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ILLINOIS DEPARTMENT OF LABOR
CARNIVAL-AMUSEMENT SAFETY BOARD

REPORT OF PROCEEDINGS commenced on the
28th day of August, 2012 in the above-entitled cause
at 12:00 p.m., at 160 North La Salle Street,
Suite C-1300, Chicago, Illinois.

PRESENT:

- MR. DANIEL KIRSCHNER, Chairman
- MR. RYAN CULTON
- MR. WILLIAM SPARKS
- MR. ANTHONY URBK
- MR. ANGELO MAZZENGA
- MS. ANJALI JULKA
- MR. ANDREW SCHMIDT
- MR. DENNIS SMITH
- MR. RON WILLIS
- MR. JOSEPH COSTIGAN

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CHAIRMAN KIRSCHNER: Thank you, everyone, for joining us. We will call this meeting to order. It was called for noon. The time is now 12:26. Ryan has passed around the agenda.

Do I hear a motion for approving the agenda for today?

MR. URBIK: Motion to approve.

MR. MAZZENGA: Second.

CHAIRMAN KIRSCHNER: All in favor.

(Chorus of ayes.)

The first matter on the agenda for today is new business. We are considering the adoption to the By-Laws to allow board members participate by video or telephonic means. This is permissible under the Open Meetings Act so long as present at the meeting we have a quorum. We are a board of eight. As long as we have five voting members present, we can have up to an additional three in attendance by phone.

I think it is a good thing we should bring into our fold. I think it would help with participation, and I think certainly if you want to and can't make it, it will help participation. So

1 all in all, it's a good thing.

2 Do we need a formal vote on the motion
3 to add that By-Law?

4 MR. COSTIGAN: Yes.

5 MR. CULTON: So moved.

6 CHAIRMAN KIRSCHNER: Second?

7 MR. SPARKS: I'll second.

8 CHAIRMAN KIRSCHNER: All in favor.

9 MR. URBIK: Aye.

10 MR. WILLIS: I was going to say it's got to pass
11 as a legislative change.

12 CHAIRMAN KIRSCHNER: Okay. So we are voting to
13 send it to JCAR. And in your experience, what kind
14 of time frame is JCAR used to considering?

15 MR. COSTIGAN: At least somebody's lifetime.

16 (laughter.)

17 CHAIRMAN KIRSCHNER: It will also help in terms
18 of subcommittee work, because for the subcommittee,
19 the Open Meetings Act applies to a majority, and the
20 majority in this case is three, so we can have a
21 subcommittee of four people. As long as three meet,
22 the fourth can attend. A subcommittee of five
23 people, two can attend as long as three are present.
24 So it makes it easier to not just get business done

1 but also allow more members to participate
2 efficiently in this process.

3 All right. So the measure passes and
4 we will forward it onto JCAR.

5 Board discussion and other business,
6 Section 6000.350 of the Administrative Rules
7 Zip-Line operations: Comments from the July 30th
8 meeting in which Angelo and Patty were present and
9 Ryan gave a presentation.

10 Ryan, do you want to lead us in that
11 discussion?

12 MR. CULTON: Sure. Okay. So, as we discussed in
13 our last meeting in early August 30th, we had a
14 public hearing for the adoption of the public -- I'm
15 sorry -- the adoption of the rules for zip-line
16 operations, and we had -- we had two members from
17 the public. They were also owner/operators that
18 attended the public meeting. It was Stephen Ray and
19 of AMG's Spectacular Events and David Ebner of Fun
20 Ones, and they both own mobile zip-line units that
21 operate here in the Chicagoland area, and I brought
22 a copy of those public hearing comments, although I
23 did send one in the mail and then via email. So if
24 you need one, let me know. I can pass it around.

1 Everyone take one and pass it around.

2 So what are being passed around are
3 the written comments that they submitted at the
4 meeting, and I also had oral comments that are in
5 the meeting minutes that are posted up on the
6 website.

7 They both had the same point, I guess,
8 and it's essentially this. They wanted the
9 department to consider viewing zip-line operations
10 separate from both a mobile operation and a fixed
11 operation, because -- and there are two different
12 types. There's a mobile unit that's much smaller in
13 nature. You know, actually, it's readily assembled
14 like the mobile ones at the state fair. It doesn't
15 take long to assemble. There's also fixed courses
16 that can be several miles long and a much longer
17 traversable course. So there is a distinguishable
18 difference in these.

19 They felt that the rules might have
20 been written so that both of them were grouped
21 together and they believe that some of them are
22 separate. I'll get into a couple of points that
23 they made.

24 And, you know, having said that, they

1 said, well, in our mobile zip-line operations, we, a
2 lot of times, use our own vehicles that we use to
3 take the zip-line to whatever course that we are
4 moving to as just a back up for weight.

5 Actually the way the rules were
6 written, it said -- it did give some open
7 interpretation that if a vehicle couldn't be used as
8 any kind of anchoring point. They just wanted the
9 board and the department to consider having a
10 vehicle be basically a redundancy in the system, an
11 extra weight attached to the anchoring system to be
12 part of the anchoring.

13 Angelo, I think -- I think we answered
14 their questions in the meeting that day and said,
15 well, you know, technically the way that it's
16 written, we wouldn't do anything different than what
17 the manufacturer specified.

18 If the manufacturer specified that
19 they can use a vehicle as a tie-off point, so long
20 as those vehicles meet the weight class for
21 restrictions, then that's -- and that is how it's
22 written, too.

23 MR. MAZZENGA: It is. And Stephen and David were
24 using their transportation vehicles as a secondary

1 tie-off, and the way the emergency rules were
2 written, they were prohibited to tie-off any
3 vehicles.

4 MR. URBIK: As a primary?

5 MR. CULTON: As a primary.

6 MR. MAZZENGA: In the emergency rules?

7 MR. URBIK: Yes. Wasn't it used as a primary?

8 MR. MAZZENGA: I don't think it as distinguished.

9 MR. SPARKS: I thought I heard that it was
10 distinguished.

11 MR. MAZZENGA: We did relax the rule and allow --
12 we are now in the current version allowing tie-offs.

13 MR. URBIK: As primary?

14 MR. MAZZENGA: Let's see what it reads.

15 MR. CULTON: Everybody, it's Page 11, Part 1(b),
16 is what we are referring to. No. I'm sorry.

17 MR. MAZZENGA: 2 -- 2(b)3 -- I'm sorry. 2(c).

18 MR. CULTON: Yes. Thank you. 2(c) on Page 13,
19 the very bottom of the page, do you see the part
20 that's stricken "Part of vehicle should not be
21 allowed as tie-off points for the termination of
22 zip-lines for anchors?"

23 And this is one of the points that the
24 public commenters wrote, because they were reading

1 the emergency zip-lines that were on the website,
2 and they both pointed out the mobile zip-lines that
3 are in the state right now that they both own.
4 There's two manufacturers. Extreme Engineering and
5 Spectrum Sports are the two that make the majority
6 of the mobile zip-lines.

7 In their recommendations and their
8 guidelines from the manufacturer, it does
9 specifically state that the vehicles could be used
10 as a tie-off, so actually what we had in the
11 emergency rules was conflicting with what the
12 manufacturers were requiring.

13 In the meantime, from like our May
14 meeting to July, we, with our subcommittee, Angelo
15 and Patty, actually relaxed that a little bit. And
16 once we had more information that this is actually
17 required by the manufacturer and -- not required,
18 but it was a minimum specification that they could
19 meet, we revised it and added some of the extra
20 language you see just so that somebody could prove
21 that, okay, well, if you could use it as a tie-off,
22 it has to meet a certain weight class, and you could
23 read that in the specification manual of the
24 machine, and that the vehicle was disabled somehow,

1 so that's where that comes from.

2 MR. URBIK: Just because the manufacturer
3 recommends a certain thing does not necessarily mean
4 in the wowball their recommendations are that we use
5 it in a 2-foot pool. We don't let them in at all.

6 MR. CULTON: Right. One of the differences there
7 is that the CPSC has, you know --

8 MR. URBIK: I understand the reason why. What
9 I'm saying is that their manufacturer's
10 specifications say it's safe. You know, our
11 specifications by the statute of the safety board
12 says they're not.

13 MR. CULTON: The CPSC said it wasn't safe. The
14 board and the department didn't say it was safe.
15 The CPSC said it was.

16 MR. COSTIGAN: We were going by what the CPSC
17 said about those wowballs in particular.

18 MR. MAZZENGA: Just for clarification -- just for
19 clarification, the tie-offs for the Spectrum or
20 Extreme Engineering zip lines are a tower and
21 decelerator. They're like two different end points
22 of the ride. The vehicles don't even play into the
23 normal ride setup, so they were adding secondary
24 tie-offs to the vehicles that they use to transport

1 the ride.

