

In the Matter of:

Defense Nuclear Facilities Safety Board

*January 27, 2016
Nonpublic Meeting*

Condensed Transcript with Word Index



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13 JANUARY 27, 2016
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18 DEFENSE NUCLEAR FACILITIES SAFETY BOARD
19 625 INDIANA AVENUE, NW
20 WASHINGTON, DC 20004
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1 The meeting time was scheduled from 2:00 to
2 3:00 p.m. today and changed to 4:00 to 5:00 p.m. today.
3 This changed meeting time was announced on the Board's
4 public website. The meeting is closed to the public per
5 the provisions of the Government in the Sunshine Act, as
6 well as the Board's regulations implementing the Sunshine
7 Act and the Board's operating procedures for meetings.
8 The Board is invoking Sunshine Act Exemptions 3
9 and 9 to close the meeting as authorized under 5 United
10 States Code 552b, Subsection (c)(3) and (9), as well as
11 10 CFR 1704.4(c) and (h). The Board has determined that
12 it is necessary to close the meeting to the public since
13 conducting an open meeting is likely to disclose matters
14 that are specifically exempted from disclosure by statute
15 and/or be likely to significantly frustrate
16 implementation of a proposed agency action.
17 Specifically, the deliberations will pertain to
18 potential recommendations, which, under 42 USC 2286(d),
19 Subsections (b) and (h)(3), may not be made publicly
20 available until after they have been received by the
21 Secretary of Energy or the President, respectively. I
22 have certified closure of this meeting under the Sunshine
23 Act Exemptions 3 and 9.
24 The Board is recording this proceeding through
25 a verbatim transcript. This closed meeting concerns

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1 CLOSED MEETING
2 - - - - -
3 (4:09 p.m.)
4 MS. CONNERY: Good afternoon. My name is Joyce
5 Connery and I am the Chairman of the Defense Nuclear
6 Facilities Safety Board. I will preside over this closed
7 meeting. With me today are my colleagues on the Safety
8 Board. Present today are Ms. Jessie Roberson, the
9 Board's Vice Chairman; Mr. Sean Sullivan; Mr. Dan Santos;
10 and Mr. Bruce Hamilton. We constitute -- we five
11 constitute the Board.
12 Having established a quorum of Board members,
13 this closed meeting will now come to order. And we have
14 no participants on the phone; is that correct?
15 MR. BIGGINS: Correct.
16 MS. CONNERY: Because they're here live and in
17 person. Mr. Biggins, the Board's Acting General Counsel,
18 will serve as the executive secretary for the meeting.
19 Mr. Biggins, please present the closed meeting agenda.
20 MR. BIGGINS: Thank you, Madam Chairman. This
21 closed meeting was announced on January 6th, 2016, on the
22 Board's public website. It was also subsequently noticed
23 in the Federal Register on January 8, 2016. The Board
24 decided to change the time of the meeting due to the
25 closure of the office from the Snowzilla snowstorm.

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1 Member deliberations pertaining to the development and
2 formulation of potential Board recommendations to the
3 Secretary of Energy.
4 As a reminder to those who are in attendance
5 and Board employees who may later become privy to these
6 proceedings, the Board and its staff are prohibited from
7 publicly disclosing information describing draft or final
8 recommendations prior to the receipt of the final
9 recommendation by the Secretary of Energy. This
10 prohibition applies to information learned during the
11 course of this meeting or by review of the meeting
12 transcript, related documents, or from other sources.
13 Pursuant to the specific agenda, the Board will
14 now discuss matters related to potential recommendations
15 [REDACTED]
16 [REDACTED] Pursuant to the constraints of the Sunshine
17 Act, the Board should not conduct deliberations in this
18 closed meeting on purely procedural aspects of issuing
19 recommendations that are not coupled to the substance of
20 a particular recommendation.
21 I now yield the floor back to the Chairman for
22 any opening remarks.
23 MS. CONNERY: So, I'm going to make a few
24 opening remarks. First, I want to give a huge thank-you
25 to the folks that put on the deep dive today, in

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1 particular, [REDACTED]
2 [REDACTED] for pulling this all together
3 in a short period of time, adjusting fire for snow
4 issues.

