to receiving a permit.

2 And that's one of the things that go on in the spring
3 when most of the hard ride companies send in their
4 applications. It is the expectation of the department
5 that they include the results of the last NDT with their
6 paperwork so that we can verify that it needs to be done.

7 MR. MAZZENGA: In any format?

8 MR. RATHBUN: It's got to be from a Level 2 NDT
9 technician. But we don't stipulate the format because
10 trying to get all of the NDT testing facilities to do that
11 would be a nightmare. But it is obviously from a
12 reputable NDT testing facility. And it has to be
13 performed by a Level 2 NDT certified technician.

14 MR. MAZZENGA: Okay.

15 MR. KIRSCHNER: Is that the end of the discussion?

16 (No response.)

17 MR. KIRSCHNER: Year End Statistics.

18 MS. SULLIVAN: I just wanted to -- to verify that --
19 that the one fatality that we had, the child -- my
20 understanding is that the child did stand up on the ride.

21 MR. KIRSCHNER: That's under Accident Reports.

22 MS. SULLIVAN: Oh. Okay.

23 MR. KIRSCHNER: Sorry about that. I was trying to
24 save the two biggest discussions for the last.

1 MS. SULLIVAN: Okay.

2 MR. KIRSCHNER: Is there any comments, questions or
3 discussion on the Haunted House update?

4 (No response.)

5 MR. KIRSCHNER: Very good.

6 Is there any comments, questions or discussion on the
7 Division Activities?

8 (No response.)

9 MR. KIRSCHNER: Very good.

10 Is there any comments, questions or discussion on the
11 Safety Bulletins?

12 (No response.)

13 MR. KIRSCHNER: Hearing none -- okay. Why don't we
14 turn to the WOW Balls. I know that there is probably some
15 discussion or questions on the WOW Ball.

16 MS. SULLIVAN: Yeah. Yeah. I would like us to
17 revisit this because we did have the demonstration on WOW
18 Balls here. And the fellow who was demonstrating what his
19 organization did seemed like he had looked into different
20 safety issues. He had not had any accidents the way that
21 they did operate their WOW Balls.

22 And I would like to revisit this issue allowing those
23 kinds of operations in because if -- if they -- if we
24 decided that or maybe we need to decide or look into more

1 on, for instance, how long someone can be in the water,
2 the water must be a minimum of X number of inches high
3 with a maximum, have a maximum per pool and a maximum
4 number of the balls per pool, have a minimum number of
5 operators.

6 Because my understanding was that his company
7 certainly had not had any -- he had not had any accidents
8 or incidents. And I think that we're kind of throwing
9 the baby out with the bath water on that. The CPSC had
10 very specific things that had happened. And it -- it
11 appeared to me in reading what they had done was that they
12 were -- as the CPSC often does, it was a knee-jerk
13 reaction to just a couple of incidents. And they didn't
14 look at all of the WOW Balls out there.

15 I understand like the Zorb Balls that come from New
16 Zealand are -- are basically a little different animal for
17 going on land than the Walk On Water Balls. And I would
18 like to go -- I mean I was quite impressed with the
19 operation as described to us by the gentleman and his wife
20 who did the demonstration. And I would like to see us
21 give it a second look and maybe come up with -- if we
22 wanted to, come up with requirements that we feel are --
23 are necessary to -- to support us. So -- to support a
24 safe operation, I think that's good.

1 Now that we've kind of been through this for one
2 summer with none, I think that maybe we should invite more
3 WOW Ball operators to maybe come in, in our next meeting
4 and start talking about some operational guidelines that
5 we want to require with WOW Balls and let them back into
6 the state.

7 They should be treated like any other attraction in
8 terms of they should have their procedural manuals and
9 they should have their employee training. And then they
10 should have to -- you know they should have to stick to
11 the guidelines of the manufacturer.

12 And -- and perhaps there is a way to discern well
13 made WOW Balls from not so well made WOW Balls. I mean we
14 don't want to just deplete the air supply all of a sudden.
15 But the -- you know the -- it was -- it was determined
16 that the -- the air supply -- in terms of the size of the
17 WOW Ball that we saw, there was plenty of air in there
18 for, say, up to three minutes that, that organization --
19 that, that, you know, operation did.

20 So I would like to see us look at that again and look
21 at what kind of guidelines we would want to see and -- and
22 put WOW Balls back in because God knows the state can use
23 the revenue. So -- and -- and I'm not doing this -- I'm
24 not suggesting that as the reason to scrimp on safety,

1 too.

2 But you know I think most of us were quite impressed
3 with the demonstration that we saw. And I thought that,
4 that organization was doing a good job with what they were
5 doing. And it seems unfair to just exclude all WOW Balls.

6 I mean --

7 MR. KIRSCHNER: I guess one thing to talk about is
8 some of the concerns that the CPSC said. And one of the
9 reasons I understand that the state had concern was
10 because at that point there was really no regulations.
11 And, as a regulatory agency, we can't go from one operator
12 to another and enforce anything if there is nothing
13 telling us what is a safe way to operate and be
14 constructed, how do they eliminate the risk of
15 suffocation, how do they eliminate the risk of drowning,
16 what is the impact on injuries, hygiene concerns, heat
17 exhaustion concerns.

18 Can you address some of that?

19 MR. RATHBUN: Well, there is two issues here. One is
20 the agency's liability. I mean how would it be for the
21 agency if an accident did happen and that person came back
22 and said the CPSC told you unequivocally that these were
23 unsafe and you allowed them to operate. I think that,
24 that was the way that legal was looking at it because

1 obviously legal's job is to protect the department. And
2 it would -- as an attorney, you would know that, you know,
3 you were warned. You were told that there was no safe way
4 to operate these attractions and you let 'em operate. And
5 now this child is injured. You know we're coming after
6 you.

7 MR. KIRSCHNER: I mean I would disagree with you
8 because the Illinois Community Act provides for extension
9 of protection for the state. I don't think it's an issue
10 of the department protecting itself and the -- it's an
11 issue of the department protecting the children. So I
12 would disagree in that respect.

13 MR. RATHBUN: I will accept that.

14 But, as you said, you know, these are the issues that
15 the CPSC came out with that they thought were unsafe for
16 the attraction. No matter how you slice it, the first
17 issue being the air inside the attraction. You know if it
18 is a closed attraction, you have what you have. So how do
19 you adjust that to make it safer you know? I don't have a
20 response.

21 MR. COSTIGAN: (Indicates.)

22 MR. RATHBUN: Go ahead, Joe.

23 MR. COSTIGAN: Yeah. If I can just say a couple of
24 things. I came on in April.

1 MS. SULLIVAN: I know.

2 MR. COSTIGAN: And I would have really appreciated
3 having the benefit of a discussion like this when we had
4 to confront the issue of WOW Balls and allowing them to
5 operate.

6 But before you start to say anything further, I want
7 to apologize for the fact that I wasn't able to attend
8 yesterday's meeting due to a scheduling issue that I
9 couldn't get out of or around. And I apologize to the
10 board. And I thank both the chairman and vice chairman
11 for taking on the responsibility and all of the board
12 members for helping us through really critical issues to
13 the state.

14 Second of all, I want to commend, you know, the work
15 not just of the board in the past, but I, also, would like
16 to commend the work of the staff. We have a small staff
17 who has a responsibility to inspect thousands of rides.
18 And it's -- we appreciate the work that -- that -- and the
19 professionalism that our staff has brought to the work
20 that they do. And --

21 (At which time, Ms. Marcia
22 Joiner entered the board
23 meeting.)

24 MR. COSTIGAN: And we, also, want to commend Marcia.

1 MS. SULLIVAN: Yeah.

2 MR. COSTIGAN: She's recently retired, but we are not
3 allowing her to totally get away. We've got an
4 arrangement to have her come back and assist us and keep
5 the department running strong. So thank you.

6 But you know, on the issue of WOW Balls -- and we had
7 an extensive discussion. And -- and, again, it took place
8 at -- you know right in the beginning of my coming to the
9 department. And you know we -- as Doug talked about, I
10 mean we had a very difficult call to make.

11 But you know the CPSC -- which is an independent
12 government agency of, you know, the federal government
13 that is -- that issued some strong -- that is known for
14 its testing of these kinds of consumer products. And
15 other issues of consumer safety. They issued some pretty
16 strong warnings that we had to take to heart and look at.

17 And, you know, among the ones that we talked about
18 were the fact that, you know, the WOW Balls -- once you
19 are in, you are in. There is no way for -- if a kid
20 panics or if somebody is having a breathing issue, there
21 is no way for a person to open that and -- and get
22 themselves out. That was the concern.

23 The possibility of the air supply altering, failing
24 or being inadequate was another issue. The ball is

1 airtight. And the CPSC issued a -- you know a warning
2 potentially about the depletion of oxygen. Which can
3 occur in a matter of minutes. And so that was another
4 issue that we had to consider.

5 The other -- a couple of -- the other issue was the
6 fact that, you know, I don't know how all of these
7 operate, but sometimes they operate in open water. So
8 they could be subject to being out in fairly deep water.
9 If there is a puncture, it could result, you know, in a
10 real serious situation. Or if it were hit by other craft
11 in the water, that would present a danger. And sometimes
12 they operate on a small plain of water where they can be
13 tipped out onto the concrete.

14 And -- so these were among the issues that we had to
15 consider. And without the ability to have a board
16 discussion, we thought that it was prudent to follow the
17 warnings of the Consumer Product Safety Commission. But I
18 certainly would entertain further discussion about the
19 this issue. I mean it's -- we would like to -- they look
20 like fun. They really look like a lot of fun. I'm sure
21 that they are enjoyable.

22 But I just think that when I came into the
23 position --

24 MS. SULLIVAN: Into the fray.

1 MR. COSTIGAN: Having been thrown into the situation
2 where there was pretty strong and stern warnings from the
3 Consumer Product Safety Commission, it was thought that it
4 would be prudent for us to error on the side of caution
5 and that some of these issues that they have outlined be
6 addressed, that we could look further into them. If some
7 of those issues were addressed, we would be more than
8 happy to entertain discussion.

9 Doug, correct me if I'm wrong, but there may be --
10 are there some water balls that, you know, are
11 different -- have a different -- that have an open air
12 exchange?

13 MR. RATHBUN: Yes. Let's be clear. We are allowing
14 those to operate.

15 MR. COSTIGAN: Right.

16 MR. RATHBUN: And I mean some states I don't believe
17 are.

18 MR. COSTIGAN: Right. And I think that, that was the
19 other issue is that when we looked at the CPSC warning --
20 and we, you know, took that very seriously. And the
21 second thing is that we went to study what other states
22 were doing. And they were -- they seemed to be taking the
23 same course that we were. So we weren't really going
24 against the grain here. We were trying to follow, like, a

1 prudent course, a course that other states had outlined.

2 Like I said, I think that it's certainly worthy of us
3 to entertain further discussion and make -- and, you know,
4 make sure that -- that the water balls -- you know if some
5 of these issues are addressed, you know, we can take -- we
6 can definitely take another look.

7 MS. SULLIVAN: (Nods affirmatively.)

8 MR. KIRSCHNER: Doug, with respect to some of those
9 issues -- if we can go through them one by one to address
10 them.

11 MR. RATHBUN: Sure.

12 MR. KIRSCHNER: With respect to the open air
13 exchange, can you talk about that design and what that
14 design is intended to address?

15 MR. RATHBUN: Yes. One of the accidents that
16 occurred was a young girl -- she passed out within the
17 bubble. Now it's my understanding that it was relatively
18 quickly after she got into the ball. And -- and I got the
19 impression that there may have been underlying issues. I
20 do not know. But she did pass out relatively quickly.

21 So the -- the enclosed fear -- the totally enclosed
22 fear is one of the cruxes of the issue. I mean the bottom
23 line is once they are in, that's how much air that they
24 have. And you know I'm -- the oxygen issue is not such an

1 issue as the carbon dioxide buildup issues are. Because
2 of the way that the timing works carbon dioxide is
3 actually more critical in my mind.

4 A six foot ball, like I said, holds more air than
5 a -- than a scuba tank. So I mean I personally was not
6 against them. And that's my personal opinion. I've had
7 my daughter in 'em. But the argument is that it is a
8 closed unit. And the bottom line is, if the operator has
9 a heart attack and the midway is empty, the kid is gonna'
10 die.

11 MR. KIRSCHNER: In a scuba tank, you have a regulator
12 that lets you know what it's doing.

13 MR. RATHBUN: Right.

14 MR. KIRSCHNER: And you have peopled trained that
15 understand the exchange of oxygen?

16 MR. RATHBUN: The timing is the same.

17 MR. KIRSCHNER: Are there any guidelines or standards
18 that let someone know the depression level and the rise
19 level of the CO2 with respect to the size of the person in
20 it?

21 MR. RATHBUN: There have been studies done. I don't
22 know if I passed them out in the meeting or not. But the
23 conventional argument is that there is enough air.

24 MR. KIRSCHNER: For how much time and for what size

1 of a person?

2 MR. RATHBUN: And it's all relative obviously. I
3 mean the smaller the person, the more activity that you
4 have -- there are all of these factors that are a part of
5 it. You know if you ask the manufacturers, there is
6 enough air for 20 minutes. Or for at least ten minutes.
7 The ride is three to five minutes. So by all of the
8 engineering reports, et cetera that I have seen, there is
9 enough air.

10 The CPSC takes the opposite approach. There is not
11 and it is a hazard. You know what I mean? So you've got
12 the battle going back and forth of the manufacturer saying
13 it's safe, it's good to operate and then you have the CPSC
14 saying it's not safe.