2 MR. CULTON: That's right.

3 MR. MAZZENGA: That was the understanding we
4 derived during our discussions.

5 MR. CULTON: Which is actually above and beyond
6 what the manufacturer orders.

7 MR. MAZZENGA: So they were using two tie-off
8 points versus a single tie-off point the
9 manufacturer had recommended and they were concerned
10 with the fact that the board had -- or the rules had
11 prohibited them from utilizing the secondary
12 tie-off, so they wanted to be more safe, and we were
13 prohibiting them through our rules, and then we
14 explained that we had relaxed that portion of the
15 rules to allow for the secondary tie-off.

16 But I think our intent when we had
17 prohibited tie-offs to motor vehicles was that we
18 were wanting to prohibit tie-offs to a bumper --
19 okay, the primary tie-offs to a motor vehicle bumper
20 that we were concerned there were some models of
21 mobile zip-lines that were implemented that's sort
22 of a cable termination.

23 CHAIRMAN KIRSCHNER: Was there also an issue with
24 respect to tying off a vehicle that doesn't provide

1 for stirring up base movement in terms of the
2 vehicle, so it's like --

3 MR. MAZZENGA: Correct.

4 CHAIRMAN KIRSCHNER: -- shifting?

5 MAZZENGA: Agreed.

6 MR. CULTON: And that goes back to the weight
7 class of the vehicle, and it definitely has to be
8 enough weight behind it to support as a tie-off
9 point. That's what we were pointing out originally
10 is that just because you say the word "vehicle," it
11 doesn't necessarily mean that it meets the proper
12 weight class to support it.

13 CHAIRMAN KIRSCHNER: Was there a concern about a
14 tip hazard of the vehicles with the tension lines if
15 there wasn't proper outrigging?

16 MR. MAZZENGA: There were several concerns. One
17 was movement of the vehicle, sturdiness of the
18 anchor point, and structural, you know, load-bearing
19 capacity of it, and the other concern was related to
20 tension in the line that's tied into whether the
21 vehicle moves or not.

22 In the case of Spectrum -- I'm
23 sorry -- in the case of the Extreme Engineering
24 unit, the line has got -- there are devices

1 incorporated in the mechanism to maintain tension,
2 and we went through that in detail. We looked at
3 photographs.

4 MR. CULTON: Yes.

5 MR. URBIK: What if the manufacturer's specs are
6 silent on the issue of how much weight the vehicle
7 tie-up points would be?

8 MR. CULTON: If it was silent on the weight?

9 MR. URBIK: Yes, if it didn't specify a specific
10 feet, for every 50 feet, you have got a thousand
11 pounds or something like that, if it's silent on
12 that, how do we address it if we use an 8,000 or
13 6,000 pound pickup truck to secure it as opposed to
14 a 28,000 pound vehicle?

15 MR. CULTON: Well, let me answer it this way. In
16 the two mobile zip-line cases that we have seen so
17 far, the manufacturer actually addresses it, but
18 your question is if it doesn't --

19 MR. URBIK: Yes.

20 MR. CULTON: -- if it's totally silent on it?

21 MR. URBIK: Uh-huh.

22 MR. CULTON: I guess my question, going back,
23 would be what is -- it's a hypothetical, but --

24 MR. URBIK: Right.

1 MR. CULTON: -- what does it say it could tie it
2 to? You are saying it's just any vehicle
3 whatsoever?

4 MR. URBIK: Yes.

5 MR. CULTON: Like a car?

6 MR. URBIK: Like a structure, attach it to
7 your -- I don't know -- your trailer hitch or
8 whatever by way of this device that attaches to the
9 trailer hitch and it's silent on the weight of the
10 vehicle.

11 MR. CULTON: We haven't come across that, but,
12 speaking hypothetically --

13 MR. URBIK: You don't see too many manufacturers
14 though. And if these things are, as Bill said,
15 extremely profitable, then I think we might see more
16 manufacturers coming in.

17 MR. CULTON: That's something that the
18 manufacturer definitely would have to address.

19 MR. URBIK: Any responsible manufacturer would
20 address it, but some of the manufacturers may not
21 be on this side of the equator.

22 Can we add some language in there not
23 to be less than a certain weight that perhaps --
24 mobile zip-line how long is it going to be?

1 MR. CULTON: 250 feet I think is the longest.

2 MR. URBIK: 250?

3 MR. CULTON: 250 feet. No.

4 MR. COSTIGAN: The one at the fair was how long?

5 MR. CULTON: Was less than the length of a
6 football field, so, you know, not very long, so less
7 than -- about 300 feet I would say maximum.

8 MR. URBIK: Three hundred feet, and that being
9 one heck of a lever when you get in the middle of
10 that thing. I would think there would be some
11 calculation that an engineer would come up with and
12 say what the minimum weight would be for a 300-foot
13 line.

14 MR. CULTON: That would have to come from the
15 manufacturer.

16 MR. URBIK: That would come from the manufacturer
17 and not from us as a requirement.

18 MR. CULTON: Right.

19 MR. MAZZENGA: Tony, I think we addressed the
20 point. I think we did in A roman numeral -- or A7.

21 CHAIRMAN KIRSCHNER: Which page?

22 MR. CULTON: I put a page number. You must have
23 your copy.

24 MR. MAZZENGA: I must have my copy.

1 MR. CULTON: A7?

2 MR. MAZZENGA: Yes. It's under -- it's related
3 to the report.

4 MR. COSTIGAN: It's Page 11.

5 MR. MAZZENGA: Well, it reads here that
6 "Anchoring foundation analysis for mobile zip-lines
7 shall consider the load path through the anchor
8 attachment point and identify loading through all
9 components, including an identified fixed
10 foundation.

11 Vehicle frames or other frames can be
12 used as fixed foundations providing a verifiable
13 loading analysis as submitted," and then it said
14 that "Alternate qualification consisting of a
15 statement by the vehicle manufacturer concerning
16 anchor attachment points and loading suitable for
17 vehicle is acceptable, so we are putting that in as
18 a requirement. How well they meet that requirement,
19 we can't say.

20 MR. URBIK: Sure.

21 MR. CULTON: Now the thing that our inspectors
22 will be checking on-site is to make sure that they
23 have that information and that their truck, or car,
24 or whatever they have, meets the weight requirements

1 that they're looking for, so we are checking to make
2 sure that they're complying. We're not going to do
3 the calculations.

4 MR. URBIK: That makes sense.

5 MR. CULTON: I think that's the answer to your
6 question. I don't think I was understanding at
7 first.

8 Okay. Anybody else have any other
9 questions?

10 MR. URBIK: Any other written or oral
11 communications from anybody else, other than the
12 people at the public hearing?

13 MR. CULTON: No. No.

14 MR. URBIK: And the two guys that showed up at
15 the public hearing are comfortable now with the
16 language that we're using as far as their operations
17 are concerned.

18 MR. CULTON: Well, that was part of their concern
19 was that they felt like a lot of the way the rules
20 are written it kind of lumps mobile and fixed units
21 together, and so their comment is to just consider
22 maybe separating it, and nothing has been rewritten,
23 so to speak, since their other comments. These are
24 the other things to consider.

1 MR. URBIK: I guess, since we addressed the
2 vehicle issue, that seemed to be a big issue with
3 them.

4 What other issues did they have with
5 the way that the rules are currently written?

6 MR. CULTON: So one of their specific points was
7 in the language here right on the same page, Page
8 11, this would be Part 1(b), where it calls out "An
9 inspection by a third-party inspector shall be
10 conducted annually. An engineering evaluation shall
11 be conducted each time a major component is
12 modified."

13 You'll find in the meeting minutes --
14 I think it was Dave Ebner stated his biggest
15 difference is that a third-party inspector -- and I
16 think it was our intent in mind was to have this for
17 fixed parts, because through our research, and to do
18 a thorough inspection of a fixed course, and, you
19 know, some qualified person to do miles of zip-line
20 growth would take days, you know, three or four days
21 to do a really good significant job of it, and, you
22 know, there's also platforms and all other kinds of
23 things that go on at a fixed course.

24 At one of the mobile units, you know,

1 the manufacturer requires them to keep up with --
2 not the fixed course it doesn't, but the
3 manufacturer requiring them to do annual five year,
4 10 year, and everyday maintenance on mobile units,
5 one of which is every year, that at least we found
6 so far on all of the people that make mobile units,
7 they're suppose to replace their cables every year
8 whether you have one person zip on it or if you have
9 a lot, and at a minimum it has to be replaced in one
10 year.

