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COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. Superior Court
Civil Action No. 00-2564

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ROBERT L. MANDELL, et. al,
Plaintiffs,

vs.

TOWN OF READING,
Defendant.

- - - - -x

DEPOSITION OF HARRY K. HARUTUNIAN, Ph.D

Friday, September 15, 2000

9:18 a.m.

Hemenway & Barnes

60 State Street

Boston, Massachusetts

Reporter: Carolyn Haddox, RPR

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15

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17 William Griset, Jr.

18 Tim Twomey

19 Kendra Cooper

20 Jacquelyn Mandell

21 Linda Phillips

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

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3 (Exhibit No. 1 was marked for
4 identification.)

5

6 HARRY K. HARUTUNIAN, Ph.D

7 a witness called for examination by counsel for
8 the Plaintiffs, being first duly sworn, was
9 examined and testified as follows:

10

11 DIRECT EXAMINATION

12 BY MR. BIERWIRTH:

13 Q. Good morning, sir. My name is
14 Joseph Bierwirth, and as you know, I represent
15 the plaintiffs in this case. Do you prefer
16 Dr. or Mr.?

17 A. Harry.

18 Q. Harry, all right. I'll probably
19 actually be a little more formal, so I'll call
20 you Dr. Harutunian, sir, if I address you.

21 MR. BUSCONI: Joe, can I interrupt
22 you for just a minute?

23 MR. BIERWIRTH: You may.

24 MR. BUSCONI: With respect to

1 stipulations?

2 MR. BIERWIRTH: Yes.

3 MR. BUSCONI: Anything with
4 respect to stipulations?

5 MR. BIERWIRTH: I would propose
6 that we agree to the usual stipulations, that
7 all objections, except for those as to the form
8 of the question, be reserved until the time of
9 trial; motions to strike will also be reserved;
10 and I would ask the witness to read and sign.

11 MR. BUSCONI: Yes, we agree to
12 those stipulations, yes.

13 MR. BIERWIRTH: Okay.

14 Q. Sir, you're the Superintendent of
15 Schools in the Town of Reading?

16 A. Yes.

17 Q. And you've been there since 1995?

18 A. Yes.

19 Q. What was the position that you held
20 before then?

21 A. Assistant Superintendent of Schools
22 in Beverly.

23 Q. And how long were you there?

24 A. From 1991 until the end of July of

1 1995.

2 Q. I've marked as the first exhibit and
3 will show to you an affidavit that you have
4 filed in this case. If you can take a second
5 to look at that, sir.

6 A. (Reviewing document.)

7 Q. And you will see that the copy that
8 I've put in front of you and had marked as an
9 exhibit is not signed and dated, but your
10 counsel has before you a copy that is signed
11 and dated July 24th with your signature. Do
12 you see that, sir?

13 A. Yes.

14 Q. Before we get into that, have you
15 ever been deposed before?

16 A. No.

17 Q. I'm going to be asking you
18 questions. I would ask that you allow me to
19 finish my question before you begin your
20 answer, and I'll do the same, I will let you
21 finish your answer before I begin my next
22 question. If you don't understand any of my
23 questions, please let me know, and I'll try and
24 rephrase them.

1 If you need to take a break at any
2 time, I will allow that. Your attorney has
3 agreed to produce you for deposition only from
4 nine until 1 o'clock. We are starting a little
5 bit late, and I would like to proceed and try
6 to get through as much material as possible.
7 But if you need to take a break, I'll let you
8 do that.

9 Looking at this affidavit, sir, if
10 you could look at paragraph 4, please.

11 A. (Witness complies.)

12 Q. And you'll see in paragraph 4 you
13 have put before the court expected enrollments
14 for the year 2000 for the elementary schools in
15 the Town of Reading. Do you see that, sir?

16 A. Yes.

17 Q. And do you know what the actual
18 enrollment figure is for the year 2000 for K
19 through 5 for the Town of Reading?