15 MS. GIVAND RHODES: Do we have the studies from the
16 CPSC to explain specifically why there is not enough air
17 and why they don't feel it's safe?

18 MR. RATHBUN: I do not have them. And I don't know
19 if we can get them. But I would be willing to do that.

20 MR. KIRSCHNER: Earlier you mentioned the double wall
21 design. What's the purpose of that?

22 MR. RATHBUN: One of the accidents was where they
23 had -- there was a person or a child that hit the side of
24 the pool and injured their leg. I think they broke their

1 leg. The double wall actually gives you a cushion, if you
2 will. And it acts to protect you against the banging
3 of -- the patron banging into something including the
4 side of the pool.

5 MR. SMITH: Just not knowing anything about the
6 product, I had a couple of concerns. One concern is in
7 putting someone in this sphere if a previous patron had
8 tuberculosis which is passed by sputum, coughing. And
9 then you go and put your child in there and they are
10 breathing that same air. Has any studies been done about
11 the bad air that's just left in there from the previous
12 person?

13 MR. RATHBUN: Well, let me take that separately.
14 That's two separate issues. One is the air and the other
15 is the saliva.

16 The air issue. The operator is supposed to fully
17 deflate the attraction before -- and totally reinflate
18 it so the air will be fresh. Obviously, if a child spits
19 on the side of the wall the cleaning process was loosely
20 addressed depending on the operator.

21 You know they do provide cleaning equipment to go
22 with it. How frequently they do it is subject to the
23 operator's discretion. Obviously. So can you say every
24 one was cleaned between every patron? No, you cannot.

1 MR. KIRSCHNER: Can you say that they are cleaned at
2 all during the course of the day versus having 100 kids go
3 through one ball?

4 MR. RATHBUN: With a good operator, I would say yes,
5 they are. To what level and how frequently? I can't say
6 that.

7 MR. KIRSCHNER: There is no guidelines or standards
8 in that respect?

9 MR. RATHBUN: I don't know. I didn't bring the
10 eurobungy manual. I don't know how frequently they expect
11 them to be cleaned. I don't ever remember anyone saying
12 it was between every patron because you get into a time
13 issue. Basically it's a fiscal issue. I mean if you are
14 spending all day cleaning and not operating, you are not
15 making money. So, from an operator's perspective, there
16 needs to be some semblance of balance between I want to
17 present a clean product to my clientele and at the same
18 time I need enough clientele to make money.

19 MR. KIRSCHNER: From our standpoint, we need to keep
20 the clientele safe.

21 MR. RATHBUN: I agree.

22 MR. SMITH: And the other issue that I have is are
23 these things tethered in any way to keep them in the pool?

24 MR. RATHBUN: No, they are not. They are

1 free-ranging balls that the kids run in. The restraint,
2 if you will, is the pool, itself.

3 MR. SMITH: There was a thing in the newspapers a few
4 years ago where the bouncy house is an enclosed structure
5 and the kids get in and bounce around.

6 MR. RATHBUN: Uh-huh.

7 MR. SMITH: The wind took that complete structure
8 dumping the children out from I don't know how many feet
9 in the air. What's to keep these things from blowing away
10 also with a large gust of wind?

11 MR. RATHBUN: In a high wind -- I mean that could be
12 an issue. We have not had that happen to my knowledge.
13 Nor have I read any reports of it happening. Is it an
14 impossibility? I don't think so.

15 MS. SULLIVAN: Most ride manufacturers -- even for
16 hard rides or cart rides -- specify if the wind gets up to
17 such and such or if the wind is gusting, then you shut the
18 ride down.

19 MR. SMITH: Uh-huh.

20 MS. SULLIVAN: And so I think the same kinds of rules
21 can apply to the WOW Balls. I don't think that the
22 state -- I mean, as a part of this board, I would never
23 want to see a WOW Ball out on open water. But I think one
24 of the things that the operator that we had in here did

1 was they had people in the water with the WOW Balls.

2 And there were actually handles on the outside where
3 they can, you know, pull them. And there were -- there
4 were three operators. And so there was one who was
5 deflating -- they deflate pretty quickly after you unzip
6 them. And the person gets out. Actually, not as fast as
7 we thought that they would. But -- so you have one person
8 deflating.

9 And I think that they said that they -- that they
10 cleaned 'em or disinfected 'em like every three or four
11 times the ball had been used. And they did have a
12 regular, you know, operational guideline of how they --
13 of, you know, how they did this. It wasn't between every
14 single person, but it was every -- I don't remember
15 whether it was every three or four.

16 But they had enough WOW Balls so that there was --
17 so that there would be three in the water most of the
18 time. But there were people who very carefully -- you
19 know they were -- they were blown up on the -- on a stand
20 next to the water. And they -- you know with the handles,
21 they were able to basically put them, you know, into the
22 water.

23 And then when -- when -- there were timers on each
24 WOW Ball. There was an attendant in the water at all

1 times. And then, you know, they were put off to the side
2 and -- and completely deflated and -- and the balls were,
3 you know, moved around as far as, you know, they were out
4 and then they were back in. They had time to do a lot of
5 those things in their operation.

6 MR. SMITH: It was a responsible operator.

7 MS. SULLIVAN: Well, I was fairly impressed. This
8 operator did seem to be very responsible. And he was
9 willing to come and take his time to share with us, you
10 know, a lot of what it was all about and what they did.

11 And I think, if we got in touch with him, he would
12 probably even send us a copy of the manual that he got
13 with his WOW Ball. And we could look and see what it
14 says. And -- and he had operational guidelines and
15 training. And we could look at that those things because
16 that's -- I mean that's what you do to set standards is
17 you look at the good ones and take it off of there.

18 And -- and so I think that there is information
19 available out there. And I think that they had a maximum
20 of three minutes inside so that they -- they would -- you
21 know, so that there would be more than -- more than enough
22 oxygen left inside the WOW Ball. They didn't go five
23 minutes. They -- you know it was three minutes and out.

24 And I don't know. And there is -- there is a -- the

1 person in the water was right there and could see if
2 somebody was starting to have breathing problems or if
3 somebody has passed out or anything. And they could get
4 the ball back over to the platform where they could open
5 it up and get the person out quite quickly.

6 So I -- I think that -- I think, you know, if we look
7 at some good operational guidelines and -- and if we look
8 at it point by point -- because the CPSC you know or
9 the -- one of the things in here listed some of the
10 issues. At least I thought that I saw something in here
11 that listed issues. And we can just go down 'em point by
12 point and -- oh, here it is.

13 MR. KIRSCHNER: Bullet points.

14 MS. SULLIVAN: Yeah, the bullet points.

15 And I think that if we look at those. For instance,
16 some of the operations weigh every single individual
17 before they are even put into the WOW Ball. And I don't
18 know if there are larger balls or if there is a maximum --
19 there is maximum and minimum heights on rides. So there
20 is no reason why there can't be maximums and minimums on
21 water balls as well.

22 So, you know, I think that there -- and, of course,
23 for me -- although, in my opinion, a bounce castle is a
24 lot more dangerous than a WOW Ball if there is only one

1 person inside a WOW Ball. I mean kids bouncing in an
2 inflatable are likely to, you know, butt heads into each
3 other. All of those things. And -- but we have -- you
4 know we have regulations on how they are to be operated.

5 And --

6 MR. SMITH: So they've even addressed --

7 MS. SULLIVAN: Uh-huh.

8 MR. SMITH: -- the wind issue?

9 MS. SULLIVAN: Uh-huh. And so I think with the --
10 especially if you've got an attendant inside and then two
11 attendants on the platform. If the wind started, you
12 know, coming up with WOW Balls in the water, they would -

13 you know then you would have people there able to get a
14 hold of 'em and pull 'em over and get the people out.

15 But -- and, also, it -- it depends on how high the
16 water is compared to the top of the -- of the pool that
17 they are in. And how much -- you know how much resistance
18 there is to them going over the side.

19 MR. KIRSCHNER: Part of that works both ways, too.
20 Shallow is an impact issue. Or if it's too deep. Or if
21 there is a rupture or if they are leaking.

22 MS. SULLIVAN: But the pool can be deep enough so
23 that if you have the proper amount of water in it that
24 there is still a side above the water to -- you know to --

1 to provide resistance. If you are on the bottom of the
2 ball, there is, you know, some way to get the ball up to
3 the side if there is a side to get up to that will resist
4 it going over.

5 MR. KIRSCHNER: You say that it's possible for the
6 concerns to be mitigated, but we don't have the standards
7 or guidelines in front of us.

8 MS. SULLIVAN: Yes. Right. But I think if we look
9 at some of the better manuals and better operators, it
10 would be helpful.

11 MR. SZERLETICH: One thing that I want to say about
12 that is the gentleman that came and gave that
13 demonstration last year, he is the manufacturer.

14 MS. SULLIVAN: Okay.

15 MR. SZERLETICH: And a lot of 'em are. When I asked
16 to see his manual, he had one that he had made himself
17 based on the specifications that he had worked out with
18 the manufacturer overseas. And a lot of them are coming
19 from overseas. And they are basically just asking for the
20 specs from the people that are wanting to buy them and
21 they make 'em per their specifications.

22 MS. SULLIVAN: Well, and that's something that we
23 could definitely, you know, look at to be sure that the,
24 you know, seam bindings and -- and all of those things are

1 looked at you know? You could specify how many inches
2 thick and all of that kind of thing.

3 MR. SZERLETICH: And he seemed -- you know he seemed
4 to have done his homework.

5 MS. SULLIVAN: Uh-huh.

6 MR. SZERLETICH: And he had a good grasp on what he
7 really wanted to do as far as it being safe and things
8 like that.

9 MS. SULLIVAN: Well, he put his own kids in it.

10 MR. SZERLETICH: Right.

11 MS. SULLIVAN: But if you could get in touch with him
12 maybe and ask him for a copy of his manual?

13 MR. SZERLETICH: Uh-huh.

14 MS. SULLIVAN: And maybe at our spring board meeting
15 he can come back and -- and review some things with us so
16 that we could really start writing -- you know writing
17 some -- some regulations and -- and get working on it.
18 Because, if we've got a pattern, then it might not be --
19 it might not take as long as we think.

20 And if there are studies out there and the studies
21 are provided, then I think that we have a basis to, you
22 know, start and -- and do, you know, WOW Balls. We had
23 to -- we had to make separate regulations for
24 air-supported structures. We've had to make separate, you

1 know, things before. Also, ASTM is dealing with this as
2 well. So they've got to --

3 MR. KIRSCHNER: Do you know the time line that ASTM
4 is working on?

5 MS. SULLIVAN: It wouldn't be quick enough for --
6 well, I don't know if it would be quick enough for us.
7 There were quite a few people involved in that. But I
8 can -- I can get what -- what they've -- anything that
9 they've developed on them on the committee. So --

10 MR. COSTIGAN: About how many operators are we
11 talking about that do this?

12 MS. SULLIVAN: I don't know.

13 MR. RATHBUN: A half a dozen.

14 MS. SULLIVAN: A half a dozen in the state?

15 MR. RATHBUN: Yeah. I would say. Swyear Amusement,
16 Mr. Swyear. Peter Bollins (phonetic). Help me out,
17 Inspectors. Who else you got?

18 MS. ROYER: North America Midway.

19 MR. RATHBUN: Are there any other names?

20 MS. ROYER: And I have, also, mentioned to several
21 of my operators basically that, you know, you might not
22 want to invest in them just yet because they are currently
23 not being used.

24 MR. RATHBUN: So around a half a dozen.

1 MR. COSTIGAN: And they are using the same ball or
2 some of them are using ones that --

3 MR. RATHBUN: They have changed. I know when I was
4 initially contacted it was about the totally enclosed
5 ball. Then that got out. So they changed. And then,
6 when we said okay, if you have the open air exchange ones,
7 you can use them, they acted accordingly. So they could
8 operate. So I mean I'm sure that the operators have been
9 frustrated, but it has changed as we have changed and as
10 new information has come out. So I think if they knew --

11 MR. COSTIGAN: So some operators are adapting based
12 on --

13 MR. RATHBUN: Correct.

14 MR. COSTIGAN: -- based on some of issues that have
15 been raised?

16 MR. RATHBUN: Right.

17 MS. GIVAND RHODES: What were the concerns?

18 MR. RATHBUN: The open air exchange. The double
19 wall. And the third thing was that it had to be water
20 appropriate according to the manufacturer.

21 MR. KIRSCHNER: What about in terms of the ratio of
22 attendant to participant?

23 MR. RATHBUN: That was never addressed by the CPSC.
24 And that would be in accordance with the owner's manual.

1 I mean I don't -- based on what I saw, that was really
2 never an issue.

3 MR. KIRSCHNER: The question is not whether it's
4 happened, but whether it will happen. Okay?

5 MR. RATHBUN: Fair enough.

6 MR. KIRSCHNER: If you have a situation where you
7 have one attendant and 15 kids --

8 MR. RATHBUN: Uh-huh.

9 MR. KIRSCHNER: -- it's a very different operation
10 than where you have three attendants and six kids.

11 MR. RATHBUN: Correct.

12 MR. KIRSCHNER: If there are no guidelines set up, I
13 don't think that we can throw our hands up and say the
14 manufacturer doesn't say one way or another so we are not
15 going to regulate or look into that. That's a grave
16 concern to regulate the number of attendants versus kids.

17 MR. RATHBUN: Right.

18 MR. KIRSCHNER: What about in terms of water depth?
19 I mean I know in terms of some of the manuals, you know,
20 you have a water depth requirement of making sure that the
21 ball functions properly. What about in terms of safety
22 issues? Has there been a general depth requirement? What
23 does it appear that operators are using so far?

