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PENN STATE BOARD OF TRUSTEES SPECIAL MEETING

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Sunday, August 12, 2012

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22 Transcribed by: Bonnie Panek

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1 P R O C E E D I N G S

17:00:00 2 CHAIRPERSON PEETZ: Okay. I think we should

17:00:01 3 get started, please.

17:00:02 4 FEMALE SPEAKER: Trustee Alexander.

17:00:06 5 TRUSTEE ALEXANDER: Here.

17:00:06 6 FEMALE SPEAKER: Allan.

17:00:08 7 TRUSTEE ALLAN: Here.

17:00:09 8 FEMALE SPEAKER: Arnelle.

17:00:10 9 TRUSTEE ARNELLE: Present.

17:00:11 10 FEMALE SPEAKER: Broadhurst, Clemens.

17:00:14 11 TRUSTEE CLEMENS: Here.

17:00:15 12 FEMALE SPEAKER: Corbett.

17:00:16 13 TRUSTEE CORBETT: Here.

17:00:17 14 FEMALE SPEAKER: Cotner.

17:00:18 15 TRUSTEE COTNER: Here.

17:00:19 16 FEMALE SPEAKER: Dambly.

17:00:20 17 TRUSTEE DAMBLY: Here.

17:00:22 18 FEMALE SPEAKER: Deviney.

17:00:23 19 TRUSTEE DEVINEY: Here.

17:00:24 20 FEMALE SPEAKER: Eckel.

17:00:25 21 TRUSTEE ECKEL: Present.

17:00:26 22 FEMALE SPEAKER: Erickson.

17:00:27 1 PRESIDENT ERICKSON: Here.

17:00:28 2 FEMALE SPEAKER: Frazier.

17:00:30 3 TRUSTEE FRAZIER: Here.

17:00:31 4 FEMALE SPEAKER: Greig.

17:00:32 5 TRUSTEE GREIG: Here.

17:00:33 6 FEMALE SPEAKER: Hayes.

17:00:33 7 TRUSTEE HAYES: Here.

17:00:34 8 FEMALE SPEAKER: Hintz, Huber.

17:00:38 9 TRUSTEE: Here.

17:00:40 10 FEMALE SPEAKER: Khoury.

17:00:40 11 TRUSTEE KHOURY: Here.

17:00:42 12 FEMALE SPEAKER: Lubert.

17:00:43 13 TRUSTEE LUBERT: Here.

17:00:44 14 FEMALE SPEAKER: Lubrano.

17:00:44 15 TRUSTEE LUBRANO: Present.

17:00:45 16 FEMALE SPEAKER: Masser.

17:00:47 17 TRUSTEE MASSER: Here.

17:00:48 18 FEMALE SPEAKER: McCombie.

17:00:49 19 TRUSTEE MCCOMBIE: Here.

17:00:51 20 FEMALE SPEAKER: Myers.

17:00:52 21 TRUSTEE MYERS: Here.

17:00:53 22 FEMALE SPEAKER: Peetz.

17:00:54 1 CHAIRPERSON PEETZ: Here.

17:00:55 2 FEMALE SPEAKER: Shaffer.

17:00:56 3 TRUSTEE SHAFFER: Here.

17:00:58 4 FEMALE SPEAKER: Silvis.

17:00:58 5 TRUSTEE SILVIS: Here.

17:00:59 6 FEMALE SPEAKER: Strumpf.

17:01:00 7 TRUSTEE STRUMPF: Here.

17:01:01 8 FEMALE SPEAKER: Suhey.

17:01:02 9 TRUSTEE SUHEY: Here.

17:01:03 10 FEMALE SPEAKER: Surma.

17:01:05 11 TRUSTEE SURMA: Here.

17:01:06 12 FEMALE SPEAKER: Taliaferro.

17:01:07 13 TRUSTEE TALIAFERRO: Here.

17:01:08 14 FEMALE SPEAKER: Tomalis.

17:01:11 15 TRUSTEE TOMALIS: Here.

17:01:11 16 FEMALE SPEAKER: Branstetter.

17:01:13 17 TRUSTEE BRANSTETTER: Here.

17:01:13 18 FEMALE SPEAKER: Brosius.

17:01:15 19 TRUSTEE BROSIUS: Here.

17:01:16 20 FEMALE SPEAKER: Conti, Cook, Coppersmith.

17:01:18 21 TRUSTEE COPPERSMITH: Here.

17:01:19 22 FEMALE SPEAKER: Frey, Huck.

17:01:20 1 TRUSTEE HUCK: Here.

17:01:23 2 FEMALE SPEAKER: Junker.

17:01:25 3 TRUSTEE JUNKER: Here.

17:01:26 4 FEMALE SPEAKER: Madigan, Metzgar, Robinson,
17:01:32 5 Rowell.

17:01:33 6 TRUSTEE ROWELL: Here.

17:01:34 7 FEMALE SPEAKER: Springer, Wise, Wolff, Wood
17:01:40 8 and Zemprelli.

17:01:43 9 TRUSTEE ROBINSON: Robinson is on.

17:01:45 10 FEMALE SPEAKER: Thank you.

17:01:48 11 CHAIRPERSON PEETZ: Okay. And I would start
17:01:49 12 this as Karen Peetz. I would start by just asking
17:01:51 13 everyone who is not speaking to please mute your
17:01:53 14 phones. It helps with this kind of call. So I'm going
17:01:57 15 to make a couple of opening remarks, and then I will
17:01:59 16 introduce the speakers and we'll have a series of
17:02:02 17 presentations for this evening.

17:02:05 18 TRUSTEE LUBRANO: Karen, Karen?

17:02:06 19 CHAIRPERSON PEETZ: Yes.

17:02:07 20 TRUSTEE LUBRANO: Sorry to interrupt you.
17:02:07 21 This is Anthony Lubrano. I want to raise a point of
17:02:09 22 order I'd like you to rule on.

17:02:11 1 As publicly noted by another member of this
17:02:13 2 board, proper notice of this special meeting as defined
17:02:17 3 by university charter has not been given. And due to
17:02:20 4 the lack of a specified physical location it is unclear
17:02:24 5 whether it is being held in accordance with the
17:02:26 6 Pennsylvania Sunshine Act. Therefore, this meeting
17:02:29 7 should be immediately adjourned and rescheduled.

17:02:30 8 TRUSTEE MYERS: This is Joel speaking, Joel
17:02:35 9 Myers. Without this meeting being official I want to
17:02:40 10 second what Anthony said. What's the point of it? We
17:02:42 11 have no authority. We cannot vote. Trustees must keep
17:02:46 12 our comments limited. The debate is highly structured.

17:02:50 13 Five people are speaking or scripted. We're
17:02:53 14 told two hours in advance we can only speak for a
17:02:55 15 minute or two, and that's not fair. We're the
17:02:58 16 trustees. I recommend we receive written reports for
17:03:02 17 us to read and study in advance of the next formal
17:03:05 18 meeting.

17:03:06 19 And finally, I don't believe we can proceed
17:03:08 20 today anyway. Roman numeral 8, number 7 of the
17:03:11 21 standing order makes it clear that a meeting must be in
17:03:14 22 a meeting room, and frankly if we can't get good legal

17:03:18 1 advice on a simple matter of what is a meeting and
17:03:21 2 where to hold a meeting how can we trust the legal
17:03:24 3 advice we're getting on the NCAA.

17:03:29 4 CHAIRPERSON PEETZ: Okay. Does anybody else
17:03:30 5 have any opening statements? Okay. Well, thank you
17:03:35 6 for that. I think I'll proceed with my statement.

17:03:38 7 TRUSTEE LUBRANO: I'd like a rule, Karen.

17:03:41 8 CHAIRPERSON PEETZ: I'm sorry?

17:03:42 9 TRUSTEE LUBRANO: There's a motion in front
17:03:43 10 of you. Joel seconded it.

17:03:45 11 CHAIRPERSON PEETZ: Actually, if you allow
17:03:46 12 me to begin my opening statements I'll address the fact
17:03:49 13 that we are not voting, nor will there be any motions
17:03:52 14 today, so perhaps I should continue.

17:03:58 15 So over the last few days questions about
17:04:02 16 the process in which the NCAA crafted and imposed and
17:04:07 17 the university accepted what are unquestionably harsh
17:04:11 18 sanctions that will have a significant impact on the
17:04:14 19 university and its students, student athletes, alumni,
17:04:19 20 faculty, staff and other constituencies.

17:04:24 21 Questions have also been raised about the
17:04:26 22 Freeh report and how that report was used by the NCAA

17:04:31 1 as the basis for its actions. I had intended to call
17:04:35 2 for a vote this evening to ratify the consent decree,
17:04:39 3 not because ratification is legally required. It is
17:04:43 4 not. But rather because President Erickson's authority
17:04:48 5 had been challenged publicly by some of our own
17:04:51 6 trustees.

17:04:52 7 The leadership of the board wanted to
17:04:55 8 publicly demonstrate the board's support of President
17:04:58 9 Erickson and the university's commitment to fully
17:05:02 10 perform and comply with the consent decree. We had
17:05:06 11 hoped to clear up any lingering misunderstanding with
17:05:09 12 respect to the board's and the university's position on
17:05:12 13 this matter.

17:05:13 14 Given that Trustee McCombie yesterday
17:05:16 15 indicated publicly that he has instructed his lawyer to
17:05:20 16 refrain from taking any further action, a formal vote
17:05:23 17 may not be as necessary as we had initially
17:05:27 18 anticipated. In addition, we have a technical legal
17:05:31 19 issue which I think is what's being raised that
17:05:34 20 prevents us from taking a vote this evening.

17:05:36 21 The university's charter, written in 1855,
17:05:41 22 contains a provision that requires 10 days written

17:05:47 1 notice of any meeting of the board. Our bylaws contain
17:05:50 2 a different provision requiring 3 days prior notice.
17:05:54 3 Because of this inconsistency and because by law an
17:05:58 4 organization's bylaws may not be inconsistent with the
17:06:02 5 law or its charter, out of an abundance of caution we
17:06:06 6 will not be taking any official action this evening.

17:06:10 7 In that regard, I will also not entertain
17:06:13 8 any motions this evening. Regardless of whether we
17:06:17 9 vote, however, I would like to clear -- be clear on one
17:06:20 10 thing. I absolutely support President Erickson and his
17:06:25 11 decision to accept the consent decree as the only real
17:06:28 12 option in the extraordinarily difficult circumstances
17:06:32 13 and the choices we were presented.

17:06:35 14 It is my sense that every member of this
17:06:37 15 board also fully supports President Erickson, even
17:06:40 16 though we may not agree with the process used by the
17:06:43 17 NCAA or with the harshness of the sanctions imposed.
17:06:47 18 President Erickson's leadership throughout this
17:06:50 19 extraordinarily difficult time has been invaluable and
17:06:54 20 is greatly appreciated by every member of the board.
17:06:56 21 On that we all agree.

17:06:59 22 We also agree that our fiduciary duty as

17:07:02 1 trustees is to do what is best for the university, not
17:07:06 2 just in the short term but with a long-term perspective
17:07:09 3 keeping in mind our mission to be a world class
17:07:13 4 multicampus public research university that educates
17:07:18 5 students from Pennsylvania, the nation and the world
17:07:21 6 and improves the well-being and health of individuals
17:07:24 7 and communities through integrated programs of
17:07:28 8 teaching, research and service.

17:07:30 9 After speaking with many members of the
17:07:33 10 board and in light of the comments that we've received
17:07:36 11 over the past two weeks, I believe that further
17:07:39 12 discussion of the issues is warranted. I hope that by
17:07:44 13 having this discussion in an open forum the public will
17:07:47 14 be able to gain a better understanding of how the
17:07:50 15 decision on the consent decree was reached, why the
17:07:53 16 university believed and still believes that it is the
17:07:57 17 best alternative available to it.

17:07:59 18 Indeed, I'm confident that most of the board
17:08:02 19 believes that it was the only real option, and what the
17:08:06 20 university's plans are with respect to compliance with
17:08:09 21 the consent decree and the Freeh report. We intend to
17:08:13 22 comply fully with the consent decree and the Athletics

17:08:17 1 Integrity Agreement still to be finalized and to be a
17:08:21 2 national model of compliance with the NCAA
17:08:24 3 constitution, bylaws and its rules and regulations.

17:08:28 4 At the outset of our discussions with the
17:08:31 5 NCAA we asked that the consent decree include language
17:08:35 6 to expressly provide consideration in the event of the
17:08:40 7 university's outstanding performance. We continued to
17:08:44 8 urge the NCAA to consider such provisions as late as
17:08:47 9 Friday of this week, this past week. The NCAA rejected
17:08:52 10 our request in each case, including by a vote of their
17:08:57 11 executive (recording briefly inaudible).

17:08:59 12 We intend and expect that our performance
17:09:02 13 will be so exemplary that in a few years we will be in
17:09:06 14 a position to request again that the NCAA reconsider
17:09:10 15 (recording briefly inaudible). Discussions with the
17:09:18 16 NCAA are ongoing on a number of details surrounding the
17:09:21 17 implementation of the consent decree, including the
17:09:24 18 creation and administration of the 60 million endowment
17:09:28 19 for programs, child sexual abuse prevention and/or
17:09:32 20 assisting the victims of child abuse.

17:09:35 21 We will remain engaged with the NCAA and
17:09:39 22 will be making our aspirations, including our

17:09:42 1 aspiration to outperform these corrective actions,
17:09:45 2 clear to them. Indeed, we are well on our way. All of
17:09:50 3 Judge Freeh's interim recommendations presented to the
17:09:54 4 board in January have either been implemented already
17:09:56 5 or are substantially completed.

17:09:59 6 We have a team of trustees and senior
17:10:02 7 administrators, and have hired and will be hiring
17:10:05 8 outside experts focused on reviewing and implementing
17:10:09 9 as appropriate Judge Freeh's final recommendations. In
17:10:13 10 addition, we have a team of administrators focused on
17:10:16 11 reviewing and implementing the corrective actions
17:10:19 12 required by the consent decree.