11 So, you know, that's one of the
12 biggest requirements right there as far as
13 inspection, and his point was that the manufacturer
14 is making me replace my harnesses and the wire rope,
15 and all these things. I have to do these
16 maintenance issues every year.

17 I had a third-party inspector come in.
18 It was their feeling that it's kind of an added cost
19 that maybe doesn't quite apply to a mobile unit as
20 say a fixed operation where they have miles of
21 cable.

22 Honestly, I think -- and, Angelo, you
23 can correct me, but I think, as far as the
24 third-party inspection, I think our intent was to

1 have it for fixed courses, and not mobile, and to me
2 that was one of the biggest points there, because
3 it's an added cost that they may not have to have.

4 And, Tony, you might be able to add to
5 this, too. It was our understanding through some of
6 our research at our fixed sites that we talked to
7 that, at a minimum, they had to have a third-party
8 inspection no matter what state they're working in
9 in order to get insurance at a fixed site.

10 MR. URBIK: No.

11 MR. CULTON: It's not? It's not a requirement?

12 MR. URBIK: No, it's not a requirement.

13 MR. CULTON: At least not for Door (sic).

14 MR. URBIK: Well, I work for a lot of insurance
15 companies. It becomes an underwriting issue, not a
16 requirement issue. A given insurer may say unless
17 we have a certified engineer inspect it, then I'm
18 not writing it. After we send our people out and
19 they view what it is and make recommendations, and
20 if you don't follow the insurance company's
21 recommendations, you get cancelled.

22 So from that standpoint that may be a
23 recommendation that they require in order for that
24 particular insurer to stay on the risk, other

1 insurers may not.

2 MR. URBIK: It's not universal.

3 MR. CULTON: Okay. I know that three of the
4 folks that we talked to said that they were required
5 to have a third party or an annual inspection each
6 year in order to get their insurance reviewed, at
7 least that's what they told us.

8 MR. URBIK: I'm not sure on a mobile operation.

9 MR. CULTON: These are fixed.

10 MR. URBIK: Fixed operation probably so.

11 MR. CULTON: Yes.

12 MR. URBIK: That would be something the insurance
13 company would insist on that their inspectors are
14 doing.

15 MR. CULTON: The mobile is completely different.
16 These are the fixed operators we are talking to.

17 MR. URBIK: So are you suggesting, Ryan, that we
18 should maybe modify that to exempt mobile
19 operations?

20 MR. CULTON: Well, I think there's two things
21 that we could consider. I think, going back through
22 the definitions, we would probably have to add
23 definitions that there is a -- call it whatever you
24 want -- mobile zip-line unit or a mobile zip-line

1 element and then a fixed zip-line.

2 I think we first have to define that
3 in the rules and then go back through these drafted
4 rules and either at certain points, you know, say,
5 well, this applies to mobile sites or -- sorry --
6 this applies to mobile units or this applies to
7 fixed sites. It's one thing -- I guess I'm not
8 suggesting anything. I think it's one thing to
9 consider doing.

10 MR. MAZZENGA: I have a comment.

11 MR. CULTON: Yes.

12 MR. MAZZENGA: I think that Mr. Ray and Mr. Ebner
13 indicated that they changed out their cable
14 annually. They changed out their cable annually and
15 they had a concern over what it was exactly that was
16 to be inspected, and we had a discussion and
17 indicated that the guidance would come from their
18 owner's manual -- operator and maintenance manual,
19 then I think that -- I have to check the notes, but
20 I think they asked a question related to whether the
21 manufacturer could be a third-party inspector.

22 MR. CULTON: Yes. And I think we -- I have to
23 look up in the meeting minutes, but I think we said
24 no, just by definition, that wasn't a third-party

1 independent inspector, and -- I'm sorry. To be
2 clear in our definitions in these rules, it says --
3 let me look it up here. This is Page 10.

4 "Third-party inspector means a qualified person not
5 directly employed by the organization, original
6 equipment manufacturer or vendor, and not offering
7 other services to the organization who is qualified
8 either via ACCT accreditation, NARSO, PRCA, or an
9 approved equal to provide zip-line inspections."

10 So where it says "not offering
11 services of a vendor" that precludes there, and that
12 would disqualify the manufacturer.

13 (Whereupon, Mr. Willis
14 left the room.)

15 Yes. Dave Ebner pointed out this
16 section, "inspection by a third-party inspector
17 shall be conducted annually," and then he asked
18 exactly what they would be inspecting. I think he
19 did ask -- it's actually later, Angelo, where if he
20 asked -- later in the minutes where he asked if the
21 vendor could be the third-party inspector, but I
22 would have to read through it again to find it
23 exactly. I think that's a side track.

24 Did that answer your question?

1 MR. URBİK: Yes.

2 MR. CULTON: So, just to be clear though, I
3 haven't rewritten anything since the public hearing
4 until now, because the way the Procedures Act reads,
5 we are actually suppose to take the public comments
6 to the board and consider them without knowing what
7 action should be taken and we didn't want to have
8 any wasted effort, so it's actually more of a
9 discretionary item than action taken.

10 (Whereupon, Mr. Willis
11 returned.)

12 So if you want to consider those, I
13 can go back.

14 CHAIRMAN KIRSCHNER: My suggestion is perhaps a
15 motion for Ryan to take the public comments into
16 consideration and in your best judgment either
17 modify or not modify the existing proposal.

18 MR. CULTON: Is it the Board's consent that there
19 actually are differences between mobile and fixed
20 zip-lines? That would be the first question I
21 think.

22 MR. URBİK: Well, are fixed locations required to
23 replace cable annually?

24 MR. CULTON: It depends. It depends on who the

1 manufacturer was and how big a diameter of zip-line
2 rope that they use in their design. Some I think
3 it's so many zips, so many actual zips. Some of
4 them are years. Some of them are running together.

5 I know the one in Grafton to replace them
6 is a minimum of every three years, I believe it is
7 so many thousands, whichever comes first, and it's
8 different from site to site, because some use a
9 heavier gauge cable, like a half-inch diameter, some
10 use smaller, and some of them are bigger, and that
11 would have an affect on the service life of the
12 zip --

13 MR. URBIAK: Sure.

14 MR. CULTON: -- whether it has something to do
15 with that kind of thing, so it's different from site
16 to site.

17 MR. URBIAK: I think by its very essence there's a
18 difference between fixed sites and mobile sites.
19 Just on the face of it, there is.

20 So we probably should define each
21 individually and see if everyone is in agreement
22 that perhaps we should take out the third-party
23 inspection annually, because every year they're
24 going to have to get inspected by a third party,

1 because modifying the cable, they might have some
2 new modifications every single year, and I think
3 that is a pretty pricey thing to impose on someone.

4 MR. CULTON: You think that a third-party
5 inspection just for fixed --

6 MR. URBIK: Just for fixed.

7 MR. CULTON: -- is okay and not for mobile? I
8 just want --

9 MR. URBIK: Sure.

10 MR. CULTON: -- to make sure.

11 CHAIRMAN KIRSCHNER: And your reason for that is
12 under the current proposal every time you take it
13 down and set it back up requires another --

14 MR. URBIK: Another inspection. Because how it
15 currently reads is that an engineering evaluation,
16 not just an inspection, but an engineering
17 evaluation be conducted each time a major component
18 is modified. That means annually.

19 MR. MAZZENGA: Excuse me. But changing of a
20 cable is not a modification. It's just a component
21 replacement.

22 MR. URBIK: That's a good point. What would an
23 engineer charge for an inspection such as this?

24 MR. MAZZENGA: ACCT gave us an idea of the rates

1 and it was all time-based I thought for a fixed
2 zip-line. It could run into the --

3 MR. URBIK: It would be expensive?

4 MR. MAZZENGA: -- 1000, 2000 range based on the
5 amount of time required, but a mobile zip-line it
6 may be much less, simply the inspection would take
7 much less time.

8 MR. CULTON: Yes. You know, as far as the
9 mobile units go and the manuals that I have seen,
10 the changing of the cables is something that can be
11 done actually pretty readily. It's kind of a fast
12 thing for them to do.

13 I would agree that it's probably not a
14 modification at all, because it specifically
15 outlines in most of their manuals that's what they
16 have to do every year.

17 MR. URBIK: Do we prohibit them from modifying
18 devices from OEM specs?

19 MR. CULTON: The way the rest of the regulations
20 read any time you do a modification to a ride it has
21 to go through a reinspection by the department.