24 MR. RATHBUN: I do not know that. That would be in

1 accordance with the manual for the eurobungy to specify
2 the appropriate depth.

3 MR. KIRSCHNER: If the manual says at least 18 inches
4 that means that you would have three feet of water and a
5 kid could drown in that. A kid can drown in 18 inches of
6 water. That's a concern that needs to be addressed.

7 A lot of the other concerns -- of our concerns are
8 not just necessarily addressed by addressing the double
9 wall and the air exchange. That's one of the things that
10 we have to figure out in terms of mitigating a lot of
11 choices. That's all.

12 MS. SULLIVAN: Well, in the safety information that
13 we received on the -- on -- with the one, two -- with the
14 third page where, under Problems, oxygen level studies
15 were conducted in the USA have shown that there is
16 sufficient oxygen within an inflated two meters sphere to
17 allow one physically active person to breathe properly for
18 between eight to ten minutes.

19 So if -- you know if there was a maximum of three
20 minutes, you've given almost a three -- a factor of three
21 safety level to -- to the amount of oxygen in a ball.
22 Which doesn't mean -- well, it doesn't mean that on any
23 ride that somebody might not panic, pass out or something
24 like that.

1 But that's why you've got to have an operator in the
2 water. And while I don't think that hovering in three
3 feet of water is impossible to get around in, but --
4 but I think -- I think -- I think that the problems and
5 the issue we should look at are ways to mitigate this so
6 that we feel comfortable that -- I mean I would have felt
7 comfortable getting into one of the water balls that the
8 fellow who came and did his demonstration for us had. I
9 would have felt comfortable getting into one of those.

10 And they didn't use a -- I mean even to, you know,
11 saying specifying that it can't be a gasoline-powered leaf
12 blower, that it's got to be electric power so that there
13 is no other pollutants in the air that they are putting
14 in.

15 But I think that there are -- certainly there should
16 be an opportunity for us to look at ways to mitigate this
17 and -- and maybe we can be the leading state in -- in, you
18 know, how it's done. But I think that working with an
19 operator or two couldn't hurt in helping us get a
20 better -- you know a better plan.

21 MR. KIRSCHNER: And I think that's exactly what we
22 need is we need a plan as opposed to what seems to be sort
23 of this piecemeal addressing of issues. I think that we
24 need to have all of the concerns addressed and -- and some

1 type of written standard that all operators are familiar
2 with and can operate under in terms of going forward.

3 UNIDENTIFIED SPEAKER: Can I ask a question?

4 MR. KIRSCHNER: Technically no, but it's a small
5 crowd. So go ahead.

6 UNIDENTIFIED SPEAKER: As far as the Consumer Product
7 Safety Commission, when they issue something like this, is
8 it the law of the land?

9 MR. KIRSCHNER: No.

10 UNIDENTIFIED SPEAKER: It is not?

11 MR. KIRSCHNER: It depends on the type of issue.
12 Sometimes there is a recall issued, a mandatory recall
13 which the product, itself cannot ever be --

14 UNIDENTIFIED SPEAKER: Well --

15 MR. KIRSCHNER: There are recommendations made that
16 this was a recommendation in this case to -- in their
17 current state to not allow this product to be used until
18 the concerns are addressed. So that's what we are trying
19 to do right now is to address the concerns

20 UNIDENTIFIED SPEAKER: All right.

21 MR. KIRSCHNER: Okay.

22 MR. SPARKS: Dan --

23 MR. KIRSCHNER: Yes.

24 MR. SPARKS: -- I have a question for Doug.

1 Is it correct that there are certain manufacturers of
2 these balls that are permitted to operate?

3 MR. RATHBUN: For the ones that we have currently,
4 the policy is -- in Illinois is --

5 MR. SPARKS: They are technically WOW Balls?

6 MR. RATHBUN: Pardon me?

7 MR. SPARKS: They are WOW Balls?

8 MR. RATHBUN: Like I say, WOW Ball is a generic term.
9 So, for those attractions that are being used as Walk On
10 Water Balls, the current policy in Illinois is if they
11 have a free air exchange and double walls and meet the
12 manufacturer's -- if the manufacturer says that they can
13 use 'em on water, then yes, we are allowing them to
14 operate.

15 MR. SPARKS: So we don't ban them?

16 MR. KIRSCHNER: I'm sorry, but the Court Reporter can
17 only take down one person talking at a time. So just wait
18 until one person finishes talking. It would make her life
19 much easier.

20 Sorry.

21 MR. SPARKS: So the earlier versions are banned?

22 MR. RATHBUN: That is correct. Those balls that are
23 initially on March the 31st or shortly thereafter. When
24 we got this, we banned all of them across the board. It

1 wasn't until later in the summer after the discussions
2 with CPSC and the evolution of the open air exchange balls
3 that we rescinded that and said, okay, if they have open
4 air exchange, you may operate them.

5 And that is currently the policy of the Department of
6 Labor, which obviously after discussion may or may not
7 change.

8 MR. SPARKS: Okay.

9 MR. KIRSCHNER: Okay.

10 MR. RATHBUN: And that's where we sit now.

11 MS. GIVAND RHODES: My question just was that I can
12 understand that those are the three requirements that
13 allow the operator to operate now, but if there are other
14 concerns such as some of the ones, Dan, that you brought
15 up and that I heard others bring up, the person, child or
16 member of the public to operator ratio or if you see that
17 they are not being cleaned or if you see other concerns
18 that impact the safety of the public is there not an
19 opportunity then to shut them down? Just because they've
20 met the other three --

21 MR. RATHBUN: No, there is a -- we could do that. If
22 the inspector sees an unsafe condition, then they have --
23 they are by law allowed to do that.

24 One of the big things that I have pushed regarding

1 this entire issue is the fact that we need to follow the
2 National Electric Code Specifications for pools. You've
3 got thousands of gallons of water in a midway with a lot
4 of electricity running around. And there are certain
5 requirements that have to be met based on that water.

6 So I mean there are other considerations that the
7 inspectors take into account that, yes, if they see an
8 unsafe condition, they have the authority to -- to shut
9 that ride or attraction down.

10 MR. KIRSCHNER: If -- at the same time, with respect
11 to some of the concerns that we are raising with respect
12 to the ratio of participant to attendant and hygiene
13 issues, if there is no standard in place, we are going to
14 have disparate treatment of operators because you may have
15 one inspector deem something in their opinion unsafe
16 whereas another inspector may not.

17 MR. RATHBUN: No. No, you are not. The flaw in your
18 logic is that they have to have a manual. The inspectors
19 inspect according to that manual. So yes, there may be
20 disparities. But if a eurobungy who is a manufacturer of
21 a type of WOW Ball says for my six balls you must have
22 three operators in the water with the balls and if Joe
23 Smith's Balls say you only need two operators, you know,
24 they are required to follow the manufacturer's

1 specifications. So yes, there can be a disparity, but it
2 has to be in accordance with -- they have to be operating
3 in accordance with the manufacturer's specifications.

4 MR. KIRSCHNER: Going back to my argument. Two
5 things. One, there are a lot of concerns. What if the
6 manufacturers' manuals don't address our concerns, which
7 sounds like a part of the issue here?

8 MR. RATHBUN: Okay.

9 MR. KIRSCHNER: And the other issue has to do with
10 what confidence do we have that the manufacturers who also
11 happen to be operators have properly tested and checked
12 the specs that he is putting out there to the purchasers
13 and operators of these balls? So if you have this
14 disparity where one manufacturer is saying you have a
15 ratio of three to one and the other one says six to one,
16 then I have no confidence at all that they know what they
17 are putting in their manuals.

18 MR. RATHBUN: Fair enough.

19 MR. KIRSCHNER: If you are saying that it's okay that
20 these manufacturers have different, like, guidelines and
21 that we will just, you know, enforce whatever product
22 manual there is, what does that tell us? It tells us that
23 the manufacturers don't know what they are doing. We just
24 are just following blindly.

1 MR. RATHBUN: I will refer to the manufacturer.

2 MS. SULLIVAN: As a manufacturer --

3 MR. KIRSCHNER: You don't do WOW Balls.

4 MS. SULLIVAN: No, I -- I'm not going to produce WOW
5 Balls.

6 But I think that there are differences in the
7 individual product. And there may be differences in the
8 sizes of pools. And there may be differences in -- I'm
9 sure that there are differences in the manufacturing specs
10 of the balls. All of those things.

11 And I think we, as a group, need to determine, you
12 know, what -- what the minimum requirements should be.
13 And then it doesn't matter if the manufacturer says that
14 you only need one attendant in the water with six balls.

15 Well, I'm here to tell ya that I'm not gonna' go for
16 that because I don't think that one attendant can -- you
17 know even if there are two on the platform. Six balls is
18 too many if a gust of wind comes up for them to be able to
19 help bring 'em in.

20 If there is an attendant for each ball in the water,
21 even if two are on the platform, they can -- you know they
22 can get in the water pretty quick. They can even jump off
23 of the platform and go around to the other side and -- and
24 keep the balls from going out of the water pretty quickly.

1 And so I think that those are the kinds of things
2 that -- that we want to see. And -- and I think that the
3 responsible manufacturers will have -- that's why I would
4 like to see, you know, maybe a couple of manuals and --
5 and how they determine how many balls and how much water
6 you know? I would like to see those kinds of things so
7 that people in the balls are -- you know aren't so close
8 to each other that they are going to have a head-on in the
9 balls. You know? Those kinds of things.

10 But I think that there are always going to be some
11 poor manufacturers and some poorly written guidelines in
12 an industry. Which is why -- which is why the ASTM, you
13 know, writes standards and why we put standards and
14 regulations in our you know --

15 MR. KIRSCHNER: That's my point. I don't want the
16 inspector to be put in the situation to say that they are
17 safe because of what's in the manual. You want us to have
18 standards that say what they have to follow.

19 MS. SULLIVAN: Yeah. And I think that manufacturers
20 who want to sell their product will quickly come around
21 to, you know, looking at what states do and what standards
22 come about by the -- you know within the industry.

23 But, as a manufacturer, I sure don't want to write a
24 manual that -- you know where I think somebody could get

1 hurt. Like I'm gonna' always error on the side of the
2 conservative, you know, point of view. You know the last
3 thing most of us want to do is manufacture something that
4 has great potential to hurt people.

5 MR. KIRSCHNER: Do you guys -- can you provide us
6 with whatever manuals the department has with respect to
7 those operations that would affect these issues?

8 MR. RATHBUN: Yeah. I think that we could pull
9 together several.

10 MS. SULLIVAN: It would be great if we could get some
11 even sent out to the board ahead of time so that we could
12 review them and have a little bit of an idea of what --
13 you know of what's out there and -- and what kind of --
14 you know what kind of rules that they have for -- for
15 their -- for operating their equipment. Those kinds of
16 things. Especially if you can't sleep some nights. It's
17 great reading, but --

18 MS. GIVAND RHODES: And I'm assuming that we just
19 want this information for the current operators who meet
20 at least the current minimum three criteria from CPSC?

21 MS. SULLIVAN: Well, I would also like the manual
22 from the fellow who came. They don't have outside air and
23 they are -- they are a single wall design. But the way
24 that they operated it, I thought was quite impressive.

1 And -- and they hadn't had any incidents or accidents.

2 I don't know that, you know, it has to -- that those
3 things -- I think that the CPSC was certainly erroring on
4 the side of caution. But if you don't -- if you don't --
5 how do I say this? If you don't include the attendants
6 as a part of the operation of any ride or attraction,
7 then you are not looking at the whole safety system.
8 And the attendants are always a part of the or the ride
9 operators are always a part of the safety system in
10 anything that you have. I think that we need to look
11 at that, too. No ride in and of itself is -- can be
12 safe without the operator being a part of that.

13 MR. MAZZENGA: I have a question on this. The
14 operators that are on the -- that are currently operating
15 these rides -- are they purchasing balls and pools in
16 just, like, a system as a kit or are they able to buy the
17 ball and then float it in a pool that they construct?

18 MR. RATHBUN: There is actually both. Eurobungy I
19 believe has a completely contained unit that they provide
20 their pool and they provide their balls. In the case of
21 Mr. Bollins, it is my understanding that he brought the
22 balls in from China himself and picked out his pool and --
23 and wrote his own manual.

24 Is that a fair statement, Bill?

1 MR. SZERLETICH: (Nods affirmatively.)

2 MR. RATHBUN: And he, therefore, becomes the
3 manufacturer.

4 MR. MAZZENGA: And then if I wanted to go out and buy
5 a ball and float myself down the river, I could do that?

6 MR. RATHBUN: Yes.

7 MS. SULLIVAN: And you are an idiot.

8 MR. KIRSCHNER: Let your kid play in the pool all day
9 with it.

10 MS. SULLIVAN: Good luck with that, floating down the
11 river.

12 MR. RATHBUN: You can get on the internet and just
13 put walk on water balls and you will get a slew of
14 manufacturers who will be happy to sell them to you.

15 MR. MAZZENGA: Okay. Thank you.

16 MR. KIRSCHNER: That answers your questions in terms
17 of the safety question. If there was a full recall, then
18 a private citizen couldn't go to the marketplace and buy
19 one and bring them to their home. In this situation, the
20 product is on the marketplace, but there are warnings
21 issued.

22 UNIDENTIFIED SPEAKER: Doug, they've mandated
23 antientrapment devices for pools that is because of
24 problems with home pools. Jim Baker's granddaughter was

1 sucked to the bottom of a spa and -- and it's the law of
2 the land. They can't enforce it on homeowners, anyone who
3 has a pool. They can enforce it on commercial users who
4 are licensed by the state Department of Public Health. So
5 it's not solving the problem, but it is the law of the
6 land.