5 And I also need to do a little bit of a mea
6 culpa with regard to the delay this morning. I think I
7 did not communicate adequately to the tech staff the
8 intention to proceed if possible based on the number of
9 people who would be in office this morning without
10 countermanding the desire of OPM to have a three-hour
11 delay. So, I apologize for a little bit of a snafu this
12 morning and hope that it didn't inconvenience people too
13 much.

14 And then just briefly I wanted to say the idea
15 behind the closed meetings after the deep dive was to
16 give the Board a chance, should it want to or need to, to
17 discuss any potential areas that could produce at some
18 point a recommendation based on what we heard in the deep
19 dive. So, we intend to have short closed meetings solely
20 for the purposes of those discussions at the end of each
21 of the deep dives, should they be necessary. So, this
22 could be a very short meeting if nobody has anything to
23 say in that area, or it could be a little bit longer and
24 then have additional actions related to it.

25 So, those are my brief opening remarks. And I

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1 MR. SANTOS: Yes. I have no further...

2 MS. CONNERY: Mr. Hamilton?

3 MR. HAMILTON: No opening remarks, Madam
4 Chairman.

5 MS. CONNERY: Okay. I'd like to thank
6 everybody for their participation in this closed meeting.
7 No, I'm kidding. Wrong script.

8 [REDACTED]

6

1 will ask each of my fellow Board Members if they have any
2 opening remarks. Ms. Roberson?

3 MS. ROBERSON: I don't have any general opening
4 remarks, no.

5 MS. CONNERY: Mr. Sullivan?

6 MR. SULLIVAN: No, ma'am.

7 MS. CONNERY: Mr. Santos?

8 MR. SANTOS: I want to get a clarification.

9 So, because this is a closed meeting, we should limit
10 ourselves to items of potential recommendations. So, if
11 I had general comments or statements regarding the deep
12 dive, that would have to be reserved for some separate
13 forum?

14 MS. CONNERY: Correct, particularly if you mean
15 -- well, there's -- do you mean substantive procedural
16 recommendations for the next one and that type of thing?

17 MR. SANTOS: Like prioritization of work, items
18 of communication, anything related to the deep dive
19 itself, that would be outside of the scope of the closed
20 meeting, correct?

21 MR. BIGGINS: That's correct.

22 MS. CONNERY: If we want to deliberate, it
23 would be outside the scope.

24 MR. SANTOS: Okay.

25 MS. CONNERY: Is that it?

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

23 MS. CONNERY: Okay. So, I had a request from
24 at least one Board Member that any votes that we take we
25 do notionally after the meeting. So, at this point, I'm

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1 not entertaining any motions unless anyone has -- if no
2 one objects to that.

3 So, entertain any more comments and then
4 perhaps we can actually wrap up on time.

5 MR. BIGGINS: Please restate what you just
6 said. I didn't quite follow that.

7 MS. CONNERY: One of the Board Members said
8 that they didn't like taking votes orally in closed
9 meetings, so, therefore, if anyone wants to take an
10 action after this, we can do -- go to notational vote.
11 Jim can tell us how to do that and, you know, with
12 regards to protecting the information, because as it
13 would pertain to a recommendation.

14 So, from that point of view, I'm not going to
15 solicit any motions at this time. But I will -- unless
16 anyone has objection to that statement, so that folks can
17 then motion after the fact to make notational voting
18 instead. If there are any votes.

19 If -- any other discussion? If not, I would
20 wrap with two things.

[Redacted]

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[Redacted]

20 MS. CONNERY: Okay. So, again, that's kind of
21 the sense of the Board, or at least some of the Board
22 Members. I don't know if you guys want to have any
23 parting shots?

24 MR. HAMILTON: Well, I wanted to clarify
25 something that you said a minute ago about putting out

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[Redacted]

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1 votes outside the boardroom. I was the member who --

2 MS. CONNERY: Yes. I was protecting my source.

3 MR. HAMILTON: -- I was the member who
4 suggested, and it wasn't so much that we voted outside
5 the boardroom. I saw a raised eyebrow; that's why I'm
6 bringing this up. It wasn't that I thought we should
7 vote outside the boardroom; rather, I should -- I didn't
8 want to vote orally.