22 MR. URBIK: Could we prohibit them modifying the
23 ride beyond OEM specifications on both fixed and
24 mobile?

1 So if we're relying on the
2 specifications as set up by the manufacturer and
3 they modify it from those manufacturer's specs, thus
4 invalidating what those specs were written for, at
5 least to some extent, can we prohibit them from
6 doing that or should we?

7 MR. MAZZENGA: If we ask for a new design report,
8 they need to modify the design report if they don't
9 do that.

10 MR. URBIK: Do we define modification?

11 MR. CULTON: We do not define modification.

12 MR. URBIK: We do not?

13 MR. CULTON: The question is who reviews the
14 modification? Is that what you are asking to submit
15 it to us?

16 MR. URBIK: What I'm trying to understand, if I
17 modify it -- from an insurance standpoint, if you
18 build a product, okay, and I buy it and I modify it,
19 okay, I am now the manufacturer and have all the
20 liability as a result of my modification.

21 So if we are relying on the
22 manufacturer's spec, because they spec'd out the
23 stuff, they have engineered it, and now an operator
24 modifies it, okay, can we prohibit them from

1 modifying those unless there's an engineering report
2 saying that this, in fact, is --

3 MR. CULTON: Okay. We do address that, but it's
4 the original manufacturer that has -- well, they
5 have to produce a report from a manufacturer or
6 engineer that says this has been redesigned and it's
7 in compliance or there would be an engineering
8 signoff saying we have conducted a report. We have
9 looked at it. We have found that it meets standard
10 engineering practices, and that's something the
11 department would make sure that they have done if
12 they modified their course, but we would not review
13 it. Whoever they had redesign it, that's who should
14 signoff on it. We wouldn't do it, but we would
15 review it to make sure that they did it.

16 MR. URBIK: Perhaps we should define
17 modification.

18 CHAIRMAN KIRSCHNER: The most perceivable
19 modification I thought is a change in the
20 gauge of the wire.

21 MR. MAZZENGA: Exactly.

22 MR. URBIK: Change in the gauge of the wire,
23 change in the tower that's used as a primary
24 anchoring point, changing bolts out that are

1 case-hardened now and replaced by other bolts that
2 are not case-hardened, that kind of stuff. Is
3 changing a bolt a modification?

4 MR. CULTON: It may depend upon their manual
5 that they have supplied the owner. It may give
6 them -- again, this is a hypothetical, but it may
7 give them a range of different things that they
8 could do and still fall within the original design
9 specifications for that course.

10 MR. URBIK: I've never seen a manual on this kind
11 of stuff, so I'm totally unfamiliar with what
12 perhaps might be in there that would address my
13 concern, but I can see where the manufacturer spec'd
14 out a bolt to go into an anchoring point on a tower
15 and that bolt broke, and I'm at a show, I go to the
16 Ace Hardware and I buy a bolt the same size and
17 replace it, but it's not case-hardened. I don't
18 think the manual would spec out every single
19 solitary bolt, and washer, and lock nut in the
20 entire device.

21 CHAIRMAN KIRSCHNER: Well, Angelo, from an
22 engineering standpoint, we are talking about
23 significant forces from the tension in the wire.

24 Is there a lot of concern about metal

1 fatigue and stressors if you change out, you know,
2 one cable with a slightly different gauge and
3 additional force required to make that cable fail
4 because of stress fractures?

5 MR. MAZZENGA: I would consider changing the
6 gauge of a cable or a design modification.

7 CHAIRMAN KIRSCHNER: Based on that, then that
8 requires an engineering study of the entire support.

9 MR. MAZZENGA: I really don't understand why
10 anyone would do that, because it wouldn't be a real
11 economical thing to do.

12 What we are understanding is they're
13 replacing the cable within a year due to its
14 exceeded number of cycles or something, and so it's
15 a routine change-out.

16 so I don't understand why anyone would
17 want to change the gauge on a cable to go to a
18 thinner cable to save money or anything like that.

19 CHAIRMAN KIRSCHNER: Do any manufacturers give a
20 range within the gauge that's permissible?

21 MR. MAZZENGA: That should be in the design
22 report, and ACCT reported that there are very
23 specific sizes and styles of cable, like a level of
24 flexibility in a cable is pretty much designated.

1 We had a meeting in Springfield with
2 ACCT and an expert and we brought down -- I brought
3 down Bethlehem Steel Guide to Steel Cable for Wire
4 Rope, a 40-some-odd page catalog, and what would you
5 pick, and ACCT and the forthcoming ANSI spec,
6 they're pretty specific with respect to what cables
7 can be used and the fittings needed to be forged.
8 Carbonaires have standard requirements.

9 There's kind of a formula for these
10 courses. There's kind of a set of standard
11 components that seem to comprise the designs, but
12 why anyone would go in there and use a substandard
13 cable on a mobile zip-line, you know, like rig a
14 cable up rather than buying the manufacturer's
15 replacement cable, would be beyond me, but it could
16 conceivably happen. They could go to Ace Hardware
17 and get a cable that's not the right strength.

18 CHAIRMAN KIRSCHNER: That's one of the concerns
19 if you have an operator who doesn't appreciate the
20 differences, in essence a cable is a cable.

21 MR. MAZZENGA: Or a bolt that is a bolt.

22 Back to Tony questions, for instance,
23 maybe the manufacturer's operating instructions and
24 maintenance manual clearly identify a bolt as being

1 a critical bolt and they may identify it by
2 strength, or marks on a head, or class, class of
3 bolt, and it's possible the operator could replace
4 that bolt with something that doesn't meet strength
5 requirements, and that would not be a design
6 modification, so it wouldn't have to be reported.

7 CHAIRMAN KIRSCHNER: In terms of the ability of
8 the operator to go back to the manufacturer, how
9 many times do you come across that a manufacturer's
10 not available or out of business?

11 MR. SPARKS: Out of business.

12 CHAIRMAN KIRSCHNER: It's probably most likely
13 that scenario. What do you do in those situations?
14 Who do you turn to?

15 MR. SPARKS: If you can identify the part like
16 you were talking about, the bolt, you can identify
17 if it broke or wore out by the symbols on it,
18 whether it's Grade 5, Grade 8, or whatever, you go
19 that route. That's about the only thing you can go
20 by is to try to get an exact replacement for what it
21 was, identify it and --

22 CHAIRMAN KIRSCHNER: Hopefully the goal here is
23 to minimize the guesswork.

24 MR. SPARKS: If the manufacturer's in business,

1 most of the manuals, if it's a critical part, they
2 will identify what that part is and whether it's a
3 Grade 8 bolt, whether it's a Grade 5 bolt, or if
4 it's a cable that a certain diameter of wire rope
5 needs to be utilized, so that's covering that, but
6 if the manufacturer's out of business, it identifies
7 the old part.

8 MR. URBIK: I'm thinking 10 o'clock at night on a
9 Sunday or a Saturday over a holiday weekend, where
10 would you get that information from? You can't
11 possibly carry all your manuals for all your
12 different --

13 MR. SPARKS: You are suppose to.

14 MR. CULTON: You are suppose to.

15 MR. SPARKS: They're suppose to be readily
16 available.

17 MR. MAZZENGA: I don't see where zip-lines are
18 any different than any other ride.

19 MR. URBIK: I agree. That's why I'm wondering if
20 we shouldn't --

21 MR. SPARKS: I would think that the zip-line
22 manufacturer would state in there if it's a crucial
23 part what it was and identify it as long as you said
24 that any replacement parts shall be no less than

1 manufacturer's specifications.

2 MR. URBIK: Without an engineering report?

3 MR. SPARKS: Yes, if you are not modifying it, if
4 you are just repairing it. If you're meeting
5 manufacturer's specifications and they specified
6 what it is, that's how the portable hard drives
7 operate.

8 MR. CULTON: And that might be where the
9 third-party inspector comes into play for the fixed
10 courses, because they would be an independent
11 auditor basically and say, well, I have got these
12 specifications, I've got this course, and I'm going
13 to try to match the two together and look at it, you
14 know, with a clean set of eyes and to look for, you
15 know, if they're using the right size gauge wire,
16 they have the right Grade 8 bolts where they're
17 suppose to, and that kind of stuff, and maybe even
18 with the harnesses and stuff like that.

19 MR. MAZZENGA: We did include -- we did include a
20 section in the rule that speaks to differences
21 between the design and the implemented installation
22 by a qualified installer shall be reconciled.

23 So if the designer said you needed to
24 use a Grade 8 bolt or a certain harden pin in a

1 location and an installer chose a lower quality
2 substitute, we ask that that all be reconciled.