20 A. We don't do an official enrollment
21 until October 1.

22 Q. Do you have an estimate right now
23 what that number is?

24 A. No.

1 Q. No?

2 A. I don't have it with me.

3 Q. Do you have it in your head?

4 A. No.

5 Q. Does the number 2,037 students seem
6 appropriate to you?

7 A. Within 50 students I would say, yes.

8 Q. Within 50 students. You don't know
9 one way or the other whether it's 50 students
10 more than that number or less than that number?

11 A. No.

12 Q. Okay. And are there any documents
13 that I could look at right now which would show
14 me the best estimate of the school department
15 of the actual enrollment figure for K through 5
16 for the year 2000?

17 A. Yes.

18 Q. And what document would that be?

19 A. The one I distributed to the School
20 Committee this week.

21 Q. If you could look at paragraph 5 of
22 your affidavit there, sir.

23 A. (Reviewing document.)

24 Q. And correct me if I read it

1 incorrectly. It says, "As a result of this
2 severe overcrowding, Reading faces problems of
3 increased vehicular traffic during drop-off and
4 pick-up periods before and after school; the
5 overtaxing of heating, ventilation, and
6 air-conditioning systems, which were not
7 designed to handle the current student
8 population; and the inability to make effective
9 use and overtaxing of core facilities in the
10 schools, such as the library, gymnasium, and
11 cafeteria."

12 Is that statement accurate, sir?

13 A. Yes.

14 Q. How does the overcrowding, as you
15 call it, in the Reading Public Schools overtax
16 the heating, ventilation, and air-conditioning
17 systems in the school buildings, sir?

18 A. All four elementary schools have
19 more population in them than they were
20 designed.

21 Q. And you believe that that overtaxes
22 the heating, venting, and air-conditioning
23 systems?

24 A. Yes, I do.

1 Q. Okay. In what way?

2 A. Based on the construction documents
3 that I've seen over the last few years, where
4 increased ventilation, beyond minimum specs,
5 have been designed into our buildings. We know
6 that back when these buildings were built, that
7 this was not something that was taken as
8 seriously as it is today, and so I believe that
9 the heating system, the ventilation system, and
10 the air-conditioning systems are being taxed
11 beyond what they were designed for.

12 Q. And that problem is exacerbated by
13 the overcrowding, you believe?

14 A. Yes. Areas of the school that were
15 not designed to be used as classrooms are now
16 being used as classrooms.

17 Q. If you could look at paragraph 6,
18 sir, and in that paragraph, in the third
19 sentence, you make reference to "Interior
20 spaces being used for classes, including
21 custodial closets."

22 Can you tell me in which schools
23 that's occurring right now?

24 A. The most recent is last year the

1 custodial closet at the Killam Elementary
2 School was -- with no windows -- was converted
3 over to a special-ed testing area.

4 Q. A special-ed testing area?

5 A. Yes.

6 Q. So it wasn't used as an everyday
7 classroom?

8 A. No. As a matter of fact, we had to
9 remove the custodians from that space and place
10 them back into another area of the school where
11 the boilers are, and delivery, and that kind of
12 thing. So it's a small room with no windows.

13 Q. Do you know how big the room is?

14 A. I would venture 10 by 12, 10 feet by
15 12 feet.

16 Q. And as a special-ed testing area,
17 how frequently was the room used during the
18 last year?

19 A. My understanding from the building
20 principal, it was used daily.

21 Q. Any other examples of custodial
22 closets being used as classrooms or any other
23 use?

24 A. At the Killam Elementary School and

1 at the -- I'm sorry -- the Joshua Eaton
2 Elementary School and the Birch Meadow
3 Elementary School.

4 Q. I'm sorry, currently?

5 A. Yes.

6 Q. And these are custodial rooms that
7 are being used as classrooms in those
8 facilities?

9 A. They are not being used as
10 instructional for a large group because they
11 are small, but students are brought into those
12 areas to be worked with either for such items
13 as OT, PT, speech, testing, counselling, and
14 things of that matter. And these are
15 windowless rooms that in the past had been used
16 either as utility rooms, custodial closets, or
17 storage areas.