7 MR. KIRSCHNER: Hopefully it will save one life.

8 Is there any other discussion on WOW Balls?

9 MS. JOINER: You, the board might want to take a look
10 at what regs that Public Health has on bathing pools
11 because this technically is a bathing pool about
12 disinfectants and things like that.

13 MS. GIVAND RHODES: Bathing pools you said?

14 MS. JOINER: Uh-huh.

15 MS. SULLIVAN: Yeah.

16 MR. KIRSCHNER: Let's do that. If you guys can get
17 us copies of whatever manuals that you have in your
18 possession, we can take a look at them in advance of the
19 next meeting and get our thoughts together in terms of
20 the guidelines that we want to talk about.

21 Is there any other discussion with regard to the
22 WOW Balls?

23 MS. SULLIVAN: And if you would rather send us a CD,
24 that's fine instead of, you know, this much (indicates)

1 paper.

2 MR. COSTIGAN: Right.

3 THE REPORTER: Can we take a moment so I can change
4 paper?

5 MR. KIRSCHNER: Certainly.

6 MS. SULLIVAN: Actually, can we take a break right
7 now?

8 MR. KIRSCHNER: Yeah. That's probably a pretty good
9 idea. Let's go ahead and take a ten-minute break

10 (Short recess was taken.)

11 MR. KIRSCHNER: Let's call the meeting to order.

12 Before we move forward, there are two last points of
13 order on the WOW Balls. One, I think that what we will do
14 is we will appoint an -- as the chair, I would like to
15 form a task force on the WOW Balls. And do I have a
16 volunteer to chair that task force?

17 MS. SULLIVAN: Yes.

18 MR. KIRSCHNER: Also, I would move to defer to Patty
19 to coordinate that task force.

20 If anyone is interested in being a part of that task
21 force, let Patty know from the board.

22 MS. SULLIVAN: Are you interested?

23 MR. DOUG KNIGHT: (Nods affirmatively.)

24 MS. SULLIVAN: Doug will.

1 MR. KIRSCHNER: One other point of business with
2 respect to the issue of hygiene.

3 MS. SULLIVAN: Excuse me just a second. Can I go
4 ahead and see hands and take names right now?

5 MR. KIRSCHNER: Sure.

6 MS. SULLIVAN: Because afterwards sometimes those
7 things are not as easy.

8 MR. KIRSCHNER: Who would like to work with Patty on
9 the WOW Ball task force?

10 MS. GIVAND RHODES: I'll work with Patty.

11 MS. SULLIVAN: Oh, good.

12 MR. COSTIGAN: Doug will work with her on behalf of
13 the department.

14 MR. RATHBUN: Yeah.

15 MR. DOUG KNIGHT: If you would like me to, I will.

16 MS. SULLIVAN: I would because you are real familiar
17 with the water quality issues.

18 MR. DOUG KNIGHT: I would be happy to help you.

19 MR. KIRSCHNER: Water quality issues are an important
20 point as well.

21 MS. SULLIVAN: That always comes into it when you get
22 right down to this.

23 MR. KIRSCHNER: What I would suggest is that when you
24 look at things like the water quality issue -- which is

1 recommended by the Department of Public Health. And so it
2 makes sense to contact the Department of Public Health and
3 have a rep from there to help you on the hygiene issue and
4 find out whether the hygiene issue is an issue or not.

5 MS. SULLIVAN: Okay. Bill, can you bring some --
6 maybe some manuals to the table?

7 MR. SZERLETICH: I can make some calls and try to get
8 some manuals.

9 MR. COSTIGAN: Yeah. I mean, Doug, if you can just
10 assemble, you know, all of the manuals that -- that we've
11 requested.

12 MR. RATHBUN: Okay.

13 MR. COSTIGAN: Just defer to Doug on that. That
14 would be great.

15 MR. RATHBUN: Okay.

16 MS. SULLIVAN: Okay.

17 MR. KIRSCHNER: With respect to the Department of
18 Public Health, the issue of hygiene and water quality,
19 what needs to be coordinated with respect to those issues?

20 MR. DOUG KNIGHT: Do they have filtration systems?

21 MS. SULLIVAN: I don't think so.

22 MR. DOUG KNIGHT: I can tell you right now that I
23 check my water every two hours every day during the
24 summer.

1 MS. SULLIVAN: Okay.

2 MR. KIRSCHNER: Okay. Thank you very much.

3 Let's move on then to the Accident Reports. Before
4 we get to the Go Bananas is there any discussion about any
5 of the other incidents on the report?

6 MR. MAZZENGA: The Go-Kart belt guard issue. You
7 mentioned -- you mentioned something about people getting
8 their hair caught in Go-Kart belts.

9 MR. RATHBUN: Yes.

10 MR. MAZZENGA: And the installation of a belt guard,
11 is that generic or does it have to be --

12 MR. RATHBUN: It would depend on which type of car
13 you have. I mean this honestly has been such a prevalent
14 issue throughout the industry that any manufacturer
15 requires it. And evidently they had an issue that they
16 were reiterating the importance of it. So it would
17 have -- it was not a generic one in that bulletin. It was
18 a manufacturer's specific part number.

19 MR. MAZZENGA: A manufacturer's part number?

20 MR. RATHBUN: Yes.

21 MR. KIRSCHNER: Let's talk about -- why don't we do
22 this. Margaret, you were the inspector.

23 MS. ROYER: Yeah.

24 MR. KIRSCHNER: Can you give the board just a brief

1 overview of your inspection of your review and findings?

2 MS. ROYER: Yes. The child that died was in a
3 smaller kiddie coaster. The child actually stood up. I
4 believe I had four witness reports to that effect, that
5 the child stood up and attempted to climb out. Once he
6 was up, his center of gravity was then much higher.

7 And because of the way a roller coaster works --
8 he -- he is heading downhill. There are no brakes once
9 you leave the lift. The coaster then operates by gravity
10 until you come back into the station where it can stop
11 again. Because of that change in the center of gravity,
12 he fell and actually ended up between two of the cars.
13 And he went throughout the ride and then actually became
14 separated from the ride and was struck by the ride which
15 is what ended up causing his death.

16 We went through as far as the ride was operating
17 properly. The lap bar restraint system was operating
18 properly to the manufacturer's spec. The operator did
19 what they were supposed to do. We went through all of
20 that and basically came to the conclusion that had the
21 child not stood up, you know, the death would have more
22 than likely not occurred.

23 After our investigation, we did -- or during our
24 investigation, we found that the operator had some

1 paperwork issues. Their maintenance manuals and logs had
2 gone -- not their manual -- I'm sorry -- their maintenance
3 logs had gone missing approximately a week or so before
4 the accident. And so they did not have the proper
5 recordkeeping requirements that we had.

6 And that is actually what the department then gave to
7 the state's attorney to -- to prosecute with is that this
8 was the violation that they had committed. And it was
9 actually settled that the owner was guilty and charged --
10 charged with the violation of the Carnival Amusement Ride
11 Safety Act and was, I believe, given a fine and
12 probation -- a years' probation for that.

13 As well as then, as far as the department, in order
14 for them to get back open, they had to provide us with
15 some sort of due diligence in that what their
16 recordkeeping system was going to be and how they were
17 going to prevent this from happening in the future and
18 that there was just one set of records that went missing
19 and how come there were no records, you know, during that
20 week's time.

21 And so they had to -- they actually had to do some
22 work as far as showing us that they were going to be able
23 to do that as well as we did ask them to recreate their
24 maintenance records from invoices and things that they had

1 so that we had something to -- to work off of as far as
2 when things had been replaced, when parts had been
3 purchased and things like that.

4 MR. KIRSCHNER: Is there any discussion or questions
5 at this point?

6 MS. SULLIVAN: I just have a question. How old was
7 the child?

8 MS. ROYER: He was three years old. He was well
9 above the height requirement for the ride. I don't know
10 how close he was to being four or anything like that. But
11 he did -- he was actually several inches above the height
12 requirement for that particular ride.

13 MS. GIVAND RHODES: And then I had a question. I
14 think that you said that the investigation revealed that
15 the operator did everything that he was supposed to do.
16 What was everything that he was supposed to do?

17 MS. ROYER: They have -- on their control panel, they
18 have different ways of stopping the rides in certain
19 situations. So there is a regular breaking system as well
20 as there is an emergency stopping system that -- depending
21 on the ride and -- and they -- and how you -- depending on
22 the situation that you are in, they either are going to
23 short cycle the ride -- which is hitting the brake and it
24 just slows the ride down and then stops it. Or there is

1 an emergency stop. Which, if you hit that, it typically
2 kills power to the ride and usually brings on the brakes
3 immediately. Which is what she hit you know? And, again,
4 the problem with a roller coaster is that it is operated
5 by gravity. And literally the ride could not be stopped
6 until it came into the station brake.

7 MS. GIVAND RHODES: So if I'm understanding then, one
8 of the things that the operator is supposed to do is to
9 stop the ride when it needs to be stopped for safety?

10 MS. ROYER: Uh-huh.

11 MS. GIVAND RHODES: What were some of the other
12 things that the operator was supposed to do in the course
13 of operating this ride that you found that she was doing?

14 MS. ROYER: Well, basically that she had been trained
15 properly because that is something that we require. And
16 that they had all of her paperwork concerning that. As
17 well as her -- she was a two-year veteran. In other
18 words, it wasn't like she had just learned to run the ride
19 the week before.

20 And then the fact that -- in other words, she knew
21 how to start the ride and she knew how to stop the ride.
22 She knew -- you know as far as checking the -- you know
23 bringing the children in and placing them on the ride and
24 checking to make sure that the seat belts are secure.

1 And then, as far as operating the ride -- and -- and
2 another important issue is watching the ride and keeping
3 your eye on -- on the ride and what's happening on the
4 ride. And then, like I say, as far as what buttons to hit
5 in an emergency situation.

6 MS. GIVAND RHODES: And my questions are -- because I
7 remember it from the news, but I don't remember the
8 details. So forgive me for asking so many questions.

9 MS. ROYER: That's fine.

10 MS. GIVAND RHODES: The witnesses that said that they
11 saw the child stand up -- were there any witnesses that
12 said that they saw the operator watching the ride?

13 MS. ROYER: There were several operators that said --
14 I'm sorry. There were several witnesses who claimed to be
15 yelling at the operator stop the ride, stop the ride. And
16 that the operator said I did. But because there was not
17 any knowledge of how a coaster worked, they felt that she
18 hadn't done her job. The problem was -- is that the ride
19 went up the lift and started down. Once it leaves that
20 lift, there is no mechanical stop for it.

21 MS. GIVAND RHODES: Gravity?

22 MS. ROYER: And it's the gravity. And that's when --
23 you know that's when she saw the child actually standing
24 up.

1 MS. GIVAND RHODES: When it was on the down --

2 MS. ROYER: When it was going down.

3 MS. GIVAND RHODES: Right.

4 MS. ROYER: And she hit that stop button.

5 Unfortunately, it was a matter of seconds that the ride
6 took to go through its cycle and that, yes, it came
7 through -- it came into the station brake and stopped
8 immediately.

9 MR. KIRSCHNER: Margaret, let me ask you a couple of
10 questions to kind of break it down I guess. This ride was
11 held out to children 36 inches and over; correct?

12 MS. ROYER: Uh-huh.

13 MR. KIRSCHNER: This child was, according to your
14 report, 39 inches.

15 MS. ROYER: Thirty nine or 40.

16 MR. KIRSCHNER: The child was three-years old.

17 MS. ROYER: Yes.

18 MR. KIRSCHNER: Would you agree with me that it's
19 foreseeable that a three-year old who gets scared on a
20 roller coaster --

21 MS. ROYER: Yes.

22 MR. KIRSCHNER: Would you agree with me that it's
23 foreseeable that, when a three-year old gets scared, that
24 they may try and get up?

1 MS. ROYER: Yes.

2 MR. KIRSCHNER: This is a ride equipped with a
3 passive egress restraint system?

4 MS. ROYER: No.

5 MR. KIRSCHNER: What kind of restraint system was it
6 equipped with?

7 MS. ROYER: It was actually a lap bar and a lap belt
8 that went physically across their legs and then the bar
9 was higher up as sort of a grab bar.

10 MR. KIRSCHNER: And the belt -- was it a stretchy web
11 material?

12 MS. ROYER: Yes.

13 MR. KIRSCHNER: Had a lot of slack in it?

14 MS. ROYER: Yes.

15 MR. KIRSCHNER: Neither the bar nor the belt were
16 sufficient to hold a three-year old in place who gets
17 scared on a roller coaster; is that true?

18 MS. ROYER: Simply, yes.

19 MR. KIRSCHNER: Okay. And with respect to this
20 roller coaster that's held out to a three-year old that
21 had a three-year old responded in a foreseeable manner
22 that's predictable by the manufacturer, operator, can you
23 tell me how it is that you concluded that it was patron
24 error, the fault of the three-year old?

1 MS. ROYER: The -- one of the problems that we run
2 into with our department is that we go out and we regulate
3 the mechanical side of a piece of equipment. And even, to
4 an extent, the operator side. The problem becomes when we
5 want the parent to know -- to know his child and what your
6 child will do. Because you could have -- you could have
7 had a nine-year old that would have done the exact same
8 thing. And whether it's typical behavior for a nine-year
9 old or not, they would still do it.

10 That is an ongoing battle that we've had in that we
11 have attempted to educate people and we have programs of
12 outreach explaining to parents or care givers or something
13 about what -- about what we expect of them on the midway.
14 It is a very difficult job to educate the entire public
15 that comes to a carnival or a park or something like that.

16 Again, kind of like what you discussed before. As an
17 inspector, I go out and I have my regulations and my rules
18 and my manual that say this is what we are allowing them
19 to do and that's what I can inspect by.