17:10:21 13 And we have hired and will hire outside
17:10:24 14 experts here as well. We have begun conversations with
17:10:29 15 Senator George Mitchell, the third party monitor
17:10:32 16 appointed to oversee compliance, and have promised him
17:10:36 17 our full cooperation. We've met with the leaders of
17:10:40 18 our athletic department, including our head coaches, to
17:10:43 19 discuss the importance of compliance. They are on
17:10:46 20 board and fully committed to continuing our proud
17:10:50 21 tradition of athletic and academic success.

17:10:54 22 So with that as background the agenda for

17:10:57 1 this evening's meeting is as follows: We will first
17:11:00 2 hear from Gene Marsh. Gene is a nationally recognized
17:11:04 3 expert in the field of NCAA enforcement, having spent
17:11:08 4 nine years on the NCAA Committee on Infractions
17:11:12 5 including two as chair. Gene will discuss the nature
17:11:17 6 of the NCAA and review the discussions with the NCAA
17:11:21 7 that led up to the imposition of the consent decree.

17:11:25 8 After that President Erickson will discuss
17:11:28 9 the rationale for acceptance of the consent decree and
17:11:31 10 why he believed that it was the only real option
17:11:34 11 available. Steve Dunham, the university's vice
17:11:39 12 president and general counsel, will discuss President
17:11:42 13 Erickson's authority to accept the consent decree. Ken
17:11:47 14 Frazier will then discuss the Freeh report and the
17:11:50 15 university's plans to implement Judge Freeh's
17:11:52 16 recommendations.

17:11:53 17 Finally Richard Edelman, our public counsel
17:11:57 18 and media relations advisor, will discuss public
17:12:00 19 relations issues. After we hear those presentations we
17:12:04 20 will open the floor to the trustees for questions and
17:12:08 21 comments. Because we are doing this by telephone we
17:12:12 22 will do this in alphabetical order starting with

17:12:14 1 Trustee Alexander.

17:12:16 2 I would ask that in the interests of time
17:12:18 3 and in order to give all trustees an opportunity to
17:12:21 4 comment, please keep your comments brief and to the
17:12:24 5 point. I will also remind everyone when speaking to be
17:12:28 6 sure to identify yourselves, and with that as
17:12:31 7 background ground I'd like to turn it over to Gene
17:12:34 8 Marsh.

17:12:34 9 MR. MARSH: Thank you, Chairman Peetz.
17:12:38 10 First let me make a few comments about the NCAA. It is
17:12:43 11 a voluntary membership organization. It sounds like a
17:12:47 12 simple idea, but it has special meaning here. In
17:12:50 13 simple terms it means that if you step into the NCAA
17:12:54 14 world you're subject to a 400-plus page rule book that
17:12:58 15 has both constitutional provisions and bylaws.

17:13:01 16 One of the most important provisions is
17:13:05 17 Article 2.1 with the general header The Principle of
17:13:09 18 Institutional Control and Responsibility, and here's
17:13:12 19 the language that matters most: The institution's
17:13:15 20 president or chancellor is responsible for the
17:13:19 21 administration of all aspects of the athletics program,
17:13:21 22 including approval of the budget and audit of all

17:13:25 1 expenditures.

17:13:26 2 So let me repeat that. It's the
17:13:28 3 institution's president or chancellor who is
17:13:31 4 responsible for the administration of all aspects of
17:13:34 5 the athletics program. That's relevant to points to be
17:13:38 6 made later on. In 1988 the NCAA won a case before the
17:13:42 7 U.S. Supreme Court that involved the enforcement
17:13:44 8 process. In that case which involved Jerry Tarkanian
17:13:47 9 the U.S. court held that the NCAA is not a state actor
17:13:53 10 for purposes of application of the concept of due
17:13:56 11 process.

17:13:57 12 So like it or not, that's the law of the
17:14:00 13 land. Penn State is a member of the NCAA, so there's
17:14:03 14 no opting out of the NCAA rules, the principle of the
17:14:07 15 president's control of the athletic department, and of
17:14:10 16 course the Supreme Court ruling is the law of the land
17:14:13 17 separate from any NCAA bylaw or provision.

17:14:17 18 So now let me address the week that led up
17:14:22 19 to the execution of the consent decree and
17:14:24 20 conversations that I had with people at the NCAA. The
17:14:28 21 first call was on Monday, July 16th with the counsel's
17:14:32 22 office at the NCAA, and the second call was July 17th

17:14:36 1 with the NCAA counsel and an individual who is involved
17:14:39 2 in their governance process, and those are the people I
17:14:42 3 talked to all week long.

17:14:44 4 I did not have any direct conversations with
17:14:47 5 Mark Emmert. It was in that Tuesday call that they
17:14:50 6 first listed a series of penalties such as the fines
17:14:53 7 and scholarship reductions, et cetera, but they also
17:14:57 8 made it clear that this was a very fluid situation with
17:15:01 9 lots of feelings, lots of strong feelings coming from
17:15:04 10 the governing bodies at the NCAA.

17:15:06 11 It was made clear that in their discussions
17:15:09 12 the death penalty so to speak was in play, but that the
17:15:13 13 board was open to discussion of alternatives. We had a
17:15:17 14 number of back and forths that week. We asked for
17:15:20 15 consideration of a number of things that we thought
17:15:24 16 were in Penn State's favor.

17:15:26 17 That included that Penn State had
17:15:28 18 commissioned the Freeh report, that Penn State had
17:15:31 19 waived the attorney/client privilege in part allowing
17:15:33 20 the findings to be made public, that the trustees had
17:15:37 21 accepted responsibility for many shortcomings
17:15:39 22 identified in the report for purposes of a consent

17:15:43 1 decree, that the individuals involved were no longer
17:15:47 2 affiliated with the university, Penn State's football
17:15:50 3 program was not a repeat offender, having never been
17:15:53 4 found guilty of a major NCAA infraction, that the
17:15:56 5 penalties that were being discussed would harm many
17:15:59 6 people who were not responsible, including current
17:16:01 7 players, the coaching staff and the Penn State
17:16:06 8 community in general, alumni and others, that Penn
17:16:09 9 State would pay an enormous financial penalty separate
17:16:12 10 from this financial penalty that was being imposed in
17:16:15 11 other venues, and that Penn State was going to
17:16:18 12 implement most, if not all, of the Freeh report's
17:16:21 13 recommendations for reform and would agree to the
17:16:24 14 Athletic Integrity Agreement which included a monitor
17:16:27 15 idea.

17:16:29 16 The next most substantive discussion was on
17:16:31 17 Thursday evening, and that message was loud and clear.
17:16:35 18 I was told that I should know that the majority of the
17:16:38 19 board of directors at the NCAA believe that the death
17:16:40 20 penalty should be imposed. That was as late as
17:16:43 21 Thursday evening and that's the first time that I
17:16:46 22 heard, although I understand other places -- other

17:16:49 1 numbers may have been tossed around, but that's the
17:16:51 2 first time that I heard a multiyear death penalty.

17:16:55 3 I was also told that the NCAA board thought
17:16:59 4 that it was the worst case of loss of institutional
17:17:02 5 control they had ever seen, and that an even greater
17:17:05 6 issue on their mind beyond the acts of individuals was
17:17:08 7 the idea of a culture problem at Penn State. And I
17:17:12 8 know that President Erickson will address the
17:17:14 9 conversations that he had with Mark Emmert, but I
17:17:17 10 understand that some of those were even more intense
17:17:19 11 regarding the sentiment of the board that was
17:17:22 12 expressed.

17:17:23 13 Yet even with that news as late as Thursday,
17:17:27 14 we were told that the board was open to a discussion,
17:17:29 15 it was not a negotiation of an alternative, and that
17:17:36 16 alternative ended up being the list of penalties and
17:17:39 17 corrective measures that found their way to the consent
17:17:43 18 decree. I was told to look out for a draft of the
17:17:48 19 consent decree on Friday evening, and that -- it turned
17:17:55 20 out to be at the very end of Friday, really Saturday
17:17:58 21 morning depending on what time zone you're in.

17:18:03 22 We were able to change a tiny bit of the

17:18:07 1 language, never anything relating to the penalties. We
17:18:11 2 got some very minor changes made in several places, but
17:18:16 3 none of the penalties ever moved and a consent decree
17:18:21 4 was ultimately executed I believe Sunday night, and
17:18:25 5 then as we know the NCAA held a press conference Monday
17:18:30 6 and then on top of that the Big Ten came in even in the
17:18:33 7 face of these very severe penalties and imposed another
17:18:37 8 financial penalty relating to revenue sharing.

17:18:42 9 So that's the time line of the week, but I
17:18:44 10 want to make a couple of other observations in order to
17:18:47 11 address some concerns that I think people have. First
17:18:51 12 that I was told that the NCAA was getting reports from
17:18:55 13 the Freeh group or at least relating to their
17:18:57 14 investigation every two weeks, so we know that the NCAA
17:19:02 15 wasn't just firing up after the Freeh report was
17:19:05 16 issued.

17:19:07 17 Second, no one should ever characterize this
17:19:11 18 as a negotiation. It was, and I used this expression
17:19:14 19 two weeks ago with your trustees where I said in the
17:19:17 20 bankruptcy law there's a concept called a cram down,
17:19:20 21 and it's essentially where the judge crams down the
17:19:24 22 throat of complaining creditors what the deal is going

17:19:27 1 to be, and that's the way that this thing felt.

17:19:31 2 The people at the NCAA that I spoke to
17:19:33 3 politely listened to all the arguments we made
17:19:38 4 throughout the week and conveyed I believe every
17:19:41 5 argument we made to the people who were the
17:19:47 6 decisionmakers. In the end, as they articulated at
17:19:51 7 page four of the consent decree, those considerations
17:19:56 8 that they weighed had an impact on their deciding to go
17:19:59 9 with what was finally spelled out in the consent decree
17:20:02 10 rather than going to the death penalty.

17:20:06 11 But let me also, since I mentioned, I think
17:20:09 12 you can find at page four of the consent decree the
17:20:11 13 language where they described weighing these other
17:20:14 14 things in deciding not to impose the death penalty.
17:20:17 15 There's another really important passage at page four,
17:20:20 16 the consent decree, that I think a lot of folks are
17:20:22 17 missing based on what I picked up in the media and
17:20:26 18 elsewhere.

17:20:27 19 At page four the consent decree under the
17:20:30 20 sanctions, there's a paragraph two that starts with the
17:20:33 21 following language: As a result the NCAA has
17:20:36 22 determined that the university sanctions be designed to

17:20:40 1 not only penalize the university for contravention of
17:20:43 2 the NCAA constitution and bylaws, but, and this is the
17:20:48 3 most important part, but also to change the culture
17:20:52 4 that allowed this activity to occur and realign it in a
17:20:55 5 sustainable fashion with its expected norms and values
17:20:58 6 of intercollegiate athletics.

17:21:01 7 That language, which also was reinforced
17:21:05 8 throughout the week, that there was as much and perhaps
17:21:08 9 more focus on the idea of culture than there was actual
17:21:12 10 NCAA bylaw issues. That language in the consent decree
17:21:17 11 breaks the link of precedence as far as the application
17:21:22 12 of penalty bylaws to violations in previous cases.
17:21:27 13 People who are looking and making comments on precedent
17:21:31 14 and previous cases are really missing an important
17:21:34 15 point.

17:21:34 16 It was a dominant scene coming from the NCAA
17:21:37 17 throughout the week, that what the great concern was of
17:21:42 18 the NCAA was culture. It clearly was the NCAA bylaws
17:21:46 19 and it was culture, so to the extent that people
17:21:48 20 continue to try to parse bylaws and talk about
17:21:52 21 precedent there, they don't get it. I don't blame them
17:21:56 22 for not getting it because they weren't there, but

17:21:58 1 that's, in fact, the way things played out.

17:22:00 2 And then finally the choice that the
17:22:04 3 institution faced was the terms of the consent decree
17:22:07 4 or the death penalty. It was not going to be going in
17:22:12 5 front of the committee on infractions, and it was not
17:22:16 6 going to be only the death penalty. That's now been
17:22:19 7 made clear in several different places that I won't
17:22:22 8 refer to, but what we got loud and clear, even
17:22:26 9 postannouncement, was the consideration was of the
17:22:30 10 death penalty with additional violations that would
17:22:33 11 hinder the competitive level of the program when it
17:22:37 12 came back to life.

17:22:40 13 So that's the stark choice that the
17:22:42 14 university faced, and that's as much as I can relay now
17:22:46 15 that I think accurately conveys my role as far as my
17:22:50 16 discussions with the NCAA, so I'll close with that.

17:22:55 17 CHAIRPERSON PEETZ: Okay. And what I'd like
17:22:56 18 to do is continue with all of the speakers, then I'll
17:22:58 19 open it up briefly for questions just from the
17:23:02 20 trustees, and then we'll go into various statements
17:23:04 21 that the trustees would like to make. So if we could
17:23:07 22 go on to President Erickson.

17:23:16 1 PRESIDENT ERICKSON: Hi. This is Rod. Can
17:23:16 2 you hear me?

17:23:18 3 CHAIRPERSON PEETZ: Yes, now we can.

17:23:20 4 PRESIDENT ERICKSON: Okay. Let me give you
17:23:21 5 some background in terms of my discussions with NCAA
17:23:25 6 President Mark Emmert during that week, and also some
17:23:30 7 more information about my rationale for accepting the
17:23:33 8 consent decree.

17:23:35 9 I received a message to call President
17:23:37 10 Emmert on Friday, July 13th as I was leaving the
17:23:42 11 Scranton campus after the board of trustees meeting.
17:23:45 12 Mark Emmert indicated that now that the Freeh report
17:23:49 13 had been issued the university should begin work to
17:23:52 14 respond to the letter we received last November 17th
17:23:56 15 from the NCAA following the grand jury presentment.

17:24:01 16 Dr. Emmert indicated that we would have
17:24:03 17 until the first week or so of August to develop our
17:24:07 18 response to that November 17th letter. Dr. Emmert
17:24:11 19 called me back after the weekend and indicated that
17:24:14 20 both the NCAA Division 1 Board and the NCAA Executive
17:24:18 21 Committee were shocked by the Sandusky trial as well as
17:24:22 22 the facts that were provided in the Freeh report, and

17:24:25 1 that an overwhelming majority of the boards wanted
17:24:28 2 blood to shut down Penn State's football program for
17:24:33 3 multiple years.