9 MS. CONNERY: Yeah.

10 MR. HAMILTON: Because that -- that way, if we
11 -- if we vote orally, we are influencing each other.

12 MR. SANTOS: Oh.

13 MR. HAMILTON: And the General Counsel -- I
14 discussed with the General Counsel, and he suggested that
15 we could vote on paper --

16 MR. SANTOS: Here?

17 MR. HAMILTON: -- in the meeting.

18 MR. SANTOS: Aah, that's the solution.

19 MR. HAMILTON: That was --

20 MS. CONNERY: Right, we just haven't said that

21 --

22 MR. HAMILTON: -- but having said that --

23 MS. CONNERY: Yeah, we also haven't set that
24 up, so --

25 MR. HAMILTON: Well, I think he's prepared to

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1 do that. I don't know. But --
 2 MR. SANTOS: It's like --
 3 MR. HAMILTON: -- having said that, I don't --
 4 I'm fine doing it, also.
 5 MS. CONNERY: Well, I --
 6 MR. HAMILTON: I just didn't --
 7 MS. CONNERY: -- actually don't know if there
 8 were going to be any --
 9 MR. SANTOS: Okay.
 10 MR. HAMILTON: Is that better?
 11 MR. SANTOS: Yes.
 12 MS. CONNERY: I don't know if there are going
 13 to be any motions, but I was -- I was trying to be
 14 sensitive to --
 15 MR. HAMILTON: Oh, I --
 16 MS. CONNERY: -- you without calling you out.
 17 He self-identified. Would the record reflect that I did
 18 not call --
 19 MS. ROBERSON: I thought it was me.
 20 MR. SANTOS: That's a difference. So, to
 21 General Counsel, when will -- you have to make an
 22 inference to support that now?
 23 MR. BIGGINS: We could -- we can do it now. I
 24 have sufficient sheets for the Members to do that, as
 25 long as we have a common understanding of what the motion

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1 actually is, and I will be prepared to do that in any
 2 meeting.
 3 MR. HAMILTON: Got it.
 4 MS. CONNERY: Okay.
 5 MR. BIGGINS: But the effect is no different
 6 than if you simply take it as a notational vote after a
 7 meeting, as well.
 8 MR. SANTOS: Thank you.
 9 MS. CONNERY: Okay. So, any more comments?
 10 Staff? Comments, criticisms, complaints?
 11 I don't like [REDACTED] sitting over there like
 12 where I can't see him.
 13 So, just one somewhat procedural thing, I
 14 guess, if Jim will let me. Again, these meetings are
 15 only to facilitate adequate protection discussions after
 16 closed -- after deep dives. That does not mean that
 17 there will be an issue of adequate protection at every
 18 deep dive. It doesn't mean that we will have this
 19 discussion for an hour after every deep dive. So, if
 20 there is consensus before we go into one of these closed
 21 meetings that there -- that nobody has anything to talk
 22 about, we'll figure out a way to signal that and not
 23 proceed, I guess.
 24 MR. BIGGINS: Right. The Board could simply
 25 choose not to hold the meeting.

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1 MS. CONNERY: So, I don't want -- I don't want
 2 to make this is a -- necessarily a habit for every deep
 3 dive that we do or set up the expectation that we'll be
 4 tasking a recommendation. Although I know some of you
 5 would like that.
 6 Anyway, I'd like to thank everybody for this
 7 participation in the -- their participation in this
 8 closed meeting. This concludes the Defense Nuclear
 9 Facilities Safety Board's closed meeting. The closed
 10 meeting is now adjourned.
 11 MR. BIGGINS: We're off the record.
 12 (Whereupon, the public meeting was adjourned at
 13 5:03 p.m.)
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1 CERTIFICATE OF REPORTER
 2
 3 I, LINDA METCALF, the officer before whom the
 4 foregoing testimony was taken, do hereby certify that the
 5 proceeding was digitally recorded by me and thereafter
 6 reduced to typewriting by me or under my direction; that
 7 said testimony is a true record of the event; that I am
 8 neither counsel for, related to, nor employed by any of
 9 the parties to the action in which this proceeding was
 10 taken; and, further, that I am not a relative or employee
 11 of any of the parties hereto, nor financially or
 12 otherwise interested in the outcome of the action.
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 15 LINDA METCALF
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