3 Now how do you determine that they
4 used a low quality substitute or the wrong part? I
5 think that needs to be addressed perhaps before it's
6 introduced into service, and that was also added.

7 MR. CULTON: Pages 11 and 12, I think what
8 Angelo's referring to, C and D.

9 CHAIRMAN KIRSCHNER: That's only going to be part
10 of the maintenance records for these conveyances is
11 when something is replaced, whether it is a critical
12 part or an uncritical part in the record, that this
13 bolt was replaced or that bolt was replaced, that
14 when this record comes on, they can look at that and
15 see what bolt it was.

16 MR. SPARKS: Some ride manufacturers even do
17 state in their manual that certain critical bolts
18 must be replaced, not annually, but like -- I can't
19 remember -- seven years, 10 years, whatever, and
20 they have to be replaced, and some of them state
21 they must be replaced by the factory's parts. You
22 are not allowed to go out and buy from any other
23 vendors.

24 MR. MAZZENGA: I think I have seen that in the

1 safety bulletins and service bulletins that are on
2 the website.

3 MR. SPARKS: Patty's one of the manufacturers
4 that does that.

5 MR. CULTON: Ely Chance is like that.

6 MR. MAZZENGA: And they provide a specific part
7 number, identify the bolt location, provide the part
8 number, contact information.

9 CHAIRMAN KIRSCHNER: So what's your comfort
10 level, Ryan, in terms of what to do at this point?

11 MR. CULTON: I think, you know, the subcommittee
12 can go back and do our best to revise these based
13 off the assumption that there are differences
14 between mobile units and fixed courses, and I can
15 work with Patty and Angelo to add definitions of
16 what a fixed and mobile course are.

17 MR. URBIK: I think that makes sense and it also
18 makes sense to modify inspection by a third-party
19 inspector shall be conducted annually. Engineering
20 evaluations should be conducted each time a major
21 component is modified. I would delete major and put
22 critical --

23 MR. CULTON: And define modify.

24 MR. URBIK: -- and define modify. You have to

1 then define critical, too.

2 MR. CULTON: Critical components.

3 MR. URBIK: Do you have thoughts about that? Am
4 I just being too analytical about this particular
5 thing?

6 MR. MAZZENGA: Major component is kind of
7 engineering boiler plate.

8 MR. URBIK: It is?

9 MR. MAZZENGA: It is.

10 MR. URBIK: Major or critical?

11 MR. MAZZENGA: Well, critical -- how do you
12 define critical?

13 MR. CULTON: Since everything is critical, it
14 won't be on there.

15 MR. WILLIS: Critical is more subjective.

16 MR. CULTON: If you look on Page 7 in the
17 definitions, we have a definition -- what's your
18 definition of definition? Major alteration? That
19 is a definition that's already in the rules. I
20 don't know -- quite comfortable with that, but I'm
21 just pointing it out.

22 MR. URBIK: Then do we add a major alteration of
23 a component as modified?

24 CHAIRMAN KIRSCHNER: It seems a little broader

1 than function and operation, it seems durability as
2 well, if things like gauges of cables or if we are
3 talking about compositions of the bolts.

4 MR. CULTON: That's almost like modifying the
5 materials specified, you know, for either the course
6 or the ride. Well, it's something we can
7 investigate in our subcommittee.

8 MR. MAZZENGA: Maybe there's an ASTM
9 specification that will address that or a section.

10 MR. CULTON: For critical components or major
11 component alterations?

12 MR. MAZZENGA: Yes, maintenance.

13 MR. CULTON: Okay. You are talking about
14 maintenance specifically?

15 MR. MAZZENGA: Yes, maintenance specifically,
16 like changing out like components with like
17 components.

18 CHAIRMAN KIRSCHNER: Ron, can I ask you a
19 question in terms of the subcommittee? We are a
20 board of eight voting members. Can we have a
21 subcommittee of eight? It wouldn't be -- nothing
22 would be put to a vote. We wouldn't need a quorum
23 of five. We would only need, in terms of the Open
24 Meetings Act, three present.

1 MR. WILLIS: Right. You are talking about
2 together?

3 CHAIRMAN KIRSCHNER: Yes. I'm talking about in
4 terms of, for example, if other members wanted to --
5 we are a subcommittee with Ryan, Patty, and Angelo.
6 If other members want to be part of the conversation
7 on the subcommittee, can we allow as many members as
8 we have on the board to be on that subcommittee or
9 does that constitute --

10 MR. WILLIS: Violation of the Open Meetings Act?

11 CHAIRMAN KIRSCHNER: Well, no. We would publish
12 it, so three or more people talking. We'd publish
13 the location and you have to have three members
14 present at least.

15 MR. WILLIS: Right.

16 CHAIRMAN KIRSCHNER: And we would give 48-hours
17 notice. There's no reason we can't have --

18 MR. WILLIS: Everybody could be on the
19 subcommittee, yes.

20 MR. CULTON: And those people are board members?

21 CHAIRMAN KIRSCHNER: Correct.

22 MR. CULTON: Okay. Does that violate any of the
23 Robert's Rules of Order talking about --

24 MR. WILLIS: There's nothing that binds us by

1 Robert's Rules of Order.

2 CHAIRMAN KIRSCHNER: As long as we're not a
3 voting meeting, we don't need five present. We only
4 need three.

5 MR. WILLIS: Theoretically, it's not a -- the act
6 only says to have a quorum as a subcommittee.

7 CHAIRMAN KIRSCHNER: Yes.

8 MR. WILLIS: You don't need a quorum with a
9 subcommittee.

10 CHAIRMAN KIRSCHNER: No, but I'm thinking in
11 terms of the Open Meetings Act, you need at least
12 three people present. You need a majority.

13 MR. WILLIS: Physically present?

14 CHAIRMAN KIRSCHNER: Physically present.

15 MR. WILLIS: Right.

16 (Whereupon, Mr. Sparks
17 left the room.)

18 MR. CULTON: A majority of the members must be
19 physically present at the location of the opening
20 meeting.

21 CHAIRMAN KIRSCHNER: The reason I bring that up
22 is this. On a topic like this if other members want
23 to be part of the subcommittee discussion, to add a
24 third then requires all three to be present

1 together. If we add the entire board to every
2 subcommittee, then we only need three people --
3 assuming JCAR approves the telephonic meetings,
4 three people present who maybe communicate to one
5 another, and then everyone else can communicate with
6 respect to their respective offices in terms of
7 bringing more people into the fold in the discussion
8 and to be more efficient in carrying out the
9 business.

10 MR. URBIK: Subcommittee meetings are subject to
11 the Open Meetings Act?

12 CHAIRMAN KIRSCHNER: Three or more.

13 MR. URBIK: Three or more. Even though they're
14 just advisory?

15 MR. WILLIS: They're discussing.

16 MR. URBIK: They're discussing, but not voting.

17 MR. CULTON: Ron, that brings up a question about
18 the By-Laws. If being able to communicate via
19 teleconference as part of the Open Meetings Act, and
20 we are just acknowledging that we are going to
21 follow the Open Meetings Act rules, does it
22 technically have to go through and be approved by
23 the legislature?

24 MR. WILLIS: I think our physical presence is a

1 part of our regs. So if it's part of the regs, it's
2 got to go through JCAR. It's got to be published.
3 The reg is no different than what we're doing for
4 zip-lines. You have to have public comments. It's
5 the whole procedure. That's the point of it.

6 Whatever the provision of the act, you
7 look at the type of thing that you want to do once
8 and give broader discretion so you don't constantly
9 have to have a meeting held telephonically. You
10 have got it set by regs.

11 CHAIRMAN KIRSCHNER: My concern about my idea,
12 and I'm arguing with myself here, is I don't want to
13 appear --

14 MR. WILLIS: Violating --

15 CHAIRMAN KIRSCHNER: -- we are violating by
16 calling it a subcommittee rather than a board
17 meeting, but it would help a lot if there are people
18 that want to be on these discussions on the
19 subcommittee.

20 If, for example, we put the whole
21 board on the subcommittee and then Joe and I were
22 close to each other and Angelo wants to come down or
23 Tony, the three of us can sit here in a conference
24 room and everyone else can communicate around the

1 state. That might make it easier for more board
2 members to participate on the committee.

3 MR. WILLIS: Right, because --

4 MR. COSTIGAN: Right.

5 CHAIRMAN KIRSCHNER: I don't want anyone to say,
6 hey, that's really a board meeting.

7 MR. CULTON: Because if we re-write the rules,
8 technically we have to go back and get consent
9 before it gets to JCAR.