17:24:34 4 He then said that we should put the November
17:24:36 5 17th letter aside, that things were moving fast and not
17:24:40 6 in a good direction for Penn State. He indicated that
17:24:44 7 the nature of the violations were such that sanctions
17:24:47 8 would not go through the normal committee on
17:24:49 9 infractions route as Gene just indicated, but rather be
17:24:53 10 taken up directly by the board in this case and that
17:24:55 11 the board had the power to go that route.

17:24:59 12 Emmert indicated that our only chance to
17:25:01 13 avoid a death penalty along with sanctions might be to
17:25:04 14 opt for a consent decree that would have unprecedented
17:25:08 15 penalties, but would allow us to keep our program
17:25:11 16 running. He noted a hefty fine, which actually became
17:25:15 17 larger following discussions with the board during the
17:25:18 18 week, lots of scholarships and a ban on postseason play
17:25:22 19 of several years.

17:25:24 20 He indicated then that the only reason Penn
17:25:27 21 State might be given this option was the actions that
17:25:31 22 the board of trustees and administration had taken

17:25:33 1 during the past eight plus months to replace the
17:25:36 2 individuals that were relieved of their duties last
17:25:39 3 November, commissioning the free investigation, and the
17:25:42 4 fact, as Gene said, that the university had no previous
17:25:45 5 major infractions, so -- with its football program.

17:25:49 6 Our legal team then began discussions with
17:25:52 7 NCAA legal counsel on Monday, July 16th, and it was
17:25:55 8 clear that the NCAA was not interested in negotiating
17:25:59 9 the terms of the consent decree. It was a take it or
17:26:03 10 leave it proposition, and despite our attempts to push
17:26:07 11 back on the sanctions as we learned about them we
17:26:10 12 didn't, as Gene indicates, receive the draft consent
17:26:13 13 decree in writing until the early hours of Saturday
17:26:16 14 morning then.

17:26:17 15 President Emmert and the NCAA staff
17:26:20 16 indicated throughout the week that it was not at all
17:26:23 17 clear that the NCAA board members would accept the
17:26:25 18 consent decree without involving the death penalty or
17:26:29 19 penalties even more severe, and we didn't know until
17:26:31 20 late Saturday that the NCAA board was willing to go
17:26:34 21 along with the consent decree option. It was late
17:26:38 22 Saturday we learned that.

17:26:40 1 Once we had the consent decree in writing we
17:26:43 2 pushed back again on the sanctions, but we were given
17:26:46 3 only very limited latitude on some clarifications.
17:26:49 4 During the week I had kept the board of trustees
17:26:51 5 leadership, Chairman Peetz and Vice Chairman Masser
17:26:55 6 briefed that there were discussions with the NCAA that
17:26:58 7 were moving along very quickly, that the sanctions were
17:27:01 8 going to be severe in any case, and that the NCAA had
17:27:06 9 said emphatically that any leak of these discussions by
17:27:09 10 Penn State would take any deal off the table and the
17:27:12 11 NCAA would go the other route.

17:27:14 12 I indicated to the executive committee of
17:27:17 13 the board late in the week where we stood, and then
17:27:20 14 later on Sunday I, along with legal counsel, spelled
17:27:23 15 out the difficult full terms of the consent decree. At
17:27:28 16 that call there was a strong consensus on the executive
17:27:33 17 committee that the alternative to the consent decree
17:27:36 18 was far worse and that we should take the deal, which I
17:27:40 19 signed then late on Sunday evening.

17:27:42 20 Before signing, however, I asked counsel for
17:27:46 21 their legal opinion, and they indicated after review of
17:27:49 22 the university's charter and bylaws that I was within

17:27:52 1 my authority as president to sign the consent decree.

17:27:56 2 I have to tell you this was far and away the most

17:27:58 3 difficult decision I've ever made in my 40-year

17:28:02 4 professional career. There were many reasons why I

17:28:06 5 opted for the consent decree.

17:28:08 6 First of all, the prospect of several years

17:28:11 7 of a death penalty for football has overwhelmingly

17:28:13 8 negative consequences. First we would have lost all of

17:28:17 9 the football revenue base that helps to support 27 of

17:28:21 10 Penn State's varsity sports. That would have had a

17:28:24 11 devastating effect on our other 700 student athletes.

17:28:28 12 At the same time we would have continuing

17:28:30 13 costs for the football program, including operating and

17:28:34 14 maintenance of facilities, coaches contracts and the

17:28:37 15 cost of other employees with no offsetting revenues

17:28:40 16 from television or gate receipts or sponsorship among

17:28:46 17 others. Secondly, an empty stadium for multiple years

17:28:49 18 would have a drastic impact on the economy of central

17:28:51 19 Pennsylvania and beyond. Many businesses of course

17:28:56 20 depend upon the football season for a significant share

17:28:59 21 of their net revenues during the year.

17:29:02 22 Third, from the time I first talked with

17:29:05 1 Bill O'Brien last winter about the prospects of NCAA
17:29:08 2 sanctions, Coach O'Brien said first and foremost he
17:29:12 3 wants us to play and he wants us to play on television,
17:29:17 4 and the consent decree makes that possible. I can't
17:29:20 5 thank Coach O'Brien and our football players enough for
17:29:23 6 the character and determination and the team spirit
17:29:26 7 they have displayed throughout this difficult time.

17:29:31 8 Fourth, challenging the NCAA actions would
17:29:34 9 have meant a high probability of multiple years in
17:29:38 10 court while we didn't play football and with a high
17:29:41 11 likelihood that, as Gene Marsh has already indicated,
17:29:45 12 we would lose in legal proceedings, such as the nature
17:29:48 13 of a membership organization.

17:29:51 14 Fifth, I was also very concerned about the
17:29:53 15 possible actions of the Big Ten conference if we did
17:29:56 16 not opt for the consent decree. I believe there was
17:29:59 17 substantial risk of challenging in court the NCAA
17:30:02 18 sanctions, whether meted out directly by the board or
17:30:06 19 the committee on infractions, while not playing for
17:30:08 20 several years may have led to our expulsion from the
17:30:11 21 conference with all the terrible effects that would
17:30:14 22 have on our entire intercollegiate athletic program, as

17:30:17 1 well as on our academic programs given that now so many
17:30:21 2 of -- which are intertwined with other Big Ten
17:30:25 3 universities through our committee on institutional
17:30:28 4 cooperation.

17:30:30 5 Sixth, I felt strongly that the consent
17:30:32 6 decree would provide a roadmap for us to make changes
17:30:35 7 and move forward. Fighting the NCAA would both take
17:30:38 8 years and send a signal to the nation that Penn State
17:30:41 9 is really in the end mainly about football. It would
17:30:45 10 be difficult to say the least dealing with the NCAA
17:30:48 11 sanctions, but having the opportunity to move on has
17:30:50 12 considerable value, too.

17:30:51 13 The -- seven, the consent decree states that
17:30:56 14 the agreement can be reopened by mutual consent of the
17:30:58 15 parties, and I believe our focus now should be on
17:31:02 16 continuing the task of implementing recommendations of
17:31:05 17 the Freeh report, working closely with the athletics
17:31:08 18 integrity monitor, and showing the world that we have
17:31:12 19 the spirit and the dedication to emerge from this
17:31:14 20 difficult period as an even stronger university.

17:31:17 21 I believe that when I signed the consent
17:31:19 22 decree that it was the better of the two crushing

17:31:22 1 alternatives and the most difficult decision I've had
17:31:24 2 to make, and I stand by that decision today. Thank
17:31:27 3 you, Karen.

17:31:27 4 CHAIRPERSON PEETZ: Thank you. Thank you,
17:31:29 5 President Erickson. Okay. Next Steve Dunham, the
17:31:32 6 university's vice president and general counsel.

17:31:34 7 MR. DUNHAM: Okay. Thank you, Karen. Can
17:31:37 8 you hear me okay?

17:31:38 9 CHAIRPERSON PEETZ: Yes. Thank you.

17:31:38 10 MR. DUNHAM: So I want first to address the
17:31:41 11 issue of President Erickson's authority to execute the
17:31:45 12 consent decree which has been raised in various
17:31:47 13 circles. During the discussions with the NCAA during
17:31:52 14 the week leading up to the consent decree we looked
17:31:55 15 specifically at the issue of the president's legal
17:31:57 16 authority in the process for approval.

17:31:59 17 This was not an afterthought in response to
17:32:02 18 concerns raised by others. It was part of our analysis
17:32:06 19 from the beginning. We considered both common practice
17:32:10 20 and the university's legal documents. We noted first,
17:32:14 21 as in the provision that Gene Marsh has quoted, that
17:32:19 22 under the NCAA Constitution, Article 2, it provides as

17:32:23 1 follows: It is the responsibility of each member
17:32:26 2 institution to control its intercollegiate athletics
17:32:29 3 program in compliance with the rules and regulations of
17:32:33 4 the association.

17:32:34 5 The institution's president or chancellor is
17:32:37 6 responsible for the administration of all aspects of
17:32:40 7 the athletics program, including approval of the budget
17:32:43 8 and audit of all expenditures. By virtue of our
17:32:47 9 membership in the NCAA, we agree to this description of
17:32:51 10 the role and responsibility of the president and the
17:32:53 11 institutional responsibility over intercollegiate
17:32:56 12 athletics.

17:32:57 13 This provision has special significance in
17:33:00 14 this case because as noted by (recording briefly
17:33:03 15 inaudible) one of the critical issues involves the
17:33:05 16 adequacy of institutional control. We also looked at
17:33:10 17 the university's own governing documents. We did this
17:33:12 18 before the consent decree was executed by President
17:33:15 19 Erickson. Under the university's charter, bylaws and
17:33:19 20 standing orders we concluded that President Erickson
17:33:22 21 clearly had the legal authority to sign the consent
17:33:25 22 decree on behalf of the university.

17:33:26 1 The governing documents make the president
17:33:29 2 the chief executive officer with all that entails.
17:33:32 3 They grant to the president the authority for
17:33:35 4 management and control of the university, and for the
17:33:40 5 establishment of policies and procedures for the
17:33:42 6 operations of the university. The governing documents
17:33:45 7 also delegate to the president the authority to sign
17:33:47 8 agreements and contracts, which is what the consent
17:33:50 9 decree is.

17:33:51 10 Finally, these governing documents do have
17:33:54 11 certain express exceptions to what is delegated to the
17:33:56 12 president, and none of these exceptions applies to the
17:33:59 13 circumstances of the consent decree. This is further
17:34:02 14 evidence of the president's authority to accept and
17:34:04 15 sign the decree. Furthermore, the president did take
17:34:08 16 the consent decree to the chair and vice chair and to
17:34:10 17 the executive committee of the board for consultation.

17:34:14 18 The executive committee is empowered to act
17:34:17 19 on behalf of the board. The issue of authority was
17:34:19 20 discussed with the executive committee. Although no
17:34:22 21 vote was taken, the consensus of this meeting was that
17:34:26 22 the president should proceed to accept and execute the

17:34:29 1 consent decree. He did so only following the meeting
17:34:32 2 with the executive committee.

17:34:34 3 Following execution some raised the issue of
17:34:38 4 the president's authority. The board's outside counsel
17:34:41 5 gave his opinion that the president had the authority
17:34:43 6 to sign. I agree with this opinion. I have heard no
17:34:47 7 valid argument to the contrary. Some have noted that
17:34:51 8 the original plan to vote today is inconsistent with
17:34:54 9 the conclusion that the president had authority to
17:34:56 10 sign.

17:34:57 11 This is not true. The consent decree is
17:35:00 12 validly executed. It is binding on Penn State and the
17:35:02 13 NCAA, and it needs no vote by the board. Whether a
17:35:06 14 vote by the board at another time may serve other
17:35:09 15 useful governance purposes is for others to answer, but
17:35:12 16 it is not necessary to have a vote for the university
17:35:16 17 to move forward as it is required to do with compliance
17:35:20 18 with the consent decree.

17:35:21 19 Having said that, the consent decree
17:35:24 20 expressly provides that it may be amended by agreement
17:35:27 21 of the parties. Further, the academic integrity
17:35:29 22 agreement is still being negotiated. Some parts of the

17:35:33 1 consent decree may be ambiguous or subject to different
17:35:36 2 interpretations. It is always possible and appropriate
17:35:39 3 for the parties to engage in good faith discussions as
17:35:41 4 to the meaning of the decree, how it should be applied
17:35:45 5 in a given instance, the terms of the yet to be signed
17:35:48 6 Athletic Integrity Agreement, and whether the parties
17:35:51 7 should consider amendments in the best interests of all
17:35:53 8 concerned.

17:35:54 9 Let me now take a few minutes and address
17:35:58 10 the decisionmaking process that led up to the
17:36:02 11 execution. You have heard -- of the consent decree.
17:36:06 12 You have heard Gene Marsh and President Erickson
17:36:09 13 describe the discussions with the NCAA. I wish only to
17:36:12 14 highlight one as aspect of these discussions, the
17:36:15 15 choice the NCAA provided to the university between the
17:36:19 16 terms of an imposed consent decree, and a multiyear
17:36:21 17 death penalty that would also carry with it additional
17:36:23 18 sanctions.

17:36:25 19 This was a choice for the university as an
17:36:28 20 entity. All of us, the board, the president, the
17:36:31 21 lawyers, others all work to take care of duties to Penn
17:36:34 22 State University, the entity. We have duties to make

17:36:38 1 the best decision for Penn State, not any particular
17:36:41 2 constituent. The university had, as I have noted,
17:36:46 3 delegated this decision to President Erickson. He was,
17:36:49 4 therefore, authorized to speak for the university.

17:36:51 5 He also chose to consult with the executive
17:36:53 6 committee and board leadership. If there had been a
17:36:57 7 leak of the terms there was a very real possibility
17:36:59 8 that the choice would evaporate and the university, the
17:37:03 9 board, the president, Penn State as a whole would be
17:37:06 10 left with no choice at all and would simply have the
17:37:09 11 death penalty imposed.