20 MR. KIRSCHNER: According to your report, didn't the
21 mother say to the operator do I need to ride with my child
22 and then didn't the operator say no?

23 MS. ROYER: No. The mother -- actually twice -- when
24 she came into the facility, she actually spoke with the

1 manager because she had worked at another family
2 entertainment center in the area. They had never been to
3 the facility. They were very excited about coming and she
4 had actually had a conversation with the manager about
5 riding the ride.

6 He said that yes, they can ride, they are well within
7 the height limits that would enable them to ride and that
8 we encourage parents to ride with their kids. Especially
9 if it's the first time that -- and that -- you know we
10 don't charge the parent to ride. And I believe it was in
11 the manager's statements as well as the operator's
12 statements that they both said those things to the -- to
13 the mother. Because when she got to the ride it was my
14 understanding that she also said do I need to ride with my
15 kids.

16 MR. KIRSCHNER: Okay. You have in your report on
17 Page 12, Mother asked operator if she needed to ride with
18 them and was told she did not.

19 MS. ROYER: There is not an explanation with it then?

20 MR. KIRSCHNER: I'm looking at Page 12, Statement of
21 Parents to Norridge Police Department, Detective Corporal
22 B. Loughran. Mother asked operator if she needed to ride
23 with them and was told she did not.

24 MS. SULLIVAN: Do we have that report?

1 MR. KIRSCHNER: No. I mean I don't know. If you do,
2 I have it. It wasn't in the materials.

3 Okay. So there is at least -- so the parents did ask
4 do I need to ride with my child, is this ride age
5 appropriate for my three-year old. And the operator said
6 yes.

7 MS. ROYER: Right.

8 MR. KIRSCHNER: Let me ask you this. So your
9 position is that the parent has to be clairvoyant to
10 predict how their child is going to react on the roller
11 coaster when it's foreseeable to the manufacturer and
12 operator that a three-year old may get upset? Don't you
13 think it's incumbent to have a restraint system to hold
14 that child in place when it gets up?

15 MS. ROYER: Absolutely.

16 MR. KIRSCHNER: If my child is in a highchair that he
17 can wiggle out of, the CPSC recalls that highchair. And
18 here we have a moving roller coaster that has enough slack
19 that a child can stand up -- a three-year old can stand up
20 in. Yet, the position of the department is that it's the
21 three-year old's fault and the fault of the parents for
22 not predicting that the child will get upset when the
23 parent asked is this ride age appropriate, do I need to go
24 on this ride and they are told no. Yet, somehow it's the

1 fault of the parents and the child?

2 MS. SULLIVAN: Wait. Wait. Wait. I heard her say
3 that both the manager and the operator recommended that
4 she ride with them.

5 MS. ROYER: I realize what it says here. I mean I
6 don't know. To be perfectly honest, I would have to look
7 at the report and see it. But it was my understanding,
8 when I talked to the operator, that the mother asked the
9 operator do I need to ride with my child and that the
10 operator said no, you are not required, they meet the
11 height restriction, but we recommend that you do just
12 because they've never been on -- been on it. And we
13 don't -- it was my understanding that they both were told
14 that the parents are encouraged and we encourage parents
15 to ride.

16 MR. KIRSCHNER: Okay. And that was the conversation
17 that you had with the operator at a Denny's restaurant?

18 MS. ROYER: Right.

19 MR. KIRSCHNER: After the operator talked to the
20 manager and counsel for Copenhagens.

21 MS. ROYER: I have no idea.

22 MR. KIRSCHNER: Okay.

23 MS. ROYER: But in other words, if --

24 MR. KIRSCHNER: Let me ask you this. Do you have any

1 confidence that this won't happen again?

2 MS. ROYER: No.

3 MS. SULLIVAN: Wait a minute.

4 MS. ROYER: I don't have that confidence on any ride.
5 I mean -- in other words, if we have an incident where a
6 child -- not a child -- well, a child came out of a
7 harness in an enclosed cage. It comes into play. As you
8 say, how is a three-year old going to react or how is a
9 nine-year old going to react or how is a 12-year old going
10 to react or how is an adult going to react?

11 When that factor of fear comes in, how they will
12 react. Some people find great pleasure in being scared
13 out of their mind. Other people react -- fight or flight
14 and try to escape. And so it is something inherent in the
15 ride that -- you know I can't -- I don't know your child.
16 So I can't go out and -- and say, you know, oh, no, don't
17 let this one ride, but let this one ride.

18 And it -- and that is what -- that's what I say as
19 far as from my standpoint as an inspector. I'm going out
20 and looking at the mechanical side of this. And -- and
21 to an extent an operator side of this as much as I can to
22 possibly regulate it. Beyond that, I can't -- you know I
23 mean I can't be there when each individual person climbs
24 on that ride and tries to make a call about, you know,

1 what -- about how they are going to react.

2 MS. SULLIVAN: If I could make a couple of comments
3 here. For one thing, the CPSC included, most regulatory
4 bodies have not wanted to set age limits. And -- and ASTM
5 has a real fight setting age limits. And operators don't
6 want to. Manufacturers -- I would like to see no child
7 ride -- I don't care how tall they are -- no child ride up
8 to at least the age of eight or nine without a parent.
9 Although, there are some kid rides that move so slowly
10 that -- but then we put seat belts in our rides. And it
11 is incumbent upon the operator to watch. But there were
12 two kids in that ride. And so the one who -- they were in
13 the same seat --

14 MS. ROYER: Yes.

15 MS. SULLIVAN: -- if I understand it.

16 MR. RATHBUN: They were twin brothers.

17 MS. SULLIVAN: Oh, God. There is a recipe for
18 disaster.

19 But that is -- that is part of the parent's
20 responsibility to -- you know don't put your child on a
21 ride if you think that they might -- and -- and it's not
22 just if the kid gets scared. It's also all of the no
23 fear, extreme sports and all of this kind of stuff.

24 And we don't know if that child stood up because he

1 was, you know, trying to do a -- you know a no fear type
2 of thing or an extreme sports type of thing. They are hit
3 with it every day with TV, you know, and posters and all
4 of this kind of thing. And to -- to a great extent, the
5 parent has got to -- you know when the parent -- when it
6 was recommended to the parent that they ride with the
7 kids, what's the matter with that parent?

8 I mean I think parents have wanted to abdicate their
9 responsibilities about keeping their children safe anytime
10 they are in a public place. And I don't -- you know it's
11 not fair to grill Margaret on this stuff because she
12 doesn't make the rules. And she doesn't build the rides.
13 And those weren't her kids. But I do think Margaret did
14 everything that -- that she was supposed to do.

15 Is it foreseeable that a kid could get out -- now did
16 you say that the seat belts were elastic?

17 MS. ROYER: No. They were of a webbing material.

18 MR. KIRSCHNER: A stretchy, webbing material.

19 MR. RATHBUN: Seat belt material.

20 MS. ROYER: I wouldn't go stretchy.

21 MS. GIVAND RHODES: But not like a traditional seat
22 belt meaning it doesn't secure -- I'm trying to make sure
23 that I understand. It doesn't secure the rider, but it's
24 just laying on the rider's lap?

1 MR. RATHBUN: If we are talking about the material
2 and not the attachment point, you are correct, it does not
3 individually attach to each rider, but it is of seat belt
4 type material.

5 MS. GIVAND RHODES: Seat belt type material?

6 MR. RATHBUN: It went across both boys' legs.

7 MS. GIVAND RHODES: It doesn't secure like a seat
8 belt?

9 MR. RATHBUN: It does not.

10 MS. GIVAND RHODES: It lays there?

11 MR. RATHBUN: It lays there. That is correct.

12 MS. SULLIVAN: Wait a minute. It doesn't snap?

13 MR. RATHBUN: The handle bar and the seat belt are
14 one unit. Down at the bottom it has what's called a
15 ratcheting action. But it's actually more of a pulley and
16 pin. So the operator would lay the seat belt down. And
17 so the handle bar would be in front of the boys. The seat
18 belt would be across their lap. And, at a given point,
19 the pen would be put in to stabilize the bar at that
20 position.

21 Does that make sense? Is that a fair explanation?

22 MS. ROYER: Yes.

23 MR. MAZZENGA: (Indicates.)

24 MR. KIRSCHNER: As I said --

1 MR. COSTIGAN: Mr. Chairman, (indicates).

2 MR. KIRSCHNER: Go ahead. I'm sorry.

3 MR. MAZZENGA: Excuse me. From what I read about
4 this in the newspaper, I had no awareness of this being a
5 mini roller coaster. So my question is are there many of
6 these and what's the standard design? Is the restraint
7 system standard for the size of the roller coaster?

8 MR. RATHBUN: Yes, it is. There is one at Go
9 Bananas. There was also one that Mr. Newdecker (phonetic)
10 owned.

11 MR. SZERLETICH: And Grand Bear Lodge.

12 MR. RATHBUN: And Grand Bear Lodge.

13 And so you had all of these similar coasters with the
14 same type of seat belt.

15 MR. COSTIGAN: As well as other places around the
16 country I would guess?

17 MR. RATHBUN: Oh, yeah. I'm talking just Illinois.
18 This company was in business for awhile and they made many
19 of these types of coasters.

20 MR. MAZZENGA: As a follow up, are they more
21 susceptible to having people -- are they more susceptible
22 to an accident from egress or falling out basically?

23 MR. RATHBUN: Based on all of the research that we
24 did, I did not feel that they were.

1 MS. GIVAND RHODES: I'm just asking was your
2 research -- were you -- was it based on -- on the
3 recent -- on your interpretation of the events or was
4 it based on if there were actual events?

5 MR. RATHBUN: There was an event in Ohio which we
6 researched. And there was one in Texas. Those were the
7 only two similar ones that we could find relative to this
8 roller coaster. Specifically the one in Texas was a grown
9 man. And it was actually a larger coaster than this.

10 MR. COSTIGAN: It wasn't the same?

11 MR. RATHBUN: It wasn't exactly the same. The one in
12 Ohio was much more similar. It was an ejection.

13 MR. COSTIGAN: It wasn't the same or it was the same?

14 MR. RATHBUN: The one in Ohio was the same.

15 MR. COSTIGAN: Okay.

16 MR. RATHBUN: So that's two ejections. And I
17 would -- I would question whether it's fair to say that
18 this was foreseeable to the extent that Mr. Newdecker who
19 has owned his coaster for 30 years and has never had an
20 accident. I mean he was quite upset at us for shutting
21 his ride down and keeping it shut down as we were going
22 through this investigation. And his response was I have
23 operated this ride since it was brand new. It's 30 years
24 old. I've never had a single incident. So the degree of

1 foreseeability is -- is questionable I guess.

2 MR. KIRSCHNER: Oh, boy.

3 MS. ROYER: To add to that, I mean I see Dan's point
4 in what he is saying. And -- and my thing is -- and --
5 and being a member of a board this will be helpful to you.
6 The fact that I have been given certain tools --

7 MR. KIRSCHNER: And I'm not faulting you.

8 MS. ROYER: Oh, no. No. No. I understand what you
9 are saying. Absolutely.

10 And I have been given certain tools to go out and do
11 my job. And the fact that I can look at the ride
12 mechanically and attempt to figure out if something
13 mechanically has failed. I am given the tools to go out
14 and attempt to see if something operational has failed.

15 The other -- and it is industry term -- terminology
16 that -- that patron error is a -- those are basically the
17 three elements of, you know, that can occur with an
18 accident. The term of safety is very subjective. The
19 fact that I go out and say a ride is safe, I am saying
20 that it has met the manufacturer's stipulations. It is --
21 you know they have done what we have required under the
22 law and the rules.

23 And so to say that a three-year old acted like a
24 three-year old, absolutely. But that is the third element

1 that I have the least amount of control over, if any.

2 That is sort of the other category. And -- and that's --
3 you know I know that you have kind of touched on it in the
4 fact that we have only so much and -- and the -- and many
5 people question was that seat belt safe, you know, that
6 was on a roller coaster, that was on a kiddie ride.

7 And when you really stop and think about a child's
8 ride -- if you look at the type of restraint systems that
9 they have, they are all -- if there is something -- they
10 are all able to release, stand up and climb out. I mean
11 at Six Flags, if you ride a roller coaster there, there is
12 45 switches that have to be in a positive place in order
13 for the ride to even start. And those are for adults.

14 For a child's ride there at Six Flags, there is a
15 rope that latches on them that they can easily climb out
16 of. They can unlatch it. There is a little plastic seat
17 belt that they can easily climb out of. And it is -- and
18 that's where we are left to the manufacturer to be
19 reputable and to do things to provide us with the tools to
20 go out and enforce as well as what Patty said.

21 There are good manufacturers and there are bad
22 manufacturers. And we are kind of left, you know, to
23 those regulations. As well as there was discussion, too,
24 as far as what is our duty as a department. Do we have to

1 make recommendations to the manufacturer? Do we say these
2 are issues? Do we say have you been addressing them? You
3 know? And that becomes a department and a board issue in
4 how involved does the state get in things like that.

5 But on my level, I have this, this and this. And
6 it's in black and white. And this is what I can do. You
7 know for me to say to any parent that, that ride is safe
8 and your child is not going to get hurt -- if I could do
9 that, I would be a millionaire.

10 MS. SULLIVAN: Excuse me, but no ride is safe when
11 you come down to it.

12 MS. ROYER: Right.

13 MS. SULLIVAN: There are risks inherent in every
14 single amusement ride out there.

15 MS. ROYER: That's what makes it a thrill ride.

16 MS. SULLIVAN: The only way to keep an accident from
17 ever happening is to build a ten foot fence around it and
18 don't ever let anybody in.