18 Q. The portable classrooms that are
19 referenced in paragraph 6 --

20 A. Uh-huh.

21 Q. -- how many portable classrooms are
22 currently in use in K through 5?

23 A. There are two portable classrooms at
24 the Birch Meadow School, and there are four

1 portable classrooms at the Barrows Elementary
2 School.

3 Q. Do you know when these portable
4 classrooms were purchased?

5 A. The only one that I'm knowledgeable
6 on when they were purchased is one at the
7 Barrows, which was purchased early in my
8 tenure.

9 Q. And how much did that cost?

10 A. I don't know. I don't recall.

11 Q. Do you have an estimate?

12 A. I would say somewhere around
13 175,000.

14 Q. Is it true that at least one of
15 these portable classrooms has been in use since
16 1973?

17 A. I don't know that.

18 Q. In paragraph 7 you make reference to
19 the fact that Reading is unable to provide
20 specialized space for art, music, and computer
21 science classes in these schools.

22 Has Reading Elementary Schools ever
23 provided specialized space for art classes, to
24 your knowledge?

1 A. My understanding is there was a
2 time, yes.

3 Q. Do you know when that was?

4 A. My understanding is it was prior to
5 1980.

6 Q. And do you know which schools or
7 school provided that?

8 A. I do not.

9 Q. Same question with respect to music:
10 Do you know whether they ever had specialized
11 space for music in the elementary schools in
12 Reading?

13 A. Again, same answer.

14 Q. Prior to 1980 there may have been
15 specialized space for music?

16 A. Space became available when there
17 was declining enrollment, and my understanding
18 is during that period of time, an art teacher
19 or a music teacher for a year, maybe less,
20 maybe more, utilized a room that was available
21 due to declining enrollment.

22 Q. If I understand your testimony
23 right, it is your understanding that those
24 rooms that were used by those art and music

1 teachers were ordinary classrooms, not
2 specially outfitted for art or music per se?

3 A. Yes.

4 Q. And computer science classes, has
5 there ever been specialized space for computer
6 science classes in the Town of Reading?

7 A. Yes.

8 Q. For elementary school?

9 A. Yes, during my tenure.

10 Q. Which school?

11 A. The Joshua Eaton School, when it was
12 renovated and opened in the fall of 1995, until
13 the summer of 2000, had designated space that
14 was utilized as a computer science lab, and
15 this summer it was converted into classroom
16 space.

17 Q. This past summer?

18 A. That's correct.

19 Q. The summer of 2000?

20 A. That's correct.

21 Q. And how many classrooms did you make
22 out of that specialized space?

23 A. I would like to change that.

24 Q. Okay.

1 A. The space is being utilized as a
2 special education resource forum, so it has a
3 variety of -- I don't want to mislead you by
4 indicating that it's a regular classroom
5 environment. It's a special education room.

6 Also at the Birch Meadow Elementary
7 School, when the school was renovated back in,
8 I believe, '93, an adjacent room to the library
9 was designed to be used as a computer lab and
10 never has been, to my knowledge, since my
11 tenure there, been utilized for that purpose.
12 It was designed for that purpose, but could not
13 be used for that purpose because of lack of
14 space.

15 Q. Okay. And that condition has
16 existed since 1993?

17 A. That's my understanding, yes. I can
18 only attest to since 1995.

19 Q. And what is the space being used for
20 if it's not being used for a computer lab?

21 A. Similar to the Eaton space.

22 Q. In other words, a special-ed
23 resource room?

24 A. That's correct.

1 Q. Now, the system that you referred to
2 in the second sentence in paragraph 7 of your
3 affidavit of "art on a cart," can you tell me
4 about that, please?