17:37:11 12 In these circumstances it was the
17:37:12 13 president's responsibility, after conferring with the
17:37:16 14 executive committee, to decide how best to exercise
17:37:19 15 that choice. He could discuss the choice publicly and
17:37:22 16 likely lose the ability to have a choice. We could
17:37:26 17 lose as a university the ability to decide how best to
17:37:29 18 exercise that choice, or with the unanimous consent of
17:37:34 19 the executive committee in the best interests of Penn
17:37:37 20 State he could proceed to sign, which is what President
17:37:40 21 Erickson did.

17:37:42 22 In looking back at this choice it is

17:37:43 1 important to understand that the president was --
17:37:46 2 excuse me, was trying to preserve the ability of the
17:37:49 3 university to actually have a choice. I would submit
17:37:53 4 that the president had his fiduciary duty, and with the
17:37:56 5 support of the executive committee acted in the best
17:37:58 6 interests of the university as a whole preserving the
17:38:02 7 choice that best protected and served the university
17:38:04 8 and the committee.

17:38:06 9 Let me make a final few comments about due
17:38:09 10 process and standards of proof because these are legal
17:38:11 11 issues and concepts that have come up in some of the
17:38:14 12 discussion. When I do this I do not want to comment
17:38:18 13 about particular facts in this case, but more to try to
17:38:23 14 clarify for the board some of the general legal
17:38:26 15 standards that apply here.

17:38:28 16 There has been some discussion in recent
17:38:30 17 days that the NCAA and indeed the university rushed to
17:38:34 18 judgment in acting based on the Freeh report, and that
17:38:37 19 we should have waited for further legal proceedings,
17:38:39 20 including the criminal trials, to play out. Part of
17:38:41 21 this discussion criticizes the Freeh report for not
17:38:45 22 having subpoena power or following formal rules of

17:38:48 1 judicial proceedings, and it criticizes the university
17:38:51 2 for accepting the consent decree on this basis, and
17:38:53 3 indeed for moving forward with taking action in
17:38:57 4 response to the Freeh report.

17:38:59 5 Some have said that these actions mean that
17:39:01 6 the due process was violated. It is not my role to
17:39:05 7 argue the merits of this issue, but I do think there is
17:39:08 8 a misunderstanding about the different legal standards
17:39:10 9 of proof that may apply. Criminal cases are decided
17:39:14 10 based on a standard of proof of beyond a reasonable
17:39:17 11 doubt. Civil cases are decided based on the
17:39:20 12 preponderance of evidence.

17:39:22 13 Businesses and universities, the NCAA and
17:39:25 14 all of us as individuals and governments in widely
17:39:30 15 important matters make critical important decisions
17:39:33 16 every day based on what they think is right, what is
17:39:36 17 reasonable, what the evidence means to us and to them.

17:39:40 18 Setting aside our specific situation,
17:39:41 19 because I do not want to comment on that, but just in
17:39:45 20 general if we and governments and corporations and
17:39:49 21 universities are faced with making a decision whether
17:39:51 22 to hire or fire an employee, to buy or sell a business,

17:39:54 1 to accept or reject a contract, to pass legislation, to
17:39:58 2 make important policy judgments at the highest order
17:40:01 3 involving large amounts of money, it makes no sense to
17:40:06 4 wait for a definitive legal trial to prove a set of
17:40:09 5 facts under a different legal standard.

17:40:12 6 It makes no sense because burdens of proof
17:40:15 7 are different. It makes no sense because most of us
17:40:17 8 most of the time do not have subpoena power or the
17:40:20 9 opportunity for a full judicial trial to determine all
17:40:23 10 of the facts for all purposes, and it makes no sense
17:40:26 11 because subsequent criminal and civil trials apply
17:40:29 12 different standards of proof, and as a result of that
17:40:33 13 they're not likely to determine facts in a way that
17:40:35 14 change the current set of facts available to us.

17:40:36 15 Rather, we take the facts as they are
17:40:40 16 available, and as I noted this applies not just to
17:40:43 17 routine, everyday matters, but to the matters of the
17:40:46 18 highest importance for governments, businesses and
17:40:49 19 universities. Without commenting one way or the other
17:40:53 20 about the facts as found by the Freeh report, given the
17:40:55 21 different standards of proof and the fact that criminal
17:40:58 22 law standards of proof and procedural notions of due

17:41:01 1 process do not apply to decisions that universities and
17:41:04 2 businesses must make every day, arguments that we
17:41:07 3 should wait to act on the Freeh recommendations or wait
17:41:11 4 to act on NCAA compliance until after further legal
17:41:14 5 proceedings (recording briefly inaudible) understand
17:41:16 6 this critical distinction.

17:41:18 7 With the university to act based on the kind
17:41:21 8 of factual development in the Freeh report does not
17:41:24 9 deny due process. Due process is a constitutional
17:41:26 10 concept that applies to the government to restrict
17:41:31 11 taking property and other rights in certain
17:41:32 12 circumstances. It does not tell universities,
17:41:36 13 governments or businesses that they cannot act on
17:41:39 14 recommendations or take other reasonable steps based on
17:41:42 15 thorough investigation. Those are my comments, Karen.

17:41:46 16 CHAIRPERSON PEETZ: Okay. Thank you very
17:41:47 17 much, Steve. And I'd like to turn it to Trustee Ken
17:41:51 18 Frazier who will talk about the Freeh report.

17:41:54 19 TRUSTEE FRAZIER: Thank you, Karen. This is
17:41:55 20 Ken Frazier. I'll try to be brief because I believe a
17:41:58 21 lot of what I'm about to say is well known and well
17:42:01 22 understood. As all people understand, back in November

17:42:06 1 of 2011 the board of trustees made an agreement to do a
17:42:10 2 full and complete investigation to try to identify
17:42:14 3 where failures occurred and what changes should be made
17:42:17 4 within Penn State for the future.

17:42:20 5 At that time we were under a great deal of
17:42:23 6 scrutiny from both external constituencies, including
17:42:27 7 the NCAA, the Big Ten, congress, the Department of
17:42:32 8 Education, the media, as well as internal
17:42:35 9 constituencies, notably our own faculty. We then
17:42:39 10 commissioned Judge Louis Freeh to do an independent
17:42:43 11 investigation because we agreed that it was important
17:42:48 12 that as a prominent institution we learn the facts.

17:42:53 13 In that regard, we gave Judge Freeh complete
17:42:55 14 discretion in how to conduct the investigation and
17:43:00 15 unfettered access to the university's documents and
17:43:04 16 people. We intended, and we said this from day one, to
17:43:10 17 make Judge Freeh's findings, his conclusions and
17:43:15 18 recommendations public.

17:43:18 19 We also agreed that the board would have no
17:43:20 20 editorial influence or control, or even any advanced
17:43:24 21 look at Judge Freeh's findings, conclusions, and those
17:43:29 22 recommendations he made as a part of his final report.

17:43:34 1 We intended then and we intend now to use those
17:43:38 2 findings to inform our decisionmaking going forward.

17:43:44 3 So Penn State has done many good things, but
17:43:51 4 to the extent that there were things that went wrong,
17:43:53 5 we agreed that as a board we need to look at how those
17:43:55 6 things occurred and how to fix those going forward to
17:43:58 7 insure that something like this never happens again,
17:44:03 8 especially as it relates to children.

17:44:06 9 Now, in that context the board was very
17:44:11 10 clear about what it was accepting responsibility for,
17:44:16 11 and what the board accepted, and we said this
17:44:19 12 explicitly in the second sentence of our statement, is
17:44:22 13 that the board of trustees, as the group that has
17:44:25 14 paramount accountability for overseeing and insuring
17:44:30 15 the proper functioning and governance of the
17:44:32 16 universities, accepts full responsibility for the
17:44:37 17 failures that occurred, period.

17:44:39 18 Put differently, we agree that as an
17:44:43 19 organization within Penn State that's responsible for
17:44:45 20 fixing anything that went wrong we accept that
17:44:50 21 responsibility for any failures that occurred. Now,
17:44:54 22 because we agreed to make the Freeh report public at

17:45:01 1 the very same time that it was made available to the
17:45:06 2 board, we are not in a position to control how others
17:45:09 3 use the report or what they say about the report.

17:45:14 4 And indeed while Judge Freeh found many
17:45:16 5 facts that we would not have known except through the
17:45:20 6 quality of his investigation, including some of the
17:45:23 7 seminal facts that take us back to 2001, including
17:45:26 8 E-mails and internal notes, the fact of the matter is
17:45:30 9 that like any investigation or any court case, for that
17:45:34 10 matter, there are clear facts in evidence and then
17:45:37 11 there are inferences, interpretations and conclusions
17:45:43 12 that one can draw.

17:45:44 13 Because the public got that report at the
17:45:47 14 same time, individuals are free to reach whatever
17:45:52 15 conclusions they want to reach on the basis of the
17:45:55 16 report. From our standpoint, though, I want to be very
17:45:59 17 clear that what we've done is we've accepted
17:46:01 18 responsibility to fix those things which I think the
17:46:05 19 report clearly makes abundantly clear that went wrong
17:46:11 20 inside the university. So with that, Madam
17:46:16 21 Chairperson, I will turn it over to you.

17:46:18 22 CHAIRPERSON PEETZ: Thank you. Thanks, Ken.

17:46:20 1 Okay. Finally, Richard Edelman is on. He's our public
17:46:22 2 relations and media firm advisor.

17:46:24 3 MR. EDELMAN: Thanks, Karen. Look, the
17:46:27 4 school has lived through three major news cycles in the
17:46:30 5 last two months, the Sandusky trial and verdict, the
17:46:33 6 Freeh report, and then the NCAA sanctions. In all
17:46:37 7 three of these situations we've been responding to
17:46:39 8 events not in control of the events, but in each
17:46:41 9 situation we've been able to provide consistent
17:46:44 10 messages.

17:46:45 11 And those are as follows: First, we take
17:46:47 12 responsibility to insure this sort of thing never
17:46:51 13 happens again, and that we are going to fix the
17:46:53 14 shortcomings so we're a stronger institution in the
17:46:55 15 future. Second, we're committed to developing and
17:46:58 16 supporting specific programs to protect children on and
17:47:00 17 off campus.

17:47:01 18 Third, we have a plan to improve the
17:47:03 19 school's governance which will be informed in part by
17:47:05 20 the Freeh report's recommendations and will make this
17:47:08 21 great university even greater in the future. This
17:47:11 22 university has received praise in many corners in the

17:47:13 1 past two months, despite these three big events in the
17:47:18 2 sense that you have been willing to hold nothing back
17:47:20 3 in the investigation and to take very strong actions,
17:47:23 4 such as the removal of the statue in front of the
17:47:26 5 football stadium prior to the NCAA sanctions.

17:47:28 6 However, the response by the university is
17:47:32 7 now being clouded by some who are not aligned, and in
17:47:37 8 our opinion this is impeding our ability to rebuild
17:47:41 9 reputation. It requires that all of the board face
17:47:46 10 forward and align behind President Erickson. Whether
17:47:49 11 you do a resolution tonight to me is not important.

17:47:53 12 It is really important, however, that you
17:47:55 13 have said that President Erickson has the authority to
17:47:57 14 do what he's done, and that you have already released a
17:48:02 15 statement of support, and we think that we have to stop
17:48:04 16 looking backwards to decisions that were made and
17:48:07 17 cannot be undone.

17:48:09 18 I believe if you do not -- I want to put
17:48:11 19 this really clearly -- you will see a whole new round
17:48:14 20 of stories in the media about the board dysfunction and
17:48:16 21 management in turmoil, and I say this just at the point
17:48:20 22 when you can begin to rebuild the reputation of this

17:48:23 1 great university. From a PR point of view this is a
17:48:27 2 key moment.

17:48:28 3 Moving forward we have to remind people that
17:48:31 4 we are a great university, that Penn State will
17:48:36 5 actually regain trust over time. We have a great
17:48:40 6 heritage, talent and commitment. It's the beginning of
17:48:42 7 the school year. It's the beginning of football. You
17:48:45 8 have a whole new mass of students preparing to move in.

17:48:48 9 Your own staff, your own students and even
17:48:50 10 your football coach are asking you to take the reigns
17:48:52 11 and move forward, and in our opinion it's time for you
17:48:55 12 to be leaders and to stand by the decisions made and to
17:48:59 13 be clear that you have a responsibility to accept what
17:49:04 14 has been done. Karen, over to you.

17:49:06 15 CHAIRPERSON PEETZ: Okay. Thank you,
17:49:08 16 Richard. Now what I'd like to do is open it up for a
17:49:10 17 brief Q and A session of the speakers that any of the
17:49:14 18 trustees have questions for. I would ask that you
17:49:20 19 identify yourselves as you begin.

17:49:23 20 TRUSTEE DAMBLY: Hey, Karen. This is Mark
17:49:28 21 Dambly. I had a question for Gene Marsh. Gene, is it
17:49:32 22 fair to say that the NCAA's position was that the

17:49:37 1 president, then president failed to have the
17:49:39 2 institutional control at that time and that that was
17:49:41 3 the basis for their decision?

17:49:45 4 MR. WALSH: I don't -- I honestly don't know
17:49:47 5 if I can answer that without looking further. I mean,
17:49:53 6 I think -- I read the statements that are in the
17:49:56 7 consent decree, and as I said when I spoke, the matters
17:50:02 8 relating to the bylaws are detailed, and I guess you
17:50:05 9 can say conclusions to some degree, are detailed in the
17:50:10 10 consent decree -- let me see.

17:50:12 11 I guess it's about pages three more than
17:50:16 12 anywhere and the top of four, and there's discussion
17:50:20 13 which gets to that issue, but then, you know, we were
17:50:24 14 essentially in a process that pulled up one step short
17:50:28 15 of actual findings against individuals. I think that's
17:50:33 16 a relevant point.