19 MR. RATHBUN: That's right.

20 MS. SULLIVAN: And they would still get in. We know
21 that from an accident that happened where people climbed
22 over two fences to get in and got hurt. But the fact that
23 the parent was recommended to ride with them tells me
24 that, that parent wasn't being involved in their child's

1 safety.

2 MR. KIRSCHNER: Well, I mean there are a couple of
3 issues. The notion that you can blame the parent for not
4 riding the ride --

5 MS. SULLIVAN: The parent should have been on the
6 ride.

7 MR. KIRSCHNER: I read your report. Nowhere in the
8 report does it say that they told the parent that she
9 should be on the ride. That's not what the operator told
10 the police. She said that, when the mother asked, the
11 operator said that the parents are allowed, but it was up
12 to the parent. There was no recommendation that you
13 should be on there.

14 And going by what you said, I could only agree with
15 what you said. There should be rides for a certain age
16 group that parents should either be on there or there
17 shouldn't be kids on there because if you have a roller
18 coaster going a certain speed above a certain point where
19 there is a point in that -- in the coaster where the
20 operator can't stop it, if you are going to put that
21 three-year old on that ride, you better damn well make
22 sure that the kid has a harness that he can't slip out of
23 and stand up.

24 And what I'm saying is -- and that's not your fault.

1 I'm not yelling at you. It's not your fault. That's the
2 failure of this board. That's the failure of this state.
3 This kid should not have died. And I have no confidence
4 that another kid is not to going die there tomorrow. And
5 that scares the hell out of me because nothing has
6 changed. The only thing here is we are saying, well, that
7 kid shouldn't have stood up. What's happens when the next
8 kid stands up?

9 MS. GIVAND RHODES: And there is no parent who might
10 not think about -- about what their kid might not do.

11 MS. ROYER: And that's every right of the state.

12 MS. SULLIVAN: For a parent perhaps --

13 MR. KIRSCHNER: The reason that there is not a five
14 point harness on that thing or a more restrictive strap is
15 because it takes longer to get the kid in and out. If it
16 takes longer to get the kid in and out, the operator can't
17 run as many people through.

18 MS. SULLIVAN: Kids can get out of anything. A
19 person can get out of anything. Which was shown very
20 clearly on an accident at the Illinois State Fair when a
21 person had the harness on -- I think it was an -- it was
22 an over-the-shoulder harness that -- that was -- was held
23 down and was inside a cage.

24 MR. SZERLETICH: Uh-huh.

1 MS. SULLIVAN: And that kid still got out. But there
2 again the person who put that kid on -- it was a very poor
3 judgment decision to put that child on. This child
4 happened to be from Hope School here in Springfield. And
5 the child had a fear of heights. And the child had fallen
6 out of a window I think previous to this.

7 And you know, to say that it's all gotta' be
8 mechanical and -- and responsibility held by the operator,
9 at some point in time, you've got to put responsibility on
10 the parent. I'm so upset with our country that parents
11 don't seem to have to have any responsibility when their
12 kid goes out. If it had -- if that had a seat belt and a
13 bar holding them in -- that three-year old could have been
14 an ADD kid. And there is no way that operator can tell
15 that. There is no way that the manufacturer can know
16 that.

17 If a ride went for 30 years without one single
18 incident, that's pretty good statistical history. That's
19 saying that, you know, this is not -- this isn't a big
20 problem. And then you, also, have to look at was the ride
21 built 30 years ago exactly the same as this ride, which
22 may have been a newer model and something different.
23 That's -- that's -- that's an issue, too.

24 But I think we, as a board, may want to start putting

1 some parental requirements on rides that if the child is
2 under a certain age -- and I think it is -- seven is
3 supposedly the age of reason. Which I don't even agree
4 with that. There are some 25 year olds that might not be
5 there yet. But if you've talked to the developmental
6 people and seven is what they consider the age of reason
7 for a child or where a child can actually, you know, sense
8 what danger is, then we might want to require any ride
9 where parents can get on that they've got to be on with
10 that kid.

11 I mean there is nothing wrong with the state
12 requiring that. Will that stop all accidents? No.
13 'Cause you still have all of this extreme sports out there
14 that make kids want to make something more exciting. No
15 matter what ride it is, no matter how exciting it already
16 is, they want to push it one step farther. And you can't
17 stop that.

18 And it's -- it's a sad thing. And it's always a
19 tragedy. But it's not realistic to say that we can make
20 any ride safe. And it's not realistic to assume that --
21 that no matter what kind of harnessing and -- and
22 restraint we put in that somebody can't get out of it.

23 MR. COSTIGAN: This was a terrific, terrible tragedy.

24 MS. SULLIVAN: It is.

1 MR. COSTIGAN: And, you know notwithstanding, this
2 ride probably didn't have any problems before this in its
3 history. I don't know if they've had any other accidents.
4 But certainly there wasn't an accident probably of this
5 tragic nature. The record that, you know, no accident has
6 occurred -- it all changes when you have a circumstance
7 like this. You know?

8 I'm not sure what the answer is. I mean it behooves
9 us to -- I mean I think some of the things that you talked
10 about are valid points to be raised. On the other side,
11 you know what kind of change is necessary so that from my
12 point of view and from the Department's point of view, you
13 know, how do we move forward in a way so that a situation
14 like this isn't repeated? We didn't allow these other
15 coasters or rides I mean to operate for several -- for a
16 long time, for several months.

17 MR. RATHBUN: (Nods affirmatively.)

18 MR. COSTIGAN: And we were under -- we were asked
19 to -- to allow these other individuals to operate, but we
20 did not until the investigation was completed. As was
21 said, it was never the intention of our department to --
22 to blame the child for this accident or to blame the
23 family or to blame the victim.

24 It's just to get to the bottom of the basics of what

1 our job is as a department. Was -- was the ride operating
2 up to the standards of the manufacturer? As such, we have
3 kind of limited options in terms of our discussion of, you
4 know, what the accident and the or how the -- how that --
5 I'm trying to think of the word -- how that's described I
6 guess.

7 So it presents a challenge to us to -- to go forward
8 to figure out because it's something that we're all very
9 concerned about. It's something that maybe we need, as a
10 board, to sort through together in going forward as a
11 proper way to address.

12 MS. ROYER: After my investigation was completed --
13 in other words, because they had shut down the other
14 coasters in the state. In other words, there was
15 nothing -- in other words, it had met the manufacturer's
16 specs in that I couldn't go to Grand Bear Lodge and say
17 they had this issue, make sure that this issue is not on
18 your coaster. So that, in other words, they had done
19 everything that we required the manufacturer to do. So
20 that part of it -- the operator had done their part of it.

21 And -- and the part of then the patron error, I mean,
22 again, I welcome anything that you can -- that you feel
23 that we could do to minimize that. Because, of course, we
24 are not going to be able to eliminate all accidents. It

1 would be fantastic. It becomes a point of being able to
2 minimize them as best as possible because there is always
3 going to be some element. It's manmade. There is just
4 some element there.

5 Again, like I say, if there is something that the
6 board, the department, somebody, a manufacturer or
7 whatever could provide to me as a tool to go out and use,
8 absolutely I will. And -- and I know that -- and, again,
9 it lacks my ability to -- the fact that this happened. We
10 tell the manufacturer. They know it's happened. They see
11 what has gone on. What is the manufacturer doing? How do
12 they feel about it?

13 I mean there are many manufacturers that have
14 something that will happen and -- and literally the ride
15 has operated for 50 years or 30 years or however long and
16 nothing has ever happened. And then something happens.
17 And the manufacturer will address the issue. That's why
18 we have bulletins and NDTs and things like that.

19 And it is -- and, again, it becomes a situation as a
20 department, as a state agency where are our rights and
21 liabilities or whatever you want to call it as far as
22 making manufacturers submit or making recommendations to
23 the manufacturers as well as even as a board. What sort
24 of rights and liabilities do you have to say, you know, we

1 have a really big problem with this? What are you doing
2 about it? How do you feel? What are you -- how are you
3 addressing the issue?

4 And I mean that -- that is -- it's an issue. It's
5 there. It's out there. And I agree with you. I mean
6 there is no reason why another child or another adult can
7 stand up and do something. Somebody can climb out of a
8 harness. They can climb out of a seat belt. They can and
9 there would still be absolutely nothing wrong with the
10 ride.

11 I had a woman who died on the ferris wheel at Navy
12 Pier. She committed suicide. She jumped out of that
13 cage. I could have been sitting next to her and I don't
14 know that I could have stopped her. She wanted out.

15 MR. KIRSCHNER: That's not foreseeable.

16 MS. ROYER: No, but I'm saying --

17 MR. KIRSCHNER: What's foreseeable is that we are
18 talking about a three-year old with no proper restraint
19 system for a three-year old on a device that isn't going
20 slowly, that is at an elevated height, that should have a
21 parent on board.

22 MS. ROYER: Right.

23 MR. KIRSCHNER: But that is not required by the
24 manufacturer and it is not required by the operator. And

1 the parent, who is not an engineer and who is not familiar
2 with this ride who can't predict how -- I've got two kids.
3 I don't know how my kids are going to act from day to day.
4 I've had them tell me this is safe for my child to ride
5 in. And I rely upon that.

6 I mean I can tell you, as a parent, I think that
7 there are lots of rides that I don't let my kid on even if
8 the sign says that they are eligible.

9 MS. ROYER: Thank you.

10 MR. KIRSCHNER: But, to a certain extent, there is in
11 fact a responsibility that needs to be recognized to
12 educate the parents. And I didn't see that happen in this
13 incident. One of the things mentioned was a seven-year
14 old -- and it's not just a standard in the child
15 development field. It's law in Illinois that a child
16 under the age of seven as a matter of law is incapable of
17 contributory negligence. Meaning that they don't have the
18 ability to determine danger.

19 In a situation where, you know, you are handing your
20 child basically over to a common carrier -- and one who
21 operates a roller coaster is a common carrier in Illinois.
22 Meaning that they owe the highest duty of care to those
23 that ride. I didn't see that highest duty of care
24 exercised in this case by the manufacturer or by the

1 operator.

2 And I think that that's kind of evidenced by the fact
3 that five months later the insurance carrier for the
4 operator paid 3.1 million dollars to this family. Now an
5 insurance carrier doesn't roll over and pay a lot of money
6 that quickly unless they've got serious issues that we, as
7 a board, didn't pick up on and didn't address in our
8 report.

9 MS. ROYER: The operator -- the other thing that --
10 in other words, the operator is also not an engineer.
11 It's the person that they hire and that they train. And
12 they are trained by the manual that they have received
13 from the manufacturer.

14 And the manufacturer, again through ASTM and things
15 like that, are required to do engineering reports and
16 provide -- in other words, at some point, there was this
17 engineer and he was the one that did the math and all of
18 the reporting and all of the testing and everything to
19 bring it down to this point. And that is -- in other
20 words, that is why we require, you know, the
21 manufacturer -- we require the manual. We -- you know
22 that, that is again only so much.

23 Now the fact that, yes, that this ride appears to
24 have an inherent danger in it or that you don't feel that

1 the right thing happened -- again, that is a point where
2 then it is the department's and the board's -- you know
3 that is up to them whether they want to approach the
4 manufacturer and -- and how far they want to go with that
5 and -- and what they want to say about it.

6 The -- I mean that part I can't regulate. I can't -
7 I don't have those tools to do that. So --

8 MS. SULLIVAN: If I could make another comment.

9 There is no reason that we, as a board or -- or the
10 department, can call Fred Miler and talk to him about, you
11 know, here is what we found and is there another way that
12 we can restrain them you know?

13 Because I'll tell you that man was probably in tears,
14 the manufacturer, when he found this out, because he
15 obviously felt that with the seat belt and a bar that kids
16 weren't going to get out. Because he wouldn't have that
17 ride if they had thought that kids were going to just pop
18 right out.

19 And there is no reason we can't talk to him about --
20 about improving the restraint system in that or for him to
21 require that in his manual or in a bulletin that it is
22 required that a parent ride with a child under seven-years
23 old.

24 So with regards to your question of going forward and

1 what can we do, that's certainly a good place to start.
2 Especially when -- when -- even if you could put brakes
3 on, on an -- on a downhill, you don't know that, that
4 might not kill the child faster if he -- you know if he
5 were underneath the wheels at that point. Now you are
6 doing more damage to a little body.

7 But there is no reason why we can't -- why we can't
8 contact the manufacturer and talk with him because I'm
9 sure that he would be more than happy to talk with us if
10 we have recommendations or if we have questions. And I'm
11 sure that we can talk to him about going forward. That's
12 the question.

13 MR. COSTIGAN: And you know -- and you know, on
14 behalf of the department, I think that we would be willing
15 to entertain that and any host of any other suggestions
16 that we would have that the board would suggest that, you
17 know, we could go forward with and look at and discuss,
18 you know, maybe on a wider scale and not just on any one
19 particular ride.

20 I mean I think probably in this circumstance -- you
21 know I can't say for certain, but -- and maybe Doug knows.
22 But for years this place operated safely you know? And
23 there were no accidents. One accident occurs. You know
24 everything changes. So you know -- again, I think that

1 the department -- I think, on behalf of the department,
2 that we would like to get any kind of suggestions and you
3 know any possible remedies or solutions for moving forward
4 that the board would suggest that we -- we could look
5 into.

6 MS. SULLIVAN: Doug, do you have a suggestion?

7 MR. DOUG KNIGHT: You know it broke my heart when I
8 heard about this. As soon as it happened -- Bill was at
9 my place. And we were talking a little bit. It broke my
10 heart when this happened. My inspector was at my park
11 when this happened.