10 CHAIRMAN KIRSCHNER: Well, for a board meeting,
11 we only need a quorum to vote.

12 MR. WILLIS: Correct.

13 CHAIRMAN KIRSCHNER: So it doesn't actually
14 matter. As long as we have three people, it doesn't
15 matter what we call it.

16 MR. WILLIS: For a meeting, you need a quorum of
17 members. A majority of the quorum --

18 CHAIRMAN KIRSCHNER: Yes.

19 MR. WILLIS: -- is a meeting to discuss --

20 CHAIRMAN KIRSCHNER: Three.

21 MR. WILLIS: How about business -- or five
22 members to discuss public business? That's a
23 meeting?

24 MR. CULTON: Well, there's nine. Actually we are

1 going to have nine soon.

2 MR. WILLIS: But then you're still -- it's a
3 majority of the quorum, so five is still a quorum,
4 so a majority of the quorum is still three.

5 MR. CULTON: That doesn't change.

6 CHAIRMAN KIRSCHNER: Right.

7 MR. WILLIS: So anything more than three members
8 or more present, you have a meeting.

9 CHAIRMAN KIRSCHNER: I brought your name up.

10 MR. URBIK: What did I do?

11 MR. WILLIS: But that doesn't stop. You have
12 three members present. It wouldn't stop someone
13 from participating telephonically.

14 CHAIRMAN KIRSCHNER: So that's one issue if you
15 want to vote. We can do it telephonically now with
16 three more people as long as they're not voting.

17 MR. WILLIS: I'm just looking at that. Let me
18 look back at the regs.

19 CHAIRMAN KIRSCHNER: What I'm saying is board
20 participation of subcommittees when you get to
21 three, the Open Meetings Act requires those three to
22 be in person --

23 MR. URBIK: Right.

24 CHAIRMAN KIRSCHNER: -- which stifles regular

1 meetings where you are spread around the state.

2 MR. URBIK: Right.

3 CHAIRMAN KIRSCHNER: If you put the entire board
4 on the subcommittee, then three who are close to
5 each other, like you, me, and Joe, can sit down in a
6 conference room and anyone else from around the
7 state on the board wants to call in can call in and
8 it would be much easier to get subcommittee meetings
9 scheduled and also board participation on a
10 subcommittee. That's where your name came up.

11 MR. CULTON: You just wouldn't be able to vote.

12 CHAIRMAN KIRSCHNER: We only vote anyway in
13 subcommittee. I mean, really things aren't
14 approved. They're forwarded to the board as a
15 whole.

16 MR. URBIK: Subcommittee is just an advisory to
17 the board as a whole.

18 MR. MAZZENGA: Can I make a comment related to a
19 few suggestions that were made regarding our
20 revising the current rule?

21 And my comment is that when Mr. Ray
22 and Mr. Ebner asked that the rule be modified to
23 address mobile and fixed site operations, they were
24 referring to the emergency rule and not the current

1 draft, and in the current draft we do address
2 distinction between mobile and fixed, and I think we
3 read that a few minutes ago. We read off where we
4 cited some specific requirements for the mobile.

5 A second thing is during our meeting
6 with Mr. Ebner and Mr. Ray, the question of whether
7 the state inspectors would be able to inspect the
8 mobile zip-line and would they have adequate
9 knowledge came up.

10 So if you remove the third-party
11 requirement, will the state inspector be able to get
12 the job done? That was the question, and then based
13 on really not having a definite answer there, the
14 third-party inspection requirement stands in the
15 current version of the rule.

16 So I think that it will take some time
17 to get a state inspector familiar with how to
18 inspect a particular -- so, you know, if you are
19 asking us to describe -- you know, to rewrite --
20 asking that the rule be rewritten to make further
21 distinction between mobile and fixed, I'm sure that
22 can happen, but when people present at public
23 hearing made their comments, they were looking at
24 the emergency rules only. So just as a point of

1 reference, I just want to bring that up.

2 MR. CULTON: Angelo, you think that there's
3 enough distinction in the current rules between
4 modified and fixed?

5 MR. MAZZENGA: There is a call out for a mobile
6 zip-line. There are some specific requirements for
7 mobile zip-lines in the current rule.

8 MR. CULTON: I agree. I think the only thing we
9 don't do up front like we did with a lot of others
10 in terms of definitions, we never defined in the
11 definitions what a mobile and fixed course was.

12 MR. MAZZENGA: I can understand that.

13 MR. CULTON: I just didn't want to
14 interpret their independent thoughts on how it
15 should be. I mean, I agree with you, but I also
16 agree that probably should be defined just as a
17 clear point of reference.

18 CHAIRMAN KIRSCHNER: When does the season end for
19 the outdoor zip-lines?

20 MR. CULTON: I don't really know. I would wager
21 a guess that as fast you are going that you would
22 want to do it when the temperature's below 50
23 degrees.

24 CHAIRMAN KIRSCHNER: My question I guess we're

1 mostly through the season at this point. So in
2 terms of finalizing this, is that something that you
3 can wait for the January meeting or is that
4 something we need to do before then?

5 MR. CULTON: Well, I think, Ron, we've talked
6 about this before, the emergency zip-line rules --

7 MR. WILLIS: Right.

8 MR. CULTON: -- run out October 28th.

9 MR. WILLIS: At that point in time we have to
10 just sit there and do things by our current rule. I
11 don't know what fixed ones would probably be doing.
12 I don't know what mobile would be operating in
13 October or November.

14 MR. CULTON: But we have also established that
15 nobody gets grandfathered in if that's the right
16 clause. So even if they run out and then three
17 months later we were able to enact new rules and
18 regulations, it's not like anybody hurried up and
19 built something that was exempt from everything that
20 we've just done, so it behooves them to keep
21 following the emergency rules and the regs that we
22 have out there.

23 CHAIRMAN KIRSCHNER: Can we go to extend the
24 emergency rule?

1 MR. CULTON: No. No. But, yes, we are in
2 jeopardy of the emergency rule running out.

3 CHAIRMAN KIRSCHNER: Got you.

4 MR. CULTON: But it would still fall under -- a
5 zip-line mobile or fixed would still fall under the
6 definition of an amusement attraction under the act
7 as it currently is. As Ron stated, we would only
8 have our current regulations and rules to follow to
9 inspect them.

10 CHAIRMAN KIRSCHNER: So you want to take it back
11 to the committee at this point and report back to us
12 before the emergency runs out?

13 MR. CULTON: Is that doable, Angelo?

14 MR. MAZZENGA: I'm fine with that.

15 CHAIRMAN KIRSCHNER: October -- when does the
16 emergency run out?

17 MR. CULTON: October 28th. And Patty's not here
18 today also on the subcommittee, but we could try to
19 commit her to that date, too. When would be a good
20 time to report back?

21 CHAIRMAN KIRSCHNER: When you guys are ready.

22 MR. CULTON: Well, just so we have some clear
23 direction here, we agree that there's a difference
24 between mobile and fixed, and we feel that we have

1 addressed it in the rules as they're written, but we
2 will make another review of these rules and make
3 sure that we have distinguished it in full and add
4 definitions, and then what was consistent on the
5 third-party inspections that they're okay for a
6 fixed site but that we would not require for mobile
7 units; is that correct?

8 CHAIRMAN KIRSCHNER: We require annual for
9 mobile?

10 MR. URBIK: Annual inspection. I was under the
11 impression that the engineering report being done on
12 an annual basis could be too costly and an excessive
13 burden on the operator. That's where I was going
14 with that, and Angelo was saying that might be a
15 couple hundred bucks. You know, maybe it's a good
16 backup, a safety consideration.

17 MR. CULTON: Even for mobile -- the mobile?

18 MR. URBIK: Yes. I was under the impression it
19 would be a couple of thousand dollars to inspect
20 these things. That was my preconceived notion, so
21 that not being an excessive financial burden, maybe
22 the third-party engineering inspection -- certainly
23 when they're modified, mobile or fixed, but right
24 now it reads --

1 CHAIRMAN KIRSCHNER: Inspection and cost?

2 MR. SPARKS: Yes.

3 CHAIRMAN KIRSCHNER: What does it generally run?

4 MR. SPARKS: About a couple hundred dollars.

5 CHAIRMAN KIRSCHNER: An hour or per ride?

6 MR. SPARKS: Per piece of equipment.

7 MR. URBIK: You are doing nondestructive testing
8 and that kind of thing --

9 MR. SPARKS: Right.

10 MR. URBIK: -- which is not going to be required
11 here.

12 MR. SPARKS: No. Apparently they don't have any
13 equipment for national destructive testing required.

14 MR. CULTON: As far as nondestructive testing, is
15 it like a magnetic particle or UT test? We haven't
16 seen any manufacturers that require that, but they
17 do call for some nondestructive testing that is
18 visual, not necessarily by an ACCT (sic) technician
19 but a visual nondescriptive test.