17:50:33 17 The language that's in the consent decree is
17:50:39 18 clearly geared towards what is considered to be an
17:50:41 19 institutional failing and, in fact, there are specific
17:50:47 20 reservation of rights against individuals in the
17:50:51 21 consent decree. There's a specific provision for
17:50:53 22 reservation of rights, which I think answers your

17:52:02 1 the NCAA. That would be one for them to follow. I can
17:52:05 2 only guess, and that's just a guess. We had a
17:52:07 3 discussion about the vacation of win penalties, and you
17:52:11 4 can see from the language in the consent decree, I
17:52:13 5 mean, they clearly believe, right or wrong -- I could
17:52:17 6 take the time to find the language, but they clearly
17:52:19 7 believe that the problems started as far as
17:52:22 8 institutional culpability and failure to respond to
17:52:26 9 concerns.

17:52:27 10 They believe that the problem started in
17:52:29 11 1998, and they conclude specifically in the consent
17:52:32 12 decree that a part of their belief is that there was a
17:52:37 13 concern not to make a disclosure in order to avoid the
17:52:41 14 negative effect on the football program which they
17:52:45 15 believe would include recruiting, et cetera, and I
17:52:48 16 don't want to get caught for speaking for the NCAA, but
17:52:51 17 I don't -- but I can read, and that's the message
17:52:54 18 that's coming from the consent decree.

17:53:00 19 CHAIRPERSON PEETZ: Other questions?

17:53:00 20 TRUSTEE MASSER: Yeah, Keith Masser --

17:53:01 21 CHAIRPERSON PEETZ: Okay.

17:53:01 22 TRUSTEE MASSER: -- for Gene Marsh. What is

17:53:05 1 the NCAA's rationale for limiting scholarships? I
17:53:10 2 mean, we have these scholarships that fell off the face
17:53:13 3 of the earth and we've denied the education of students
17:53:17 4 who, with their athletic ability, could have gotten an
17:53:19 5 education. What's the rationale for that type of
17:53:23 6 sanction?

17:53:26 7 MR. WALSH: You're not going to like it,
17:53:27 8 but, you know, the blunt rationale first, a significant
17:53:31 9 loss of scholarships for institutional violations is
17:53:36 10 not anything new. I mean, my -- when I was a law
17:53:39 11 professor I was at Alabama and we had a case where we
17:53:42 12 lost -- I forget the count, but it was something like
17:53:45 13 18 or 21. And then, you know, there have been recent
17:53:48 14 cases where people have had just significant losses of
17:53:52 15 scholarships.

17:53:53 16 I think I'm right that there's one highly
17:53:55 17 ranked school this year that's dealing with a 75 total
17:53:58 18 instead of 65, but it is clearly an attempt -- and
17:54:03 19 again, this is my language -- to significantly impact
17:54:07 20 the competitive level of the program, and that's stated
17:54:13 21 expressly, and as I mentioned in a previous forum, I
17:54:17 22 think, that whenever those arguments were made and they

17:54:19 1 were made with full force about the impact of these
17:54:23 2 penalties on people who had nothing to do with it that
17:54:26 3 their response is, and this is blunt but true, is well,
17:54:30 4 the alternative was no football program at all.

17:54:35 5 So a football program that is significantly
17:54:37 6 hindered in the number of scholarship programs --
17:54:41 7 scholarships that can be given is, they think and some
17:54:47 8 folks think, the institution thinks is better than no
17:54:50 9 program at all. So this is clearly not the first case
17:54:55 10 where scholarship losses had a huge impact on -- I
17:54:58 11 mean, when you give scholarship loses you essentially
17:55:01 12 in many cases are taking scholarships out of kids who
17:55:04 13 are in high school.

17:55:06 14 You know, you're -- when you take initials
17:55:09 15 away you're taking scholarships away from kids who are
17:55:11 16 in high school, and a multiyear initial ban does
17:55:15 17 exactly that, and so I completely agree with you, but
17:55:18 18 that is exactly the philosophy of the NCAA, and it's
17:55:21 19 been furthered by this discussion that's come up
17:55:24 20 recently of this working group that will put in place
17:55:27 21 in October a whole new procedural mechanism for the
17:55:34 22 NCAA enforcement process and new penalties.

17:55:37 1 And there's an explicit discussion, nearly a
17:55:39 2 page long or a half or three-quarters of a page in that
17:55:42 3 document, that talks about the weighing of the idea
17:55:45 4 that these penalties have an impact on innocent people,
17:55:48 5 and they acknowledge fully that that's the case and
17:55:50 6 acknowledge fully that going forward that is exactly
17:55:53 7 what they are going to continue to do.

17:55:56 8 TRUSTEE MASSER: So it seems they'd have
17:55:57 9 other options, that they could exercise other ways of
17:56:00 10 doing that instead of denying students education. It
17:56:04 11 just seems contradictory to their mission to me.

17:56:07 12 MR. WALSH: Binding penalties, scholarship
17:56:09 13 limit -- I mean recruiting limitations, all -- making
17:56:12 14 coaches sit out games, there are a whole array of
17:56:15 15 things, but scholarship reductions have clearly always
17:56:18 16 been the heart and soul of major infractions cases, and
17:56:22 17 in every case they impact -- almost all the time impact
17:56:26 18 people that have absolutely nothing to do with the
17:56:28 19 violation.

17:56:31 20 TRUSTEE MASSER: Thank you.

17:56:32 21 CHAIRPERSON PEETZ: Any other questions?

17:56:34 22 TRUSTEE CLEMENS: Yeah, Gene this is Al

17:56:35 1 Clemens. Gene, this had nothing to do with the
17:56:39 2 infractions of the football team at all, and they had
17:56:43 3 the highest academic level, so it seems like -- you
17:56:46 4 know, I understand what you were going through, but it
17:56:48 5 seems like they don't draw any differentiation between
17:56:51 6 the university and the student athletes. That's the
17:56:57 7 problem I have with the whole thing. It just doesn't
17:56:59 8 seem fair to the student athletes but, you know, you
17:57:01 9 covered that I guess as much as you can.

17:57:03 10 MR. WALSH: For years I've covered it,
17:57:06 11 including the nine years I was on the committee,
17:57:08 12 including the two years I was chair when I would have
17:57:09 13 to make a public announcement of cases it was usually
17:57:12 14 the first or close to the first shot out of the gun
17:57:15 15 that would come from the media or whatever, the school.
17:57:19 16 And it's one of those answers that you give that if
17:57:22 17 accurately given expresses the idea that we fully
17:57:25 18 understand that, but that is exactly what we intend,
17:57:29 19 and so what --

17:57:29 20 TRUSTEE CLEMENS: That always comes -- I'm
17:57:29 21 sorry, but that usually comes from NCAA infractions.
17:57:32 22 There was no NCAA infraction here.

17:57:35 1 MR. WALSH: Well, there was an NCAA
17:57:37 2 infraction -- I mean, if you read the consent decree,
17:57:40 3 we don't want to get into a debate about that, I guess,
17:57:42 4 but clearly at a minimum they believe there was a loss
17:57:48 5 of institutional control and unethical conduct.

17:57:51 6 I don't think anyone could read the consent
17:57:53 7 decree and not think that that's what they thought, but
17:57:56 8 there's also then this other culture thing, and also as
17:58:00 9 I said before, to say -- I think in the week that I
17:58:06 10 talked to those folks the word unprecedented got to be
17:58:10 11 used so much that it just started to rub me raw because
17:58:13 12 it seemed like you couldn't discuss it without the use
17:58:16 13 of the word, and that's exactly where we are here.

17:58:18 14 There's no critter like this. I mean, this
17:58:21 15 is a completely different critter than has ever come
17:58:21 16 along before, and these penalties are greater than
17:58:25 17 anything that's ever come along before and that's,
17:58:28 18 though, what breaks the link with -- to the extent
17:58:32 19 there's any logic in the path that scholarships won't,
17:58:37 20 innocent people, in this case that logic is broken even
17:58:40 21 further because they make it clear that their great
17:58:43 22 concern, or I think even a greater concern than bylaw

17:58:44 1 issues was culture.

17:58:47 2 So I don't disagree with everything -- no
17:58:48 3 one could disagree with everything you say about how it
17:58:50 4 negatively impacts, and I know you've been very -- it
17:58:54 5 negatively impacts people who are not responsible, and
17:58:58 6 you've been greatly concerned about the critical
17:59:01 7 (unintelligible) to the point where it could affect the
17:59:03 8 health and safety of players, and I promise you -- I
17:59:07 9 promise you we with force made those arguments, and
17:59:12 10 then here we are today.

17:59:14 11 TRUSTEE LUBERT: Gene this is Ira Lubert.
17:59:16 12 Can I ask a question of you? Gene?

17:59:18 13 MR. WALSH: Yes, sir. I was just getting a
17:59:22 14 whole bunch of background noise, but now you're clear
17:59:23 15 as a bell.

17:59:24 16 TRUSTEE LUBERT: Thank you. Just a
17:59:25 17 question. I know that members of the board have asked
17:59:28 18 for the legal team and yourself to go back to the NCAA
17:59:32 19 to see previous to today if we could get any leniency.
17:59:36 20 Can you speak to any of that and what happened?

17:59:41 21 MR. WALSH: Well, we had a discussion, I
17:59:44 22 think this was referred to in some of the earlier

17:59:46 1 comments from Chairman Peetz I believe, that we had a
17:59:50 2 discussion with the NCAA. First we had a discussion
17:59:55 3 during the week, that could there be any what people
17:59:58 4 will call a reopener, in other words maybe two years,
18:00:01 5 could we go ahead and post the idea of getting -- two
18:00:06 6 years down the road, maybe getting a look see at where
18:00:08 7 we were and maybe get some relief, and we argued that
18:00:13 8 forcefully and got back a no answer.

18:00:16 9 The no answer was based on the idea that
18:00:18 10 they believe that the culture problem would take more
18:00:21 11 than a couple of years to fix. We more recently went
18:00:26 12 back to them with the same hope and argument and got
18:00:31 13 the same answer. So we had some hope maybe going
18:00:37 14 forward that in the AIA, in the monitoring agreement
18:00:41 15 there might be a little give there.

18:00:42 16 But at least for the moment we've got what
17 we've got, and I would also say probably (recording
18:00:46 18 briefly inaudible) that in the NCAA infractions process
18:00:52 19 regarding penalties there has never been up to this
18:00:55 20 point, although this thing we're dealing with is its
18:00:58 21 own critter, there has never been time off for good
18:01:01 22 behavior. That is a concept that does not exist even

18:01:04 1 in cases where the committee on infractions imposed
18:01:08 2 like a 10-year show cause against the coach which is --
18:01:11 3 in many respects 10 years of -- you're not going to be
18:01:14 4 able to coach.

18:01:16 5 There's no concept of time off for good
18:01:19 6 behavior either in individual penalties or
18:01:21 7 institutional penalties. So it's fair and ripe to ask,
18:01:27 8 and it is consistent on their part to say at least as
18:01:31 9 to these penalties that they are not going to grant
18:01:34 10 that as they speak now. Even President Emmert said at
18:01:41 11 the press conference I believe that the NCAA is always
18:01:43 12 open to new information if new information develops,
18:01:46 13 but we've asked.

18:01:49 14 I think it's important to understand that
18:01:51 15 your lawyers, your in-house counsel and your outside
18:01:55 16 counsel from Reed Smith have been fierce advocates, and
18:02:00 17 this institution through your president has raised all
18:02:04 18 of these arguments not just once and got turned back,
18:02:07 19 but multiple times and got turned back, and that's a
18:02:10 20 fact.

18:02:11 21 TRUSTEE LUBRANO: Gene, this is Anthony
18:02:14 22 Lubrano. I don't recall hearing -- when did we

18:02:18 1 actually engage you?

18:02:22 2 MR. WALSH: Let me see. I think it was
18:02:25 3 about the day -- I'd have to go back and look, but I
18:02:28 4 think it was about the day that the Freeh report became
18:02:30 5 public. I don't know when it was. I'm not sure. I'd
18:02:35 6 have to look. It was right at the time about the Freeh
18:02:36 7 report.

18:02:38 8 TRUSTEE LUBRANO: Thank you.

18:02:40 9 TRUSTEE SUHEY: Hey, Gene, it's Paul Suhey.
18:02:41 10 If I understood Rod correctly, let's say we're not
18:02:45 11 going to take this and we're going to appeal this,
18:02:47 12 we're going to sue them or whatever, put you guys on
18:02:49 13 top of the NCAA. Would we -- it sounds like, though,
18:02:50 14 if we decided to do this they could keep us from
18:02:52 15 playing football then. They'd shut us down until a
18:02:54 16 court decided, you know, what the --

18:02:57 17 MR. WALSH: I don't know. I don't know how
18:02:58 18 that would go. I don't know how that would go.

18:03:01 19 TRUSTEE SUHEY: I mean, if we decided to
18:03:02 20 battle this they could shut us down and then we'd have
18:03:04 21 to wait years until a court decided.

18:03:06 22 MR. WALSH: I just don't know how that would

18:03:08 1 go.

18:03:08 2 TRUSTEE MYERS: Well, it could be the
18:03:10 3 opposite. This is Joel. First let me say that I have
18:03:17 4 great respect for Rod and Karen, and all the other
18:03:21 5 board members here have worked long and hard and
18:03:24 6 they're very dedicated to Penn State, which is a great
18:03:28 7 institution.

18:03:31 8 A couple of points. The statement that the
18:03:32 9 board issued right after the Freeh report came out was
18:03:35 10 not passed. The board doesn't do anything official
18:03:39 11 without voting because it's the corporate authority, so
18:03:44 12 we have not accepted the accuracy in the Freeh report,
18:03:47 13 and simply because we're working and implementing
18:03:51 14 various procedures doesn't mean the board accepted all
18:03:54 15 of the Freeh report as spec.

18:03:56 16 And we never anticipated the NCAA or any
18:03:59 17 other party like accreditation agencies will use it
18:04:02 18 against us. The report is not proven, and as I stated
18:04:06 19 in my E-mail to the board we've not received full
18:04:10 20 background on all aspects of it. We have committees
18:04:13 21 working on various aspects of it, the administration
18:04:17 22 and so on.

18:04:18 1 And we all noticed that some parts of the
18:04:22 2 Freeh report have come under attack for a variety of
18:04:25 3 reasons, so I don't believe we can accept the Freeh
18:04:28 4 report for the purposes of the consent decree imposed
18:04:31 5 by the NCAA, and then turn away any recommendations
18:04:35 6 within the Freeh report.