5 A. We do not have designated space for
6 art, and art teachers have, in some cases, used
7 shopping carts to carry their materials when
8 they go room to room, or they may use a
9 standard cart with a small lip with items on
10 it.

11 Q. But in any event, how many art
12 teachers are there in the elementary school
13 system?

14 A. Exact number, I don't know.

15 Q. Is there one per school?

16 A. Approximately.

17 Q. Now, this system for "art on a
18 cart," which I guess just involves the fact
19 that the art teacher has to bring the materials
20 to the classroom where the children are; is
21 that what you are saying?

22 A. Correct. There is downtime for
23 setup, there is it downtime for breakdown, and
24 there's no utilization for kilns and things

1 like that.

2 Q. Generally, do the teachers favor
3 that system or disfavor that system?

4 A. Which teachers?

5 Q. The elementary school classroom
6 teachers.

7 A. My perception?

8 Q. Please.

9 A. Is that they go into the room, they
10 need to setup and breakdown, art is somewhat
11 messy, desks get dirty, floor gets dirty.
12 Whether the teachers like that or not, I have
13 no survey or knowledge base to be able to say.

14 Q. So has any classroom teacher ever
15 complained to you about the "art on a cart"
16 system?

17 A. No.

18 Q. Have the art teachers complained to
19 you about the "art on a cart" system?

20 A. Yes.

21 Q. And what is their view?

22 A. Exactly what I had said earlier.

23 Loss of instructional time from setup,
24 breakdown, and the loss of expanding into areas

1 of firing up clay objects with a kiln.

2 Q. Has any classroom teacher expressed
3 to you any opinion that was not a complaint on
4 the "art on a cart" system?

5 A. Not to my recollection.

6 Q. In paragraph 8 you talk about the
7 lack of space for technology education, and
8 we've talked a little bit about that today.
9 Again let me ask: What is the sentiment among
10 the classroom teachers as to the lack of
11 dedicated space for computer labs?

12 A. Indifferent.

13 Q. Why is that?

14 A. Teachers would like the ability to
15 have a designated area where large group
16 instruction using the computer would take
17 place. Presently, we have approximately one
18 computer per classroom at the elementary
19 schools. In some cases more, but at least
20 that.

21 It becomes extremely difficult for a
22 teacher to do any large group instruction
23 because the school may not have a lab set up.
24 There are some makeshift areas in schools where

1 that's been attempted, but a designated space
2 designed with overhead equipment, projection
3 equipment to do instruction, at this time it's
4 very difficult.

5 Q. So why did you describe the
6 teachers' sentiment as indifferent?

7 A. Indifferent because of budget
8 reasons. They recognize that we may not be
9 able to do all the things we want, but with the
10 ever growing need for computers in the
11 classroom, there are trade-offs made by all of
12 us.

13 Q. You personally believe it would be
14 beneficial to have computer labs in each of the
15 elementary schools?

16 A. The Commonwealth of Massachusetts
17 recommends it.

18 Q. Do you believe it would be
19 beneficial?

20 A. Yes.

21 Q. Do you also believe that it would be
22 beneficial to have dedicated space for art in
23 each of the elementary schools?

24 A. Absolutely.

1 Q. And for music?

2 A. Yes.

3 Q. If you could look at paragraph 9 of
4 your affidavit, sir?

5 A. (Reviewing document.)

6 Q. In the second sentence you state
7 that the increased busing resulted in
8 elementary students being bused to schools far
9 outside their neighborhoods.