20 CHAIRMAN KIRSCHNER: Do we require any
21 third-party inspections for any other types of
22 rides?

23 MR. CULTON: We do. We require that if a
24 manufacturer or if there's a published safety

1 bulletin requires a nondestructive test, we require
2 they furnish us that information that that testing
3 has been done on like a traveling ride. We do
4 require third-party testing on ski lifts, too.

5 CHAIRMAN KIRSCHNER: So we are not singling out
6 one type?

7 MR. CULTON: No.

8 CHAIRMAN KIRSCHNER: Okay.

9 MR. SPARKS: We do have our insurance companies
10 perform their independent inspections annually, too.

11 MR. URBIK: But they don't provide you
12 necessarily with a written report that says this
13 meets specification. This is safe. They may give
14 you a list of things that you must do.

15 MR. SPARKS: And that you must correct.

16 MR. URBIK: That you must correct and maybe
17 totally silent on your zip-line, so you had a
18 third-party inspection but no physical people to
19 backup.

20 Would an insurance inspection qualify
21 as a third-party inspection if it's absolutely
22 silent on the zip-line, good or bad? What's the
23 department's inspector going to do?

24 MR. CULTON: If the insurance inspector didn't

1 approve it?

2 MR. URBIK: No. All that happens is the
3 insurance inspector goes out there and gives Bill a
4 line of things he must do as recommendations. If he
5 doesn't do them, he gets cancelled. So if it's
6 totally silent on the zip-line, there's no
7 recommendation one way or another on the zip-line,
8 it pass effectively, but there's no documentation
9 that says it passed.

10 CHAIRMAN KIRSCHNER: You are only told what's
11 wrong?

12 MR. URBIK: You are only told what's wrong. Is
13 that a third-party inspection?

14 MR. CULTON: From a third-party inspection --
15 well, the third-party inspector, you know, by --
16 just by their very nature, they are providing an
17 inspection of what's wrong or right.

18 If they say they don't have any
19 recommendations of changes, they can only assume
20 that the ride is acceptable. If they recommend
21 changes, then we would follow up to make sure that
22 they make those changes. If they were silent, to
23 answer your question, it would be assumed that the
24 ride was acceptable.

1 CHAIRMAN KIRSCHNER: The only thing different I
2 see is the insurance inspector's obligation is to
3 protect the insurer; whereas, the third-party's
4 obligation is to protect the insured. I think that
5 may make a difference at the end.

6 MR. MAZZENGA: I think we disqualify insurance
7 inspectors when we define third-party inspectors,
8 because we state that --

9 MR. CULTON: Provided service.

10 MR. MAZZENGA: -- it's a qualified person not
11 directly employed by the organization OEM and not
12 offering other services to the organization. So an
13 insurance inspector would be providing insurance
14 inspection services which may fall under the
15 category of other services and so, therefore,
16 probably can't be third-party I'm thinking.

17 MR. URBIK: If I'm not hiring an engineer to do
18 third-party inspections, whom am I hiring?

19 MR. MAZZENGA: You are hiring an inspector, so
20 you would only hire an engineer to do design
21 modification.

22 MR. URBIK: I do understand, but who would do
23 that work from a practical standpoint? My local
24 Shell station guy?

1 MR. MAZZENGA: There are directories of
2 inspection services. I think the Yellow Pages have
3 got inspectors available, and there are inspector
4 qualifications of visual eye exams. I take a visual
5 eye exam every year. I'm not an inspector, but I do
6 just so if I do inspect, you know --

7 MR. URBIK: You are signed off.

8 MR. MAZZENGA: Yes, I'm signed off to do it, so
9 there are people qualified as inspectors.

10 MR. URBIK: But are not engineers?

11 MR. MAZZENGA: Correct.

12 MR. CULTON: We do talk about on Page 8, Tony,
13 just -- on Page 10 we talk about "third-party
14 inspector means a qualified person not to" then we
15 go on Page 8 "A qualified person means an individual
16 by possession of a recognized degree, certificate,
17 or a professional standing or even by possession of
18 extensive knowledge, training, and expertise in the
19 subject field," and you can read that for yourself.

20 Basically, what we are saying is that,
21 you know, a qualified person doesn't necessarily
22 have to be an engineer. You could be an engineer
23 and a qualified person, but they're not mutually
24 exclusive, because there are --

1 MR. URBIK: Sure.

2 MR. CULTON: -- individuals and agencies out
3 there who have been in the business of the zip-line
4 or rope (phonetic) course for years and they would
5 definitely be a qualified person who installs them,
6 builds them, so that's why we made the distinction.

7 Now it may need an engineer to do a
8 modification, because they would only have the
9 extensive knowledge of like dynamic forces, but a
10 qualified person could probably could inspect a
11 course with their background and expertise to make
12 sure that it is, you know, in the same requirement
13 that it was designed in. They don't have to be the
14 designer to inspect it.

15 That is right?

16 MR. MAZZENGA: I agree. I think as a result
17 engineers are not inspectors, and I think
18 many engineers have been sued and engineering firms
19 have been sued because an engineer in a report said
20 that he inspected something, you know, before it
21 failed when he wasn't qualified or because he didn't
22 have specific knowledge about the equipment, about
23 the inspection techniques.

24 MR. SPARKS: The State of Missouri they don't

1 I just lost it here. The State
2 Advisory Boards are bodies that do not have
3 authority to make binding recommendations, or
4 determinations, or to take any other substantive
5 action.

6 So, therefore, if you were to announce
7 there were to be an open meeting and that group was
8 not taking any substantive action or binding
9 authority, you would not have to -- you could do it
10 by telephone --

11 CHAIRMAN KIRSCHNER: For a subcommittee?

12 MR. WILLIS: -- because they wouldn't be taking
13 any substantive action. They would just be
14 discussing it. They wouldn't be making binding
15 recommendations. They would not have authority to
16 make determinations, so, therefore, a subcommittee
17 could meet.

18 CHAIRMAN KIRSCHNER: Because no matter what we
19 say, Joe can just disregard it.

20 MR. WILLIS: Right.

21 CHAIRMAN KIRSCHNER: Not that he would.

22 MR. WILLIS: No, but what I'm saying he wouldn't
23 necessarily -- he would be on the subcommittee
24 theoretically at three and they met. While it would

1 be an open meeting, they could do it by telephone --

2 CHAIRMAN KIRSCHNER: Well, that's good to know.

3 MR. WILLIS: -- as long as there's an office
4 somewhere the public can go to.

5 CHAIRMAN KIRSCHNER: So, in other words, we could
6 just have an empty office, a conference room with a
7 phone going and everyone sits here and listens to
8 the conversation?

9 MR. WILLIS: Right. You could do it, you know,
10 and the fact that you are -- absolutely.

11 The last question I had or just as a
12 clarification -- I never saw these before and I
13 apologize not looking at them -- what do the
14 articles say in the By-Laws?

15 MR. CULTON: That's what we voted on earlier.

16 MR. WILLIS: By what provision do you have
17 By-Laws?

18 MR. CULTON: That was my question before. You
19 know, Valerie she helped us adopt those By-Laws.

20 MR. WILLIS: When did we adopt them?

21 MR. CULTON: Earlier in the meeting.

22 MR. WILLIS: They aren't provided by the rule.
23 They aren't provided by -- I just apologize. First
24 is Article 1 is what the act requires. I apologize.

1 I got called out on the phone.

2 Article 2, Advisory Board duties, I
3 don't know whether there's substance there.

4 Article 3 is advisory board meeting. I
5 mean, if we are just saying -- again, it's not by
6 regulation. We don't have a reg that says everybody
7 has to be in attendance. I just gave you that.

8 If we are copied -- adopting a policy
9 that allows people so long as we have a quorum in an
10 open meeting, I don't know why it would take JCAR to
11 approve it.

12 MR. CULTON: That was my question earlier.

13 MR. WILLIS: It's just a policy. That's why I
14 would just sort of amend our first vote and not have
15 By-Laws adopted.

16 MR. CULTON: Well, it's not. You can call it --

17 MR. WILLIS: I mean, if these weren't already in
18 existence, that's my question. I'm just not
19 familiar with it.

20 CHAIRMAN KIRSCHNER: We have a motion by
21 non-voting members. Based upon advice of counsel,
22 the new business vote is voided. There's no
23 objection.