18:04:36 7 So a vote -- before a vote on the consent
18:04:41 8 decree imposed by the NCAA either now or in the future
18:04:44 9 we need a full review and discussion and debate by the
18:04:47 10 board and by these committees, and we need a model. We
18:04:50 11 need to see what the impact of accepting the Freeh
18:04:54 12 report in total will have on all kinds of economic
18:05:01 13 effects, student, educational employment prospects, the
18:05:05 14 university's fiscal affairs, potential accreditation of
18:05:10 15 the institution, alumni and community effects, federal
18:05:13 16 research dollars, turnover of faculty and staff,
18:05:16 17 football revenue, impact on other sports, future
18:05:20 18 enrollment, pending and future lawsuits, state and
18:05:25 19 federal support for the institution, and so on.

18:05:29 20 And following the conclusion of that
18:05:32 21 modeling then we'd be in a position to receive a full
18:05:36 22 report and figure out, too, if there was improper or

18:05:39 1 illegal coercion brought to bear on the university to
18:05:43 2 extract this document, questions about -- for us, we
18:05:48 3 heard about these, did it prevent the president from
18:05:52 4 bringing a discussion to the board which in itself
18:05:54 5 would violate a major Freeh report recommendation.

18:05:56 6 And we need a study and a report by the
18:05:59 7 administration and attorneys detailing what effect a
18:06:03 8 vote to accept the consent decree imposed by the NCAA
18:06:08 9 would have on the university's fiscal affairs, and
18:06:10 10 they're wide ranging and major, and I've mentioned
18:06:15 11 these previously, so I think this is important.

18:06:20 12 These are the kind of things we need to know
18:06:21 13 the answer to before accepting any part of the Freeh
18:06:24 14 report and binding the university. Now, the board is
18:06:29 15 aware of the E-mail that I shared, and I shared this
18:06:32 16 with some of my constituents, and I've been inundated
18:06:34 17 with nearly 1,000 E-mails in the past 2 days. These
18:06:38 18 are all alumni.

18:06:39 19 They wrote incredibly passionate and lengthy
18:06:42 20 comments, including one from a policeman serving in
18:06:45 21 Afghanistan, and they're 99 and a half percent against
18:06:49 22 ratification, and we need to think through what we're

18:06:53 1 doing here. These are our alumni and friends who fund
18:06:57 2 and support Penn State.

18:07:01 3 CHAIRPERSON PEETZ: Okay. Thank you.

18:07:02 4 Thanks, Joel. Other comments or questions? I think we
18:07:06 5 can take one more question and then we need to --

18:07:08 6 TRUSTEE CLEMENS: Yeah, Karen. This is Al
18:07:09 7 again. I don't want to beat a dead horse here, Gene,
18:07:10 8 but let me ask you something. This all seems to relate
18:07:14 9 back to the culture, mainly the culture, and what if
18:07:17 10 these trials come out and we find out that there wasn't
18:07:21 11 -- it really didn't relate to the football program, the
18:07:25 12 culture as much as they're pinning on us. I mean, it
18:07:28 13 could be a big change in that. Does that give us a
18:07:30 14 chance to go back to the NCAA at all?

18:07:35 15 MR. WALSH: Well, I think the NCAA made its
18:07:38 16 decision based on the Freeh report in part. It also,
18:07:41 17 as stated in the consent decree, speaks to the grand
18:07:45 18 jury report, and they note that I think there were
18:07:50 19 what, 430 interviews conducted and access to hundreds
18:07:54 20 and thousands, if not millions of E-mails, et cetera.

18:07:57 21 And this relates to the point that Steve
18:08:00 22 Dunham made a while ago, and that is that the standard

18:08:04 1 for the NCAA and the standard for -- in civil matters
18:08:09 2 and decisionmaking by universities is quite different
18:08:13 3 than criminal matters and, in fact, I would say that
18:08:15 4 the NCAA standard for basis of findings is even lower
18:08:18 5 than in the civil courts.

18:08:19 6 The bylaw provision 32-883 says -- and I
18:08:24 7 know we're not dealing with a committee on infractions,
18:08:26 8 but people keep liking to talk about the NCAA as though
18:08:29 9 it's one great big entity. Here is the standard. The
18:08:33 10 committee on infractions shall base its findings on
18:08:36 11 information presented to it that it determines to be
18:08:38 12 credible, persuasive and of a kind on which reasonably
18:08:43 13 prudent persons rely in the conduct of serious affairs.

18:08:46 14 I promise you after being on the committee
18:08:47 15 for nine years that comes down to listening to people
18:08:52 16 on each side and decide if you think it happened. It's
18:08:55 17 a low standard. It's not terribly low, but it's who do
18:08:59 18 you believe, so what the future brings in these
18:09:03 19 criminal proceedings, I don't know. Whether it causes
18:09:07 20 the NCAA to change its position, I seriously doubt it.

18:09:14 21 CHAIRPERSON PEETZ: Okay. All right. Thank
18:09:15 22 you very much. So now what we're going to do is just

18:09:19 1 go through with various trustees just because there's
18:09:21 2 so many of us having a chance to say what they
18:09:25 3 (recording briefly inaudible), and I think we will
18:09:26 4 begin with Marianne Alexander.

18:09:29 5 TRUSTEE ALEXANDER: Yes, thanks. You've
18:09:31 6 already told me who I am, so I don't have to say that.
18:09:33 7 I appreciate the opportunity to speak, and I want to
18:09:36 8 make my position very clear. I strongly endorse
18:09:39 9 President Erickson's signing of the dissent decree --
18:09:42 10 dissent decree.

18:09:43 11 He clearly had the authority to do so, and
18:09:45 12 in so doing saved our university from a far worse state
18:09:49 13 in the form of a death penalty for a football program.
18:09:53 14 He deserves our gratitude and praise for acting in Penn
18:09:55 15 State's interests. I also believe we're extremely
18:09:59 16 fortunate to have Rod Erickson at the helm of our
18:10:02 17 university at this critical time.

18:10:04 18 Not only is he widely respected in American
18:10:06 19 higher education nationally, but is very trusted and
18:10:09 20 respected by Penn State's distinguished faculty. His
18:10:13 21 courage and steady hand have steered us through
18:10:16 22 treacherous waters since November, and I continue to

18:10:19 1 have unflinching faith in President Erickson.

18:10:22 2 I urge all of us to move forward under his

18:10:25 3 leadership for the sake of the entire Penn State

18:10:27 4 community now and in the future. Thanks for this

18:10:30 5 opportunity.

18:10:32 6 CHAIRPERSON PEETZ: Thank you so much.

18:10:32 7 Thanks, Marianne. Okay. I'd like to call on Trustee

18:10:36 8 Allan.

18:10:37 9 TRUSTEE ALLAN: Yes, I'll be very brief

18:10:38 10 here. Although I feel that the NCAA acted beyond their

18:10:42 11 authority, I support the decision by the executive

18:10:45 12 committee authorizing President Erickson to sign the

18:10:49 13 consent decree in light of the alternative as was

18:10:51 14 presented. President Erickson has my full support.

18:10:57 15 CHAIRPERSON PEETZ: Thank you. Trustee

18:10:58 16 Arnelle.

18:10:59 17 TRUSTEE ARNELLE: Yes. Thank you very much.

18:11:04 18 I fully support the action taken by President Erickson

18:11:06 19 made under the authority, it's clear under the charter

18:11:11 20 and the bylaws of the university, and in consultation

18:11:16 21 with the chairman and the vice chairman of the board of

18:11:18 22 trustees with the full support of the executive

18:11:22 1 committee. Thank you.

18:11:24 2 CHAIRPERSON PEETZ: Thank you. Trustee

18:11:26 3 Broadhurst.

18:11:29 4 FEMALE SPEAKER: Is not on the line.

18:11:31 5 CHAIRPERSON PEETZ: Okay. Thank you.

18:11:32 6 Trustee Clemens.

18:11:34 7 TRUSTEE CLEMENS: Yeah, I'd like to support

18:11:37 8 Rod. I back up Marianne's statement totally, and the

18:11:41 9 only issue I have again is the way the NCAA has come

18:11:46 10 down on the student athletes, but totally support Rod

18:11:51 11 in what he's done. Thank you.

18:11:53 12 CHAIRPERSON PEETZ: Thank you, Al. Trustee

18:11:54 13 Corbett.

18:11:56 14 TRUSTEE CORBETT: Yes, thank you. I want to

18:11:57 15 make that people understand that are listening to this,

18:11:59 16 Penn State is, has been and will be a world class

18:12:02 17 learning and research institution. Clearly mistakes

18:12:06 18 have been made, and we must learn from those mistakes.

18:12:10 19 President Erickson faced a dilemma of two

18:12:13 20 very undesirable choices. He chose I think correctly

18:12:16 21 the lesser of the two severe punishments. The NCAA

18:12:21 22 handed down, as Gene Marsh said, unprecedented

18:12:24 1 sanctions against Penn State University that I believe
18:12:27 2 went beyond the mission and oversight authority of the
18:12:29 3 organization, but that argument is for another day.

18:12:33 4 It became clear that the university
18:12:36 5 administration in my mind did everything within its
18:12:38 6 power to work to mitigate the damage to Penn State, the
18:12:42 7 region of central Pennsylvania and its economy, and to
18:12:44 8 the commonwealth. Thank you.

18:12:47 9 CHAIRPERSON PEETZ: Thank you, Trustee
18:12:48 10 Corbett. Trustee Cotner.

18:12:52 11 TRUSTEE COTNER: Yeah, I support Rod
18:12:54 12 Erickson also through his very difficult decision. I
18:12:59 13 also subscribe to the duty of loyalty and will always
18:13:03 14 be supportive of our university. I just don't -- I
18:13:09 15 can't put my arms around how harsh the penalties were,
18:13:13 16 and that's about it.

18:13:15 17 CHAIRPERSON PEETZ: Thank you. Trustee
18:13:17 18 Dambly.

18:13:19 19 TRUSTEE DAMBLY: Thank you, Madam Chair. I
18:13:21 20 want to publicly state my wholehearted support for
18:13:24 21 President Erickson as a leader of Penn State and his
18:13:27 22 handling of the NCAA matter specifically, and his

18:13:30 1 authority to execute the consent decree.

18:13:33 2 Leadership requires individuals make very
18:13:36 3 difficult decisions under very difficult circumstances,
18:13:39 4 and as I think we've learned this evening, the
18:13:41 5 university had very limited options and I believe
18:13:45 6 President Erickson, with the consultation of the
18:13:47 7 executive committee and the chair and the vice chair,
18:13:50 8 chose the right -- made the right decision.

18:13:51 9 I know all of us, including Rod, believe
18:13:54 10 that the sanctions are very, very harsh, but I also
18:13:57 11 believe that for many of us it's now time to move
18:14:01 12 forward. We need to move this great university
18:14:03 13 forward, restore its glory, and I don't think we can do
18:14:07 14 it on our own.

18:14:10 15 I think it's -- I think it's -- we've got a
18:14:12 16 lot of work ahead of us, and I want to encourage
18:14:15 17 everybody on the phone who is listening and who is not
18:14:16 18 necessarily able to participate verbally, encourage all
18:14:21 19 of us, the students, the faculty, the staff, the alumni
18:14:23 20 to look forward, not back, and help us restore the
18:14:25 21 glory here.

18:14:26 22 CHAIRPERSON PEETZ: Thank you. Trustee

18:14:29 1 Deviney.

18:14:29 2 TRUSTEE DEVINEY: Yes, I also support
18:14:32 3 President Rod Erickson and our executive committee. I
18:14:35 4 will not second guess the decisions that they were
18:14:37 5 forced to make because of the NCAA. As Chairman Peetz
18:14:41 6 and Steve Dunham acknowledged tonight, it is not
18:14:43 7 legally necessary to ratify the consent decree since
18:14:45 8 President Erickson had legal authority to enter into
18:14:49 9 the consent decree.

18:14:50 10 My concern, and it is a narrow one, is that
18:14:53 11 I do not want any decision I make to ratify the consent
18:14:55 12 decree to be construed as an acceptance that the full
18:14:59 13 board should not be consulted on certain issues in the
18:15:02 14 future because of a concern of an inability of our
18:15:05 15 board members to abide by our duty to maintain
18:15:08 16 confidentiality.

18:15:10 17 This concern, though, arises out of the
18:15:13 18 demands of the NCAA, not our board. As we proceed to
18:15:17 19 address these difficult issues moving forward I keep in
18:15:20 20 mind the words of Coach O'Brien. We all have to come
18:15:24 21 together and realize why we're in the position we're
18:15:27 22 in. We have to. We have to stop arguing about it. We

18:15:32 1 have to move forward. Thank you.

18:15:33 2 CHAIRPERSON PEETZ: Thank you. Trustee
18:15:35 3 Eckel.

18:15:36 4 TRUSTEE ECKEL: I firmly believe our
18:15:40 5 committee must be to our land grant mission, our 95,000
18:15:43 6 talented students and student athletes, as well as our
18:15:49 7 exceptional and dedicated faculty. It is my belief
18:15:54 8 that we must move forward, continuing our historic
18:15:58 9 commitment to education and research for the benefit of
18:16:05 10 every Penn State student and every Pennsylvanian.

18:16:10 11 It is critical that we unite as one behind
18:16:14 12 the courageous leadership of our president, Rod
18:16:18 13 Erickson. Indeed, as he leads this great university in
18:16:26 14 a time of unprecedented challenge I'm confident in the
18:16:33 15 future of this great university because of his
18:16:37 16 leadership and the board's leadership and the entire
18:16:40 17 Penn State family's commitment to an even better future
18:16:48 18 tomorrow.

18:16:50 19 CHAIRPERSON PEETZ: Thank you. I don't know
18:16:51 20 if Trustee Erickson would like to add anything to his
18:16:54 21 prior remarks. Okay. Trustee Frazier, would you like
18:17:03 22 to add anything to your prior remarks?

18:17:05 1 TRUSTEE FRAZIER: Yes, very briefly, Madam
18:17:07 2 Chairman. I won't repeat what others have said other
18:17:09 3 than I unequivocally support our president as he deals
18:17:13 4 with an incredibly difficult and complex and
18:17:16 5 unprecedented dilemma.