12 To me, I think, you know, Marcia explained about the
13 three components -- the mechanical component, the training
14 component and the patron component. Which you have no
15 control of. If you really want to get out there and see
16 it, you need to come on out and operate a Go-Kart track
17 and see that when you put the ride in control of somebody
18 else you are really faced with a challenge.

19 But I -- I truly believe that this is -- as
20 unfortunate as it is, it is an opportunity and a wake-up
21 call that I believe that this department and this board
22 has the responsibility to try and -- and help us as
23 operators to get control of the third component and make
24 people realize that they are an active participant in

1 their safety, the safety of their children and the safety
2 of other people on the ride.

3 The only way that I know to do that is rider
4 responsibility legislation with the appropriate signage
5 that would spell that out throughout the park from the
6 time that they arrive until the time that they leave. And
7 if you don't do that, you are really missing the bucket.
8 You are missing the whole message off of this thing. And
9 you've got everybody in this state that's going to get
10 behind you. The only people that aren't behind you are
11 the people that profit from these types of situation as
12 trial lawyers that they try to do something about that.

13 MR. KIRSCHNER: The legal word for that in the trial
14 lawyer business is called horse shit. At the end of the
15 day, nobody gains from these situations.

16 MS. SULLIVAN: There you go. Rider responsibility.

17 MR. KIRSCHNER: The law already is that every person
18 has to exercise ordinary care for safety. It's the rider,
19 the operator. And you tell me how you legislate to
20 exercise ordinary care for his or her safety. You know
21 the fact that somehow that you want to shift it away from
22 the manufacturer is -- let me get some of this out here.
23 Something that's not expressed here is one of the things
24 that came out in the Go Bananas litigation.

1 There was, you know, things didn't necessarily happen
2 the way that the operator told Margaret. There were
3 issues with respect to her sight lines from where the
4 booth was set up. There were issues with respect to
5 paying attention and really responding in a timely manner
6 as opposed to seeing. When the kid started to stand up,
7 it was already at the top of the hill. That might not
8 have been true. The operator could have saved that boy's
9 life maybe if she had responded sooner.

10 It's not the trial lawyers out there injuring people.
11 The trial lawyers are out there trying to make things
12 better. I don't want this to happen to another child. I
13 don't want to see another child injured or killed at a
14 carnival. Okay? That's why I'm here.

15 MR. DOUG KNIGHT: And I appreciate that.

16 MR. KIRSCHNER: Thank you.

17 You know what I think? I think that what we need to
18 do is to address some of these concerns because it doesn't
19 put our inspectors in a fair position and it doesn't put
20 the operators in a fair position, you know, if they are
21 told all you have to do is follow the manual.

22 And, in fact, the law actually puts a greater duty on
23 the operator than it does on the manufacturer because the
24 operator who is operating these ferris wheels and roller

1 coasters are the common carrier who owe the highest duty
2 of care. I think that the operators do know that, that
3 they owe a higher duty of care than the manufacturer does.
4 Which means that they might not be able to blindly put
5 people on these things.

6 I think we need to look into age appropriateness
7 because the height restrictions aren't enough. We need to
8 go forward and look at the mechanics and the physics of
9 the ride and not the maturity of the ride. That's what
10 gets to the heart of this issue.

11 MS. SULLIVAN: But as far as the height requirements,
12 we also need to look at more of the data about, you know,
13 the fact that in the 95th percentile of children at a
14 certain age they are under that height. And I mean I know
15 my -- I have a nephew who at four years old was 54 inches
16 tall. And he could ride almost anything out there. But
17 his mother wouldn't put him on anything like that because
18 she knew he was four years old and he doesn't have the --
19 you know he is four years old. He doesn't have the sense
20 to, you know, make those decisions for himself. But not
21 every parent does that. And that's what I mean. That's
22 part of the duty and due diligence that manufacturers try
23 to do when -- when they decide how tall they should put
24 their restrictions.

1 And -- and you could never anticipate everything or
2 foresee everything that can happen. If you think that
3 you've got somebody in there who is -- who is --
4 especially when you have two kids in a seat where they
5 can't wiggle as easily -- can't wiggle out as easily. You
6 think that you have a pretty darn, good barrier to keep
7 'em in.

8 And you are always gonna' have exceptions to every
9 rule. But I think talking with the manufacturer and us
10 maybe taking a stand on -- on ages as well as heights
11 because there will always be kids in that top five
12 percentile that are way taller and -- and very developed,
13 but mentally have no sense of what danger is.

14 And -- and I don't know how Doug feels about that,
15 but --

16 MR. DOUG KNIGHT: We do have -- on our Go-Karts, the
17 manufacturers recommend a 54-inch height. That's it.
18 Before anybody came up with that, we were always 12-years
19 old. The height never came in. It makes a lot of sense.
20 They need to be able to control the Go-Kart. We feel at
21 12-years old that they -- we feel that they are able to
22 understand how to control a Go-Kart.

23 But they lie about their age. You have to ask them
24 about their birth date if the math doesn't work out. You

1 have to. When people are out having fun, they are not
2 concerned about their safety. You have parents that their
3 kids don't make the height or age requirements and they
4 lie to take 'em on the ride. You have to explain to them
5 about safety. They are -- they are not kind when you
6 explain that for a child of your height you are unable to
7 ride. You have to engage them in being involved in child
8 safety. And that's why I think rider responsibility is
9 the way to go where you slap 'em in the face and let 'em
10 know that. You just can't counsel everybody that comes on
11 your place of business on how to be safe personally.

12 MR. MAZZENGA: I was going to ask Margaret when the
13 child fell, he must have hit the floor.

14 MS. ROYER: Actually, he fell between his car and the
15 car behind him. He actually fell between the two cars.

16 MR. MAZZENGA: So if they would have had a
17 playground, he would not have landed there?

18 MS. ROYER: No. And then he was actually struck by
19 the ride. He became separated from the ride and struck by
20 it. Which is actually -- according to the coroner, it was
21 the cause of death.

22 MR. MAZZENGA: I see. Thank you.

23 MS. GIVAND RHODES: And I fear that all of the
24 comments about the parents are dangerous for this board.

1 In fact, for anybody in this room. And I'll try to
2 articulate why.

3 I don't excuse myself or any other parent who makes a
4 bad judgment call about what's safe for a child. But I
5 don't excuse us either. And I don't excuse the operator
6 either.

7 So I guess I would like to calibrate us a little bit
8 about that to make sure that we don't lose sight of what
9 our obligation is. Our obligation is to do everything
10 within our control and within our influence to ensure the
11 safety of the riding public. Whether they are 25 years
12 old or three years old.

13 I have kids, too. I'm really, really passionate
14 about this, too. I was upset when I heard about it. And
15 I'm upset hearing this conversation because I don't want
16 to make a decision or not make a decision because we are
17 saying the mom shouldn't have put the kid on the ride.
18 That shouldn't be what we are talking about. I just
19 needed to get that out.

20 And I, also, have a question for -- and I, also,
21 wanted to make a point about -- well, I read some of our
22 literature about this. And regardless of what you call
23 that, the fact that there haven't been accidents -- I'm
24 not a fan -- I'm not a believer in that there was no

1 accidents so it must have been safe.

2 I believe that when you are responsible for public
3 safety or responsible for safety you have to think through
4 things like three-year olds standing up because they
5 freaked out. You have to think through a parent not
6 anticipating that, that might happen. All of those
7 things. You have to think it through and say have I done
8 everything within my power and influence to manage my
9 risks understanding that there are still going to be
10 always some risks.

11 There is a risk that I could fall out of this chair.
12 It doesn't mean that it's Joe's fault because he doesn't
13 catch me or hold me up so I don't fall on the floor. I
14 know that there -- that there is always risks. And I
15 think that that's why we're here. I don't want to get off
16 on that.

17 I do have a question for you about the investigation.
18 I did not see the report and I am curious. Were there --
19 would there be cameras at Go Bananas that were there and
20 did the cameras show any behavior within the child who
21 unfortunately lost his life that might have subjectively
22 indicated that he might not be emotionally capable of
23 handling this ride?

24 MS. ROYER: There was no footage.

1 MS. GIVAND RHODES: I was just curious about that.

2 MS. ROYER: And the other thing -- again, that --
3 because the -- at least as I see it, when you are saying
4 as far as the operator saying no, you don't have to
5 ride -- correct me if I'm wrong, but it's my understanding
6 that as that operator -- and I don't know anything about
7 the highest of care laws and things like that. I know my
8 law and my rules as far as it's my understanding that --
9 that -- if that child -- if that parent and child walked
10 up to the ride and the parent said do I have to ride with
11 my child and the operator said no, they meet the height
12 requirement to ride alone or just no, she has done her job
13 legally.

14 MR. KIRSCHNER: That's not -- not if the ride is not
15 safe.

16 MS. ROYER: That's very subjective. Safety is
17 subjective. I'm just saying from a black and white, legal
18 standpoint. And, again, this is what I have to work with
19 is black and white and rules. And this is what we've been
20 given. Right or wrong. I'm not questioning that. But
21 right or wrong.

22 She has come up to the ride. She has to meet the
23 requirements to ride this ride. And the operator tells
24 the parent, no, you don't have to ride with them or does

1 that -- I mean even if she says no, no, and the child
2 climbs on and rides. I mean that's kind of like my
3 getting on an airplane and looking at the pilot and saying
4 is this plane safe, are we going to crash. No. Okay.
5 And then the plane crashes. I mean that's what I mean.

6 From -- I see your standpoint. You are the lawyer.
7 My standpoint is that I have this in black and white that
8 I can enforce. So, as the board or as the department or
9 something, there is nothing out there for me to work with
10 right now. I am requiring that operator to say no. And
11 that's it.

12 And I mean again she's somebody -- correct me if I'm
13 wrong in that sense. But that's what -- I mean I can't
14 say oh, no, no, you -- you have to tell her to ride and
15 you know -- in other words, I don't have a rule or a
16 regulation to point to in black and white that I can point
17 to on my form and say you -- you must say this according
18 to this regulation.

19 MR. KIRSCHNER: You are asking from your point of
20 view or from the operator's point of view?

21 MS. ROYER: Right.

22 MR. KIRSCHNER: You operate within the confines that
23 you are given.

24 MS. ROYER: That's what I wanted to make sure of. I

1 guess that there is all of these other issues and
2 emotional issues. Trust me. Nobody was there with me.
3 And that's all that I'm going to say, but --

4 MR. KIRSCHNER: What I'm saying is that it's unfair
5 to -- I don't know if you realize that the operators
6 really have an added onus and duty beyond --

7 MS. ROYER: Excuse me.

8 MR. KIRSCHNER: -- beyond the pages of the manual.

9 UNIDENTIFIED SPEAKER: Okay. So honestly how is an
10 operator supposed to know how a child is going to react?

11 MR. KIRSCHNER: Here is --

12 UNIDENTIFIED SPEAKER: We don't know every child.
13 The parent does. Right?

14 MR. KIRSCHNER: This is a discussion that is not
15 going to get resolved here or finished here.

16 UNIDENTIFIED SPEAKER: I understand, but I don't
17 think that you are seeing past, like, blinders on. I
18 honestly would like to know how an operator should know
19 how a child reacts. That's the parent's due diligence.
20 You spend the time with your child.

21 MR. KIRSCHNER: There are a lot of nuances and issues
22 that have to be addressed. We are not going to get them
23 all addressed today.

24 UNIDENTIFIED SPEAKER: I understand that.

1 MR. KIRSCHNER: We are not going to turn it into a
2 public forum either right now, but this issue is going to
3 be discussed further. It's going to be on the agenda
4 further. There is lot of things to be discussed.

5 It would be very helpful from the operator's
6 standpoint when you come to these meetings that perhaps
7 ahead of time you provide us with a list of concerns and
8 questions from the operators so that we can come in, you
9 know, having thought through some of these issues and
10 having addressed them. And that's one of the reasons that
11 we had the public forum last night was to kind of bring
12 forward what issues might be out there.

13 We are having the board discussion today to kind of
14 talk about what's on the board's mind. And to let you
15 know in kind of going forward what we are wanting to
16 discuss. And we do want your input and your thoughts and
17 we want to know what you think from the operator's
18 standpoint is fair and what's not fair and what can be
19 done and what can't be done and what's reasonable and
20 what's not reasonable. We are not trying to decide
21 anything. We are trying to get --

22 UNIDENTIFIED SPEAKER: I don't think that you are
23 understanding everything that's presented to us as owners
24 and operators. We have parents forcing their children to

1 ride. And when our operators tell them no --

2 MR. KIRSCHNER: There are lots of issues throughout
3 this.

4 UNIDENTIFIED SPEAKER: Right.

5 MR. KIRSCHNER: And we are going to have further
6 discussion --

7 UNIDENTIFIED SPEAKER: I understand, but I'm just
8 letting you know. You said that you are a lawyer and that
9 it's not the lawyers --

10 MR. KIRSCHNER: I'm not putting myself out there as a
11 lawyer.

12 UNIDENTIFIED SPEAKER: We have parents that want to
13 take a newborn down a slide. And I'm just giving you this
14 information so -- just so you know this information. A
15 newborn. What thrill would a newborn get going down a fun
16 slide? Absolutely none.

17 MR. KIRSCHNER: That's not on the agenda before us.
18 What is on the agenda is the Go Bananas incident.

19 UNIDENTIFIED SPEAKER: I understand.

20 MR. KIRSCHNER: We are not getting into other
21 incidents or other acts that's not on the agenda, too.

22 UNIDENTIFIED SPEAKER: In the incident that you are
23 talking about, you said that the mother worked at another
24 amusement park down the road or something and how the

1 parents stopped and talked with the manager before they
2 got on the ride to see if that ride is safe. So obviously
3 she had a little knowledge. And I'm not blaming the
4 mother, but she does ultimately know her child and how her
5 child would react to certain situations better than
6 anybody else would.