24 MR. WILLIS: And would this be a policy that is

1 allowed?

2 CHAIRMAN KIRSCHNER: Counsel's advised, so we can
3 make a policy decision today, that in all future
4 meetings, so long as we have a quorum present by the
5 board, anyone can attend by phone.

6 MR. WILLIS: Subject to these restrictions that
7 are set forth.

8 CHAIRMAN KIRSCHNER: On advice of counsel, I
9 would forward that to the board and ask for a motion
10 to adopt that policy.

11 MR. URBK: I'll make a motion.

12 CHAIRMAN KIRSCHNER: Second.

13 MR. SPARKS: Second.

14 CHAIRMAN KIRSCHNER: All in favor.

15 (Chorus of ayes.)

16 MR. URBK: We still have three people physically
17 present.

18 MR. WILLIS: Physically present, you have to have
19 a quorum of the board physically five. The other
20 people then were allowed -- pursuant to the Open
21 Meetings Act, allowed to participate, and we are
22 just adopting a policy that's pursuant to the Open
23 Meetings Act.

24 CHAIRMAN KIRSCHNER: Something got done today.

1 MR. URBIAK: And if I'm not part of that
2 subcommittee --

3 MR. WILLIS: We are talking about just a general
4 meeting. This applies to anything that would fall
5 under the Open Meetings Act. It could, like an
6 advisory committee if they get together, depends
7 upon their authority whether or not it's an open
8 meeting.

9 CHAIRMAN KIRSCHNER: But given our strictly
10 advisory nature, let's do this. With respect to the
11 subcommittee on zip-lines, if there's no requirement
12 to meet in person under the Open Meetings Act, is
13 there anyone else like to participate on the
14 subcommittee with Patty and Angelo?

15 (No response.)

16 Hearing none, it remains a
17 subcommittee of two.

18 MR. URBIAK: Anyone had a question about an
19 insurance issue that came up in the discussion, they
20 could call me and we are not violating anything,
21 because I'm not physically present.

22 CHAIRMAN KIRSCHNER: Correct. And joining the
23 subcommittee is informal. You can change your mind
24 tomorrow.

1 MR. URBIK: Sure.

2 CHAIRMAN KIRSCHNER: I'm just putting it out
3 there so Angelo knows that when he organizes a
4 call -- I'm sorry -- when Ryan organizes a call, if
5 you do change your mind, let Ryan know.

6 MR. URBIK: All right.

7 CHAIRMAN KIRSCHNER: So work on that, then we'll
8 circulate some dates in an October meeting.

9 MR. CULTON: Okay.

10 CHAIRMAN KIRSCHNER: We don't have miscellaneous
11 or other business, but a couple of things. January
12 meeting -- annual January meeting takes place down
13 in Springfield to coincide with the agricultural
14 something --

15 MR. SPARKS: Convention.

16 CHAIRMAN KIRSCHNER: A couple of things. We have
17 not had any ethics training since the last director
18 and last counsel, so we will probably put that on
19 the January meeting for new members, new counsel,
20 new director.

21 MR. WILLIS: Depends on how you do this.

22 MR. COSTIGAN: Taking an on-line process.

23 MR. WILLIS: I'll find out.

24 CHAIRMAN KIRSCHNER: Okay. Follow-up to Ryan's

1 ongoing survey of other states and other standards
2 to look at in terms of height, weight, harness
3 issues, you have a subcommittee going of Linda and
4 Patty I believe.

5 MR. CULTON: Right.

6 CHAIRMAN KIRSCHNER: Anyone else interested in
7 being a part of that subcommittee with Ryan, Patty,
8 and Linda on issues of restraints, height
9 requirements, weight requirement issues, let Ryan
10 know so he can keep you in the loop for further
11 discussions, and you will be in a position to report
12 at the January meeting on your survey of where other
13 states stand with respect to ANSI and ASTM standards
14 on restraints, height requirements, age
15 requirements, and what not.

16 MR. CULTON: Yes.

17 CHAIRMAN KIRSCHNER: Lastly, as chair, it's
18 important for me that the board members feel
19 fulfilled in their board service, so, you know, the
20 issues we bring forward are the issues that were
21 either brought to us or come from within.

22 So if there's any issues that board
23 members feel are important to them, or personal, or
24 something they notice in their day-to-day experience

1 and want to bring to the board, by all means bring
2 that forward and let's discuss it

3 And, you know, I want to be proactive
4 as a board. So if there are any issues in the back
5 of your mind, bring them to the forefront of your
6 mind and bring them to the members of the board.

7 MR. CULTON: I just want to mention, too, in our
8 May meeting, there were also the wowballs
9 subcommittee of also Linda, and Patty, and myself,
10 so I don't know if you want to change it. We
11 haven't had an opportunity to discuss that much, so
12 we could change or add people to the subcommittee if
13 you want.

14 MR. URBIK: What's the purpose of that
15 subcommittee as it relates to the present time?

16 MR. CULTON: On which one?

17 MR. URBIK: Wowballs.

18 CHAIRMAN KIRSCHNER: The current policy is to
19 follow the CPSC standard the subcommittee has
20 established to visit whether or not further, or
21 lesser, or the same standard is required.

22 MR. CULTON: It's really more of a subcommittee
23 to discuss if there are wowballs that are enclosed,
24 air tight which are by CPSC they're not outlawed,

1 and then there's wowballs that have open air, and I
2 think the subcommittee was to, you know, look at the
3 other wowballs that are permitted that aren't, you
4 know, cancelled by the CPSC and maybe start to adopt
5 some rules for this. We don't have any specific
6 rules, other than it's just defined as an amusement
7 attraction.

8 CHAIRMAN KIRSCHNER: If I recall from the January
9 meeting, there were -- so we currently have in place
10 the CPSC recommendation with respect to double walls
11 and air exchange. There were other issues raised at
12 the January meeting, things of hygiene and some
13 other issues, whether or not we should be looking at
14 those issues, and I think that's what the
15 subcommittee has on its plate.

16 Mr. Costigan, Director.

17 MR. COSTIGAN: I just wanted to raise that we
18 have been looking at a lot of issues in terms of the
19 statute and regulations. There's not been much
20 change in the law, the rules governing the act from
21 many, many years, long time I think, and so, you
22 know, the department is looking at, you know, some
23 of these issues, particularly, you know, we are
24 looking at some -- what is it that the --

1 MR. WILLIS: I was looking at being more
2 effective to certain things we are reviewing, and
3 there hasn't been a review of the regs, other than
4 changing of the increasing of the fees.

5 MR. COSTIGAN: Right.

6 MR. URBIK: Run over that real quickly again.

7 MR. WILLIS: It hasn't been much looking at it to
8 see, you know, whether there's a better way. Just
9 like with zip-lines, we are going through this long
10 excruciating process and it happens to be that --
11 you know, that it's all working, just time frames
12 weren't right -- is there something we can do to
13 amend so we can adapt to changes that we see
14 occurring faster -- and so we are just reviewing the
15 regs, reviewing the laws to see, you know, if the
16 legislators may want to make changes to certain of
17 the provisions, and then we are comparing, as part
18 of the review that Ryan's doing, the states where we
19 are reviewing other states as to how they really
20 setup their processes, so we can just re-evaluate
21 what we are doing now as part of that thing.

22 I'll be giving perhaps the subcommittee
23 some concept of what other states have done with
24 respect to the authorities of the director, and

1 their boards, et cetera, to react to the situations,
2 or not react to situations.

3 Just, you know, for example, if all of a
4 sudden -- the zip-line was a perfect example. As we
5 start this process and there were standards in some
6 states -- just say, for example, there wasn't an
7 established standard. Some states have adopted
8 their laws which said the board or director can sit
9 down and establish standards without going through
10 the whole six month JCAR process.

11 You know, if they saw there was
12 something that was established and just adopted, you
13 know, like we have -- every time we see a
14 modification right now, we have to go through a
15 six-month change, you know, to get something that
16 might be just a minor, even technical, change that,
17 you know, that ASTM comes out and says this is the
18 guideline that we all recognize, so we can implement
19 it quicker, so we can just review, that type of
20 stuff.

21 CHAIRMAN KIRSCHNER: Any other business anyone
22 wants to bring?

23 (No response.)

24 Motion to adjourn.

1 MR. URBIK: Motion to adjourn.

2 CHAIRMAN KIRSCHNER: Second.

3 MR. SPARKS: Adjourn.

4 CHAIRMAN KIRSCHNER: We are adjourned. Thank
5 you, everybody.

6 (Whereupon, the above
7 matter was adjourned.)

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