18:17:18 6 I'd like to make two quick points that have
18:17:19 7 not come up so far. I want to ask fundamentally for
18:17:23 8 all of our board members to reflect on the fundamental
18:17:26 9 question why Penn State has trustees in the first
18:17:31 10 place. I submit that the reason why we have a board of
18:17:33 11 trustees is because the university faces issues of
18:17:37 12 governance that are often extraordinarily complex with
18:17:41 13 solutions that are hardly cut and dry.

18:17:44 14 For that reason we need to remember the
18:17:47 15 importance of debate and collective action and
18:17:50 16 decisionmaking are preferable to the mindset of any one
18:17:53 17 individual trustee. Secondly, I want to make the point
18:17:58 18 that while we recognize that mistakes have been made
18:18:03 19 and we need to move forward, we also need to recognize
18:18:06 20 that many of our constituents, and in particular our
18:18:10 21 alums, they often believe that by agreeing to these
18:18:15 22 sanctions we are accepting the most unfair and

18:18:19 1 slandered public betrayal of Penn State, our football
18:18:22 2 program and others.

18:18:25 3 They feel in short that this is a
18:18:27 4 fundamental, unfair attack on our integrity, so in
18:18:32 5 doing what we need to do to preserve the football
18:18:35 6 program going forward we should be mindful of making it
18:18:38 7 clear that we believe this is a great institution
18:18:41 8 notwithstanding certain failures which we are obliged
18:18:45 9 to correct going forward. Thank you.

18:18:49 10 CHAIRPERSON PEETZ: Thank you. Trustee
18:18:49 11 Greig.

18:18:49 12 TRUSTEE GREIG: I -- can you hear me okay?

18:18:54 13 CHAIRPERSON PEETZ: Yes.

18:18:54 14 TRUSTEE GREIG: Okay. I have voiced my
18:18:56 15 support for President Erickson in the past. I continue
18:19:01 16 to support him and the executive board. In my travels
18:19:06 17 I meet a lot of people who are not so friendly to Penn
18:19:10 18 State, and according to them we may should have gotten
18:19:17 19 harsh -- a more harsh penalty, but however, I think
18:19:19 20 that we need to move forward and I support President
18:19:24 21 Erickson and the board.

18:19:27 22 CHAIRPERSON PEETZ: Thank you. Trustee

18:19:29 1 Hayes.

18:19:30 2 TRUSTEE HAYES: Thank you, Karen. I've
18:19:31 3 known Rod Erickson since he first came to Penn State as
18:19:34 4 a faculty member. I had the distinct pleasure of
18:19:38 5 interacting with Rod at that time in my previous life
18:19:43 6 in public office, and from that time forward through
18:19:46 7 provost and now president there is no question as to
18:19:51 8 why Rod Erickson has risen to the plateau that he has.

18:19:54 9 He is without any doubt a good academician.
18:19:56 10 He is an honorable man, and he was faced with
18:20:00 11 impossible alternatives. There was not some magical,
18:20:05 12 easy done way through this thicket, and I support Rod
18:20:10 13 in what he's doing. Karen, if I could, could I just
18:20:14 14 ask Steve Dunham one quick question?

18:20:16 15 CHAIRPERSON PEETZ: Yes, please.

18:20:18 16 TRUSTEE HAYES: Steve, did I understand you
18:20:20 17 previously to say that we're still going through the
18:20:22 18 Clery investigation and they will be returning to
18:20:26 19 campus tomorrow?

18:20:28 20 MR. DUNHAM: Yes.

18:20:30 21 TRUSTEE HAYES: Will you be sure to keep the
18:20:31 22 board apprised of the actions and updates as we go

18:20:35 1 forward in that yet pending investigation, please?

18:20:39 2 MR. DUNHAM: Yes, we will do so.

18:20:40 3 TRUSTEE HAYES: Thank you, Steve. Thank
18:20:41 4 you, Karen.

18:20:42 5 CHAIRPERSON PEETZ: Thank you, Sam. Trustee
18:20:44 6 Hintz. Ed Hintz. Okay. Trustee Huber.

18:20:55 7 TRUSTEE HUBER: Yes, thank you, Karen. I
18:20:57 8 fully support President Erickson in his decision to
18:21:02 9 accept the consent decree. I believe he has the
18:21:05 10 authority to sign the agreement on behalf of the
18:21:07 11 university, and that what he signed was the best
18:21:11 12 possible choice of a bad situation.

18:21:14 13 It was clear that the alternative would have
18:21:17 14 had much more serious consequences to all of our
18:21:20 15 athletes, as well as the central Pennsylvania economy.
18:21:23 16 Because we're a member of the NCAA we have to abide by
18:21:27 17 their decision even though we feel it's unjust. I
18:21:32 18 think we've spent way too much time going over the same
18:21:36 19 ground again and again.

18:21:37 20 It's time to move forward and continue
18:21:39 21 making the changes we need to make and spend our time
18:21:43 22 and energy in a productive direction. Thank you.

18:21:46 1 CHAIRPERSON PEETZ: Thank you. Trustee
18:21:48 2 Khoury.

18:21:49 3 TRUSTEE KHOURY: Thank you, Chairman Peetz.
18:21:51 4 I fully support the actions of President Erickson who I
18:21:55 5 believe acted in the best interests of the university
18:21:59 6 when faced with two incredibly difficult options to
18:22:02 7 choose from. The fairness of the sanctions by the NCAA
18:22:06 8 are highly debatable, but I am confident that our
18:22:09 9 student athletes will surprise the nation with their
18:22:12 10 sportsmanship and honorable play. Thank you.

18:22:15 11 CHAIRPERSON PEETZ: Thank you. Trustee
18:22:17 12 Lubert.

18:22:17 13 TRUSTEE LUBERT: Yes. As I supported
18:22:20 14 President Erickson when he agreed to take over as
18:22:23 15 president in a very difficult time back in November, my
18:22:25 16 continued support for him is unwavered. I, like many
18:22:30 17 others, do feel, however, that the sanctions were very
18:22:32 18 harsh, but that's what -- given that and the debate
18:22:36 19 that's taken place we need to all come together and
18:22:39 20 move ahead at this time. Thank you.

18:22:41 21 CHAIRPERSON PEETZ: Thank you. Trustee
18:22:42 22 Lubrano.

18:22:44 1 TRUSTEE LUBRANO: Thank you, Karen. First,
18:22:46 2 I have the utmost respect for President Erickson. I do
18:22:48 3 believe he acted in what he felt was the best interests
18:22:52 4 of Penn State. However, as I have already stated
18:22:54 5 publicly, I am deeply disappointed with the process by
18:22:57 6 which Penn State agreed to the consent decree.

18:22:59 7 Specifically, as a trustee I was excluded
18:23:03 8 from that process, yet our new head football coach was
18:23:06 9 consulted. To me that seems rather ironic. Second,
18:23:09 10 the board of trustees has been told by legal counsel
18:23:12 11 that the NCAA relied upon both the grand jury
18:23:16 12 presentment and the Freeh report.

18:23:17 13 Today I've heard for the first time that
18:23:19 14 Mark Emmert also relied upon information from the
18:23:22 15 Sandusky trial, though I'm unsure as to how he received
18:23:24 16 that information. As for the grand jury presentment,
18:23:27 17 we now know the substantive flaws. I don't need to
18:23:29 18 repeat them here.

18:23:31 19 With respect to the Freeh report, its
18:23:32 20 conclusions in my opinion are based on facts not in
18:23:35 21 evidence. In fact, the full board never accepted the
18:23:38 22 findings of the Freeh report. With respect to the

18:23:40 1 Freeh report, in my opinion its findings are so
18:23:42 2 inconsistent with reality that I find them to be
18:23:45 3 intentionally inflammatory.

18:23:46 4 For example, Penn State athletics has served
18:23:48 5 as a model program for other NCAA member institutions,
18:23:52 6 contrary to the assertion that Penn State athletics had
18:23:54 7 a culture problem. For those of us involved with Penn
18:23:57 8 State athletics we know just how untrue that is, and of
18:24:00 9 course we know just how absurd any reference to a lack
18:24:03 10 of academic integrity is.

18:24:05 11 To think that Penn State requires an
18:24:06 12 academic integrity monitor is preposterous. No school
18:24:09 13 graduated more student athletes over the past 61 years
18:24:11 14 than Penn State. Finally, I too want to move forward
18:24:15 15 but not at the price of our proud past, so for us to
18:24:18 16 move forward we must build a bridge to that past rather
18:24:20 17 than whitewash Penn State of that past.

18:24:22 18 Too many of us in the Penn State community
18:24:24 19 have a deep affection for Penn State because of the
18:24:26 20 values and ideas shared with us by a man named Paterno.
18:24:29 21 As I have said publicly, he had more integrity on his
18:24:31 22 little finger than the leader of the NCAA has in his

18:24:34 1 entire body.

18:24:35 2 In time I am confident that this undeniable
18:24:37 3 truth will be confirmed as due process unfolds. I am
18:24:41 4 also very confident that the Penn State community will
18:24:43 5 rise to the occasion and show the world how truly great
18:24:46 6 we are.

18:24:48 7 CHAIRPERSON PEETZ: Thank you. Trustee
18:24:50 8 Masser.

18:24:51 9 TRUSTEE MASSER: Thank you, Chairman Peetz.
18:24:53 10 I echo your earlier remarks and also fully support and
18:24:56 11 trust our president. Furthermore, our board should
18:25:00 12 find the wisdom to know the difference between the
18:25:02 13 things we cannot change and the things we can change.

18:25:05 14 We need to accept the things we cannot
18:25:07 15 change, the events of November, the failures outlined
18:25:10 16 in the Freeh report, the unjust sanctions imposed by
18:25:13 17 the NCAA. However, despite those harsh sanctions
18:25:17 18 imposed on us we are still allowed to play a full
18:25:19 19 schedule, we're still allowed to play in the Big Ten,
18:25:22 20 and we're still allowed to be televised.

18:25:24 21 Along with this we need to focus on the
18:25:26 22 bigger problems facing our university, the things we

18:25:29 1 can change. We are in the process of implementing best
18:25:32 2 in class governance and oversight changes that will be
18:25:34 3 a model for other universities across the country. We
18:25:37 4 need to focus on beginning the search for a new
18:25:39 5 president. That must be concluded by the middle of
18:25:41 6 2014.

18:25:43 7 We need to get on with rebuilding of our
18:25:44 8 brand. In order to do these things we need to stop
18:25:48 9 looking back. Moreover, we need to promote open
18:25:51 10 debate. This is essential for our governing body to
18:25:54 11 reach decisions that are in the best interests of the
18:25:56 12 university and its stakeholders.

18:25:58 13 These stakeholders are the students, the
18:25:59 14 faculty, the staff, the alumni and all the supporters
18:26:02 15 of the institution. With that said, once those
18:26:04 16 opinions are offered and a consensus is reached we need
18:26:08 17 to align as a board with one voice.

18:26:10 18 The single voice is important so that we are
18:26:13 19 able to convey our corporate authority to our
18:26:14 20 stakeholders that we as a board wish to do what we feel
18:26:18 21 will better this institution. If dissent is heard
18:26:21 22 after consensus this further divides our institution

18:26:24 1 leaving our stakeholders to become disillusioned with
18:26:26 2 any decision that is made.

18:26:29 3 We still have an institution with academic
18:26:30 4 and athletic excellence. It is now time to align with
18:26:33 5 our president, our students, faculty and staff and our
18:26:37 6 coaches. They all deserve our unified support. Thank
18:26:40 7 you.

18:26:41 8 CHAIRPERSON PEETZ: Thank you. Trustee
18:26:43 9 McCombie.

18:26:45 10 TRUSTEE MCCOMBIE: Thank you. My thoughts
18:26:46 11 and comments have been stated in my recent
18:26:49 12 communications to the trustees, including my letter on
18:26:52 13 Friday which stated to allow for sufficient time for
18:26:56 14 the full and deliberate review that Trustee Myers
18:26:59 15 suggests I will instruct my counsel to refrain from
18:27:02 16 further prosecution of pending appeals or consideration
18:27:06 17 of legal actions. Since all of these communications
18:27:09 18 have found their way into the public forum, I don't
18:27:12 19 believe it's necessary to restate them all this
18:27:15 20 evening. Thank you.

18:27:16 21 CHAIRPERSON PEETZ: Thank you. And Trustee
18:27:18 22 Myers, you made a bit of a statement before. Would you

18:27:20 1 like to add anything?

18:27:21 2 TRUSTEE MYERS: I just want to emphasize
18:27:24 3 again that I have great respect for Rod Erickson and
18:27:29 4 all the other board members that we've heard from
18:27:31 5 tonight. Everybody is doing what they believe is in
18:27:35 6 the best interests of the university.

18:27:36 7 We've heard several of the trustees talk
18:27:39 8 about how totally unfair and unjust the action by the
18:27:41 9 NCAA is, and hopefully with time that will be changed.
18:27:47 10 This is a great university in so many ways, and this is
18:27:52 11 overshadowing all the great things that are happening
18:27:55 12 throughout this university, the cure for cancer and all
18:27:59 13 the different things that are helping society and
18:28:03 14 America and education and research in general.

18:28:06 15 And it's necessary we get that message out,
18:28:11 16 that we get -- so we need to unify ourselves and we
18:28:15 17 need to come together, and we need to tell the story of
18:28:17 18 this great university going forward, and -- so there
18:28:22 19 are a lot of things here that we're very disappointed
18:28:26 20 about, and they were unfair and unjust, but we must
18:28:31 21 move forward for the greater good of Penn State
18:28:34 22 University.

18:28:36 1 CHAIRPERSON PEETZ: Thank you. Trustee
18:28:37 2 Shaffer.

18:28:40 3 TRUSTEE SHAFFER: Thank you, Karen. I
18:28:43 4 looked back at how we proceeded with this. We accessed
18:28:48 5 the best outside counsel we could to get advice. The
18:28:53 6 president (recording briefly inaudible) advice of the
18:28:54 7 executive committee under the threat of any leakage of
18:29:00 8 confidentiality and we'd be put in the death penalty
18:29:04 9 for several years.