7 And I understand about the age thing. We have on our
8 Disney Dragon seven years old. Do you know how many
9 parents argue that point?

10 MR. KIRSCHNER: We are going to be discussing it
11 further, the opportunity for the operators and the general
12 public to give your input and to ask questions. Right now
13 is not the time. This isn't the time.

14 UNIDENTIFIED SPEAKER: Right. I understand. I'm
15 just saying this for you to know.

16 MR. KIRSCHNER: We need to complete the board
17 meeting.

18 UNIDENTIFIED SPEAKER: Thank you.

19 MR. COSTIGAN: I guess I want to say that it's not an
20 either or situation. I agree with you. This is something
21 that I have personally thought, you know, a great deal
22 about. And I -- you know we, as a board, need to -- to
23 continue this discussion and set a pace or set -- you know
24 set some recommendations for how we proceed forward giving

1 a range for what's best -- for what's the best -- for
2 what's the best course for this board to plow forward
3 with, with regard to what's the right road ahead in terms
4 of taking stock with what happened here and what -- and
5 what can be done, in my mind, so that we minimize, you
6 know, anything like this ever happening again.

7 MS. SULLIVAN: If I could make a comment at this
8 point.

9 There was -- we had a seven-year old girl who stood
10 up on one of our Scramblers a number of years ago. And I
11 almost closed down, believe me, because I couldn't handle
12 it. But instead of quitting, I developed a Ride Safety
13 Education For Children Program. And we talked about the
14 department doing outreach. I have given this program to
15 the department. I have the program copyrighted so that no
16 one can take and charge to do it. But otherwise it's free
17 to everyone who wants to use it.

18 It's -- it's a step by step, here is all of the
19 information you need, here is what you say the first two
20 minutes when you are -- well, how do you get into talking
21 with -- it's for grade school age kids, basically four or
22 five to 12. And it is educating them about ride safety.

23 When you go on a plane, you get the education, you
24 get told about wearing your seat belts and about staying

1 seated and about all of those things. We do no education
2 to -- to our patrons. And I think that, that goes to a
3 great extent to -- along with patron's responsibility.
4 But there is no reason that we can't educate children and
5 show them what the rides are that are appropriate for them
6 and to show them what is appropriate behavior.

7 And -- and, in the program, I also recommended --
8 recommend that, for instance, if -- if a park decided to
9 go out and -- and teach this and -- and, say, to just two
10 schools this year, then if you get the PTA or whatever the
11 parent, teacher association is involved and have them be
12 the ones who would teach it the next year so you can go to
13 two other schools and start, you know fanning out, then
14 the parents get educated, too. Because then those parents
15 become advocates of safe behavior. And they understand
16 what safe behavior is much better than most parents, you
17 know, do.

18 Not that you are going to hit everybody, but it's a
19 place to start. And I -- I think educating kids is --
20 is -- it's fun for the kids. It's fun for whoever does it
21 because I feel like I'm playing hooky with my job when I
22 go and do it because it is fun.

23 But it's also another avenue that, for whatever
24 reason, we don't seem to want to grasp onto. And -- and

1 we try --- we demand education for our operators. We
2 demand education for the manufactures and the engineers.
3 However, we demand none for the public and offer none
4 typically other than the signs in the park and the signs
5 on the midway which usually spell out lots of these
6 things.

7 But there again the parents don't read the signs.
8 And I can tell you that happens. And the three-year old
9 shouldn't have to read the signs because their parents
10 should be reading the signs.

11 But if we go out and teach -- you know even starting
12 in kindergarten, you are going to hit a lot of kids who
13 otherwise would never have any idea about the fact that,
14 you know, putting it in our terms physics works wherever
15 you are. The Disney Parks of the world have made such --
16 you know they have made it so magic out there that when
17 you go on rides they think that they can do anything
18 because it's all magic. It's not. Physics still works
19 every single time.

20 And I -- I would like to see the department get
21 behind some -- and you don't have to use my program. It's
22 just out there. You don't have to start with a blank
23 sheet. It's all in black and white. And the OABA has a
24 nice little video that's about seven minutes that -- that

1 I use with it. And we can start supporting some
2 education, which would be certainly a positive step for
3 children and adults and parents. As well as all of these
4 other things that we are talking about.

5 I'm sure that the -- you know that there is some time
6 in the winter months that the inspectors could -- you know
7 I mean if you only went to five or ten schools in your
8 area and -- and started getting the parents involved. And
9 you know in ten years that's 50 schools or 100 schools.
10 And -- and -- and then they can keep continuing that.

11 And then we're actually doing something very
12 positive. Along with the other things that we decide as a
13 board that we may want to require that has to do with
14 having parents ride, you know, and all of those other
15 things. But it's something positive that we can do. And
16 it's -- it doesn't cost you any money to spread it out
17 there and -- and let -- let the parks and carnivals know
18 that this is available. Maybe put it on the web site for
19 them to be able to use.

20 And if there is a better training program out there,
21 you know, have at it. I'm not saying it has to be mine.
22 It's just that you don't have to start with a blank piece
23 of paper. You've got the stuff all right there. But I
24 take a child getting hurt or killed very seriously.

1 MR. KIRSCHNER: That's wonderful.

2 MS. SULLIVAN: I'm not blowing it off, but that
3 particular child was at a park with four other kids and a
4 baby-sitter who was not with the child. And so there is I
5 think all kinds of scenarios.

6 MR. KIRSCHNER: The incidents run the gamut.

7 MS. SULLIVAN: They do, but -- but all I'm saying is
8 that -- that -- I mean that it had nothing to do with
9 anything going wrong with the ride. There were -- there
10 were some other issues in that case, but it didn't help me
11 to know that the ride wasn't responsible for it. I was --
12 I was devastated.

13 MR. KIRSCHNER: My point is that --

14 MS. SULLIVAN: But I think that there are other
15 things -- I think that there are lots of things that we
16 can do other than just -- you know just saying, okay, we
17 just have these three things and -- and we are going to
18 make our inspectors put everything into these three
19 buckets.

20 MR. KIRSCHNER: I am not making the suggestion that
21 every incident is operator error or every incident is
22 manufacturer error. I mean our focus is -- the point of
23 this discussion or my discussion really is specific to one
24 incident and not getting into the broader spectrum of what

1 incidents are rider error, manufacturer error or what are
2 operator error.

3 MS. SULLIVAN: I'm not either, but you said what are
4 we going to do to keep it from happening again.

5 MR. KIRSCHNER: And that's with regard to this
6 particular ride. But really rides as a whole and be age
7 specific and restraints need to be addressed. Maybe we
8 can have public comment on those matters at the next
9 meeting and discuss the practical standpoint from the
10 operator for what age restrictions need to be inherent to
11 manufacturer guidelines where operators feel like they are
12 in the dark because there may not be guidance from the
13 manufacturer or from the board. What guidance are you
14 looking for from the board or from the state or from the
15 manufactures that you don't have. These are all things
16 that we can address. We want your input and help to
17 operate safe parks. We are on your side.

18 MR. DOUG KNIGHT: We are all in this together. If
19 somebody gets hurt, it reflects upon all of us. I want
20 everybody to be safe. I want everybody to be successful.
21 I want all of my guests to be happy. But I require my
22 parents to be involved in the kid's safety.

23 And one thing that did come out of this -- and Bill
24 came out to my park, who is my inspector. He made it

1 clear or suggested I guess that we should be aware that if
2 parents -- and they do drag their screaming children onto
3 these rides that we encourage them not to go on the ride.

4 MR. KIRSCHNER: I want to stop you.

5 Okay. We are not getting into one case versus
6 another.

7 MR. DOUG KNIGHT: I'm not saying that, that happened
8 in this instance.

9 MR. KIRSCHNER: You know where there are instances
10 where parents have done something wrong. I can point to
11 lots of instances where operators or manufacturers were
12 not up to par. So let's not go down that road. Let's set
13 this up on the agenda for the next public hearing on all
14 of these issues.

15 MS. SULLIVAN: We can talk about age-related issues.
16 We can bring the ASTM Standards and your own guidelines in
17 terms of education and try and get the materials in front
18 of you to address the broader issue. Let's put that on
19 the next agenda.

20 MR. KIRSCHNER: And, otherwise, if there is no
21 further discussion from the board, we will move forward to
22 the next item.

23 The one new business item that we have is a request
24 from an owner to allow an attendant to operate more than

1 one attraction (inflatable) at a time.

2 Is there any comments, questions or discussions?

3 MS. SULLIVAN: Yes. I would move that we say
4 absolutely no.

5 MR. KIRSCHNER: I will consider your motion.

6 MR. SPARKS: I second it.

7 MR. KIRSCHNER: All in favor?

8 MR. COSTIGAN: Is there any discussion?

9 MS. SULLIVAN: I have a huge problem with thinking
10 any operator can watch more than one inflatable at a time.
11 Inflatables have the worst accident statistics of any ride
12 out there. You have all of these kids jumping around.
13 And -- and, as it is, there are often the operators who
14 want one operator to be able to watch two inflatables that
15 are also the ones that are letting 25 pounds kids in with
16 50 pound kids and 75 pound kids. And that is gonna' be a
17 disaster. Somebody is going to get hurt. You can always
18 be guaranteed of it. Kids will, you know, jump into each
19 other. You get busted heads and all of that kind of
20 thing. One operator cannot watch more than one inflatable
21 ride. That's my little say about why I am so totally
22 opposed to it.

23 MR. KIRSCHNER: And I think that the biggest
24 reason -- I'm sorry, but, from my standpoint, we were just

1 talking about operator error and manufacturer error and
2 participant responsibility. One of the biggest concerns
3 you guys probably see is also participant on participant
4 problems.

5 MR. DOUG KNIGHT: Oh, yeah.

6 MR. KIRSCHNER: And one of the biggest places for
7 that are in inflatables where you don't have -- where you
8 have one participant trying to jump in before their time
9 and getting rowdy with another participant. The operator
10 is essentially trying to make the participant do what they
11 are supposed to be doing or not doing with respect to the
12 safety of other participants. And just in keeping
13 participants apart. I think having one attendant with one
14 inflatable is appropriate.

15 MR. COSTIGAN: I'm just -- I thank you for the
16 comments. And I just I want to say that there is a reason
17 why this exists. And I think that it would be prudent.
18 And I support your motion. I hope that that's what the
19 board would support as well.

20 MS. GIVAND RHODES: I agree with Patty's comments,
21 also. I think that is a perfect example of where we
22 can't, as the young lady said, control everything that the
23 patrons do. And you can't know what they are going to do.
24 But this is an example of something that is within our

1 control. And, to help ensure the safety, I agree with her
2 comments about this.

3 MR. KIRSCHNER: So all in favor of rejecting the new
4 business say aye.

5 (Group vote was taken.)

6 MR. KIRSCHNER: All opposed?

7 (No response.)

8 MR. KIRSCHNER: In terms of the next board meeting --

9 MS. SULLIVAN: Why don't we shoot for earlier than
10 summer? I know Bill will be up to his eyeballs by summer.
11 And can we shoot for April?

12 MR. COSTIGAN: Can we entertain just some suggested
13 dates and then --

14 MS. SULLIVAN: Okay.

15 MR. COSTIGAN: One of the things is that we are a
16 very small department. And with the huge reach that we
17 have to have to be out on the streets dealing with, I
18 think that if we can -- if we can possibly due it in a
19 time frame that works for everybody --

20 MS. SULLIVAN: Uh-huh.

21 MR. COSTIGAN: -- we want to try to achieve that
22 because I think that we need to continue with the board
23 discussion that was started today. I think it's healthy
24 for our department to have that as soon as possible. But

1 if we could do as the Chairman requested and circulate
2 some dates and get back with each other amongst ourselves.

3 MS. SULLIVAN: Okay.

4 MR. COSTIGAN: I think that the next board meeting is
5 typically held in a different venue. Is that right?

6 MS. SULLIVAN: It's usually in Chicago.

7 MR. COSTIGAN: We switch back and forth; is that
8 right?

9 MS. SULLIVAN: Or in the Chicago area. Tony Urbik
10 has offered his office conference room again. And it
11 seemed to be easy to find. Even I found it. So it's
12 relatively easy to get to. And it's a nice facility.

13 MR. COSTIGAN: So how would you suggest we do that?

14 MR. KIRSCHNER: I will shoot an e-mail to everybody
15 this week with requested dates. And if you are taking an
16 Amtrak, it may be more convenient to have it downtown. I
17 know downtown is less convenient for people driving. I
18 will send an e-mail out this week.

19 MS. SULLIVAN: There was somebody on the board who
20 had a boat up there and I'm still wanting to find out if
21 we can't get on that boat.

22 MR. KIRSCHNER: That's Tony.

23 MS. SULLIVAN: So that should be some meeting.

24 MR. COSTIGAN: All right.

1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF SANGAMON)

3

4 I, CYNTHIA M. SMITH, do hereby certify that I am
5 a Certified Shorthand Reporter and Notary Public in and
6 for the County of Sangamon and State of Illinois, and that
7 I reported in shorthand the proceedings had in connection
8 with the above-entitled cause on January 20, 2012, and
9 that the foregoing is a true and accurate translation of
10 my shorthand notes so taken.

11 Given under my hand and seal this 3rd day of
12 February, A.D., 2012.

13

14

15

16

17 _____
18 Certified Shorthand Reporter
and Notary Public
19 CSR #084-003540

20

21 My commission expires:

22 June 27, 2014.
23
24

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