18:29:06 10 I fully support his decision and stand
18:29:09 11 behind him a hundred percent. I really think that as
18:29:14 12 Trustee Myers -- or, yeah, Masser said that we really
18:29:20 13 now have to concentrate on work on things that we can
18:29:24 14 make change. We have to take the advice of counsel and
18:29:30 15 move forward, and also get back to what -- the
18:29:34 16 mountainess work that's ahead of us. Thank you.

18:29:37 17 CHAIRPERSON PEETZ: Thank you. Trustee
18:29:39 18 Silvis.

18:29:41 19 TRUSTEE SILVIS: Thank you, Karen. Well,
18:29:42 20 you know, Rod and Steve were given the authority to
18:29:44 21 negotiate on the board's behalf, and to try to second
18:29:47 22 guess them or say he could have or should have or done

18:29:50 1 something to get a better deal is just simply
18:29:53 2 nonproductive, so I want to publicly thank Rod for
18:29:55 3 stepping up in this unprecedented time.

18:29:57 4 I know you did the best you could against a
18:30:00 5 foe looking for blood. We've got to move forward as a
18:30:03 6 community, as a university. We can't continue to
18:30:05 7 rehash and relive the past. It's not going to change.
18:30:09 8 I do want to make a statement, though, about the NCAA's
18:30:11 9 consent decree statement that Penn State's football
18:30:14 10 program was held in higher esteem than the values of
18:30:17 11 the institution or of higher education.

18:30:19 12 Penn State's culture has always embraced
18:30:21 13 academic success for all students, especially for
18:30:24 14 athletes in all collegiate sports. If another
18:30:26 15 institution has placed on the field performance over
18:30:28 16 academics, Penn State did not. Exhibiting excellence
18:30:32 17 on the field and the classroom is and has always been
18:30:34 18 the core value of Penn State. NCAA goes on to make a
18:30:38 19 statement that unprecedented sanctions were justified
18:30:39 20 by fear or deference beyond the football program, fear
18:30:42 21 or deference.

18:30:44 22 In a culture of reverence for Penn State

18:30:45 1 football I'd like to encourage the NCAA to think about
18:30:48 2 that statement in the context of their own
18:30:50 3 organization's culture creating a culture of fear,
18:30:54 4 intimidation, adjustment without appeal, verification
18:30:56 5 of facts, take it or leave it attitude could create an
18:30:59 6 imbalance of power that will eventually rock all the
18:31:01 7 foundations of all universities and what we stand for.

18:31:04 8 The question all universities have to ask is
18:31:07 9 what is the appropriate balance of power between the
18:31:09 10 NCAA and the institutions they regulate. Is it ever
18:31:12 11 appropriate to force an institution to give up our
18:31:14 12 right to appeal and clarify facts that were a basis for
18:31:17 13 those sanctions. With that being said, I'll take the
18:31:19 14 high road again and put all my support behind Rod's
18:31:22 15 team to implement the sanctions in a manner that far
18:31:24 16 exceeds our expectations.

18:31:26 17 Penn State has always been a best in class
18:31:28 18 institution. We'll show the NCAA that we are Penn
18:31:32 19 State just as Paul Suhey's grandfather, Steve Suhey,
18:31:35 20 uttered in 1948 when SMU protested the playing of two
18:31:38 21 black players, Wally Triplett and Dennie Hoggard in the
18:31:42 22 Cotton Bowl. Thank you.

18:31:44 1 CHAIRPERSON PEETZ: Thank you. Trustee
18:31:45 2 Strumpf.
18:31:47 3 TRUSTEE STRUMPF: Thank you, Karen. I fully
18:31:49 4 support Rod Erickson, and given the difficult choice
18:31:52 5 his signing the consent decree. For those alumni and
18:31:57 6 students and friends listening on this call, we
18:32:01 7 appreciate your anger, but anger is not a strategy for
18:32:03 8 running a university. We have to move forward, we have
18:32:06 9 to unite as a board, and I give my full support to Rod
18:32:09 10 Erickson. Thank you.
18:32:10 11 CHAIRPERSON PEETZ: Thank you. Trustee
18:32:12 12 Suhey.
18:32:13 13 TRUSTEE SUHEY: Thank you, Karen. It's sort
18:32:15 14 of hard to be at the end of the alphabet to say
18:32:17 15 something that hasn't been said already. For Trustee
18:32:20 16 Silvis, Paul, that was my father, not my grandfather,
18:32:22 17 and there was some very unique men at that time in the
18:32:25 18 history of our university.
18:32:27 19 I think -- I fully support Rod. It's
18:32:30 20 obvious that he's had a very tough job, and he's done a
18:32:32 21 great service to this university when we asked him to
18:32:35 22 step up, so I unequivocally support him. I think, you

18:32:38 1 know, I know it in our heart, in our DNA in this
18:32:40 2 university its fortunes are our history, that we're
18:32:42 3 going to be successful because we are and we continue
18:32:44 4 to be successful.

18:32:44 5 I only hope that we can now move ahead. I'm
18:32:48 6 ready to move ahead. I hope our alumni, our students,
18:32:50 7 our staff and our fans will join us. Thank you.

18:32:54 8 CHAIRPERSON PEETZ: Thank you. Trustee
18:32:56 9 Surma.

18:32:57 10 TRUSTEE SURMA: Madam Chair, in the
18:32:59 11 interests of brevity I'll just join my distinguished
18:33:02 12 colleagues in expressing the strongest possible support
18:33:05 13 for President Erickson and his leadership team and the
18:33:09 14 faculty, staff and all the returning students.

18:33:11 15 The president had to make some very hard but
18:33:15 16 necessary decisions under terrible circumstances, and I
18:33:19 17 believe without any doubt in my mind that he acted at
18:33:21 18 all times in good faith and with the best interests of
18:33:24 19 the university at heart, and for that I both admire him
18:33:27 20 and support him.

18:33:28 21 We need to be behind our leader and our
18:33:31 22 leaders and our faculty and our students. I urge us

18:33:34 1 all to look forward as we approach this new school
18:33:36 2 year. Our great university is important, the land
18:33:39 3 grant mission is paramount, and it's why we're all
18:33:42 4 here, and it's what we need to focus on as we move
18:33:46 5 forward I hope together. Thank you, Madam Chair.

18:33:49 6 CHAIRPERSON PEETZ: Thank you. Trustee
18:33:49 7 Taliaferro.

18:33:50 8 TRUSTEE TALIAFERRO: Thank you, Madam Chair.
18:33:53 9 I want to thank Dr. Erickson and our executive
18:33:56 10 committee for their leadership during these difficult
18:33:58 11 times at Penn State. I believe everyone recognizes Dr.
18:34:02 12 Erickson was put in an extremely difficult position by
18:34:04 13 the NCAA, and at that time I truly believe he did what
18:34:07 14 was in the best interests of the university.

18:34:09 15 You know, we are one team, we have to
18:34:11 16 support one another. With that being said, I don't
18:34:14 17 agree with the NCAA when they say we have problems with
18:34:16 18 our Penn State culture. Culture is defined as the
18:34:19 19 beliefs, behaviors, objects and other characteristics
18:34:22 20 common to the members of a particular group or society.

18:34:26 21 One person does not create a culture. A
18:34:27 22 group of people don't create a culture. It's the

18:34:31 1 students, our professors, and our alumni that create
18:34:34 2 the culture of this university. I'd put our culture
18:34:36 3 against any school in the country, and we all support
18:34:39 4 President Erickson.

18:34:40 5 And I believe we're going to move forward
18:34:42 6 and do great things. As we move forward I'm fully
18:34:46 7 certain the NCAA will witness what our school's culture
18:34:49 8 is truly about, and that's all I have to say. Thank
18:34:52 9 you.

18:34:53 10 CHAIRPERSON PEETZ: Great. Thanks. And
18:34:55 11 then last is Trustee Tomalis.

18:34:59 12 TRUSTEE TOMALIS: Thank you, Madam Chair. I
18:35:00 13 just will be brief. I wanted to point out that I think
18:35:04 14 it was very appropriate that we have this public
18:35:06 15 meeting today. In fact, we -- I believe this is the
18:35:10 16 first time that the public has heard the history of the
18:35:13 17 discussions that have led up to this agreement with the
18:35:16 18 NCAA, but I believe it was the third or fourth time the
18:35:18 19 board has actually heard the chronology of events.

18:35:23 20 Having said that, that's been a lot of
18:35:25 21 discussion over the past couple of weeks about culture.
18:35:28 22 I think we should remember that the Penn State culture,

18:35:31 1 as great as it is, was best exemplified by those
18:35:35 2 students that turned out last November, the thousands
18:35:38 3 and thousands of students that turned out in the
18:35:41 4 candlelight ceremony that showed what Penn State is all
18:35:43 5 about. For that I applaud the Penn State community,
18:35:46 6 and it is for those students that we need to move
18:35:48 7 forward. Thank you.

18:35:51 8 CHAIRPERSON PEETZ: Thank you. And then
18:35:52 9 Trustee Hintz was on but did not speak. Would you like
18:35:56 10 to speak? Are you on?

18:35:57 11 TRUSTEE HINTZ: Am I on? Can you hear me?

18:35:59 12 CHAIRPERSON PEETZ: Yes, now we can hear
18:35:59 13 you.

18:36:00 14 TRUSTEE HINTZ: Okay. Well, I make it
18:36:04 15 unanimous in endorsing President Erickson. We're so
18:36:07 16 fortunate to have an experienced administrator to help
18:36:13 17 us through this difficult period. I reflect back to a
18:36:17 18 time when we were selecting presidents, and they looked
18:36:22 19 very carefully at how the board conducts its business.

18:36:25 20 And if we want a rich pool to someday
18:36:28 21 succeed Rod Erickson we need to get our act together
18:36:33 22 and act as -- we're all going to have differences of

18:36:36 1 opinion. With 32 members I don't think it could be
18:36:40 2 otherwise, but once a decision is made I think it's
18:36:43 3 important that we move together in the best -- to the
18:36:46 4 best future possible for Penn State. Thank you.

18:36:49 5 CHAIRPERSON PEETZ: Thank you, Ed. And with
18:36:52 6 that, President Erickson.

18:36:53 7 PRESIDENT ERICKSON: Karen, Karen?

18:36:54 8 CHAIRPERSON PEETZ: Yes.

18:36:54 9 PRESIDENT ERICKSON: This is Rod Erickson.
18:36:55 10 I got cut off momentarily just at the time you were
18:36:58 11 coming to me.

18:36:59 12 CHAIRPERSON PEETZ: Okay. Thank you. You
18:37:01 13 have some comments?

18:37:02 14 PRESIDENT ERICKSON: Just very briefly. I
18:37:03 15 want to thank members of the board for your vote of
18:37:07 16 confidence and your support as we move ahead now. It
18:37:11 17 is time to move forward. We have students coming back
18:37:13 18 to campus in a couple of weeks, and we do need to focus
18:37:17 19 on the future.

18:37:18 20 We need to focus on our core missions of
18:37:20 21 teaching, research and service because these are the
18:37:25 22 things that will continue to define us as a world class

18:37:28 1 university, and I will continue to work hard every day
18:37:31 2 to see that our future is bright.

18:37:33 3 I can't thank our wonderful faculty, staff
18:37:37 4 and students enough for their dedication to learning
18:37:41 5 and discovery, and I admire our alumni for the great
18:37:45 6 work that they do every day to change the world for the
18:37:48 7 better. We're going to be fine.

18:37:50 8 CHAIRPERSON PEETZ: Okay. Thank you.
18:37:53 9 Thanks, Rod. Okay. I'll just make very brief closing
18:37:56 10 remarks, and I'd like to just end the meeting by
18:38:00 11 addressing the emotional component of all that's
18:38:03 12 happened to our university and to all of us in whatever
18:38:08 13 way we're associated with the university.

18:38:10 14 Many of us don't agree with how Penn State
18:38:12 15 is characterized by the press and multiple other
18:38:16 16 parties who have attacked us on many fronts since
18:38:19 17 November. I would ask all of you to think about why
18:38:23 18 Penn State is or was so special to you. For me it was
18:38:27 19 my experience as a Title 9 athlete where I learned
18:38:30 20 about winning, losing and teamwork on the playing
18:38:33 21 fields of Penn State.

18:38:34 22 For you it might have been in a lab, it

18:38:36 1 might have been at the fraternity, a semester abroad,
18:38:39 2 participating in fun or through a favorite professor.
18:38:44 3 Whatever it is or was, it probably hasn't changed very
18:38:49 4 much since November. It's still there to connect with.

18:38:51 5 We need everyone to support Penn State and
18:38:55 6 connect again now with the university more than ever.
18:38:58 7 The board and I, in conjunction with President Erickson
18:39:01 8 and his leadership team, plan to move forward now with
18:39:04 9 specific plans not only to address the Freeh report and
18:39:07 10 the consent decree, but also the future of this great
18:39:10 11 university.

18:39:11 12 We'll be discussing those plans at our
18:39:14 13 upcoming meeting in August, and we invite you to join
18:39:17 14 us in that dialogue, too. As was already said, the
18:39:20 15 students, faculty and staff will be in full swing on
18:39:23 16 all of our campuses soon. We need to get back to our
18:39:27 17 main mission, an educational objective now.

18:39:30 18 We need to insure that the students we have
18:39:32 19 today get a great education, and those that are
18:39:36 20 thinking about attending Penn State in the future still
18:39:39 21 want to do so. We need to move forward as a community,
18:39:43 22 the Penn State community which we are all so very proud

18:39:47 1 to be part of.

18:39:48 2 I'm extremely confident that all of the
18:39:52 3 passion that we have for our university can be brought
18:39:55 4 together to create the positive energy and momentum to
18:39:58 5 move us forward together. On behalf of the board of
18:40:02 6 trustees, we appreciate you joining with us this
18:40:05 7 evening, and we believe that the best days for Penn
18:40:08 8 State University are still ahead. Thank you very much.

9 (The recorded telephonic meeting was
10 concluded.)

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13 BONNIE K. PANEK

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