10 Is that occurring this year, in the
11 year 2000?

12 A. Yes.

13 Q. Can you tell me which students are
14 being bused?

15 A. Killam.

16 Q. I'm sorry?

17 A. Killam and Birch Meadow, but Birch
18 Meadow is not out of its neighborhood. Killam
19 is.

20 Q. Just confining yourself to busing
21 which occurs out of the neighborhood.

22 A. Okay.

23 Q. Am I correct in characterizing your
24 testimony that you are saying that there are

1 students who live in the Killam District --

2 A. That's correct.

3 Q. -- who are being bused outside of
4 their neighborhood?

5 A. That's correct. They are being
6 bused to the Coolidge Middle School.

7 Q. And what grade is that?

8 A. Kindergarten.

9 Q. And are they only kindergarten
10 students?

11 A. Yes.

12 Q. And how many of them are there, do
13 you know?

14 A. Somewhere between 45 and 50, I
15 believe.

16 Q. Is there a document I could look at
17 that would give me that number?

18 A. Yes.

19 Q. And what document would that be?

20 A. The document I distributed to the
21 Reading School Committee at its regular meeting
22 this week.

23 Q. Is that a different meeting than you
24 referenced earlier on the --

1 A. Same meeting.

2 Q. -- general population?

3 A. Same document.

4 Q. Now, also in that paragraph 9 it
5 states that in some cases, Reading must bus
6 individual students from the same family to
7 different schools.

8 Is that going on right now?

9 A. No.

10 Q. Excuse me?

11 A. To mu -- well, yes. Yes, it is with
12 Killam.

13 Q. With these kindergarten students?

14 A. That's correct, as well as Birch
15 Meadow.

16 Q. Explain that to me, please.

17 A. Sure. We have the Birch Meadow
18 kindergarten, as well as a portion of the
19 Killam kindergarten, at the Coolidge Middle
20 School. Students who attend that school from
21 the elementary are kindergarten. Their
22 brothers and sisters who are in Grades 1
23 through 5 attend the home elementary school.

24 Q. And the Birch Meadow School is in

1 the same neighborhood as the Coolidge Middle
2 School?

3 A. Yes, it is.

4 Q. And, again, that splitting up of
5 families only relates to kindergarten students;
6 is that correct?

7 A. Yes.

8 Q. And how many kindergarten classrooms
9 are there at the Coolidge Middle School?

10 A. I believe three teachers, six
11 classrooms.

12 Q. A morning session and an afternoon
13 session?

14 A. That's correct.

15 Q. And why are the kindergarten
16 students being bused to Coolidge Middle School?

17 A. Because there's no room in their
18 home school.

19 Q. Are there any empty classrooms at
20 Birch Meadows this year?

21 A. Space as designated by the
22 Department of Education and in the design of
23 the school, to my knowledge. There are no
24 empty classrooms.

1 Q. Is there a room, that has formerly
2 been used as a classroom, empty and not being
3 used as a classroom this year at Birch Meadow?

4 A. I'm not sure. I don't believe that
5 to be the case.

6 Q. Do you know if that was the case
7 last year at that school?

8 A. I would have to check.

9 Q. Do you know if that was the case
10 this year or last year at Killam?

11 A. My understanding was that there was
12 an afternoon kindergarten classroom last year
13 at Killam that was not used for kindergarten,
14 but was used for other purposes, not on a
15 regular basis.

16 Q. Just for thoroughness, do you know
17 if there are any rooms which have formerly been
18 used as classrooms which are not being
19 currently used as classrooms in either of the
20 two other schools?

21 A. I'm not aware of that.

22 Q. Or last year?

23 A. I don't have the information in
24 front of me to be able to tell you.

1 Q. Please turn to paragraph 10 of your
2 affidavit, sir.

3 A. (Reviewing document.)

4 Q. The first sentence says, "Reading
5 also lacks proper space for services mandated
6 by State law for Reading's special needs
7 children, such as special education,
8 occupational therapy, and physical therapy."

9 Is that an accurate statement, sir?

10 A. Yes.

11 Q. Are those services nevertheless
12 being provided?

13 A. They have to be, yes.

14 Q. So they are?

15 A. Yes.

16 Q. So why do you say that Reading lacks
17 proper space for the services, if the services
18 are being provided?

19 A. I don't think the students should be
20 tested or counseled in a room with no windows
21 and improper ventilation.

22 Q. Which rooms have improper
23 ventilation?

24 A. I can't give all of them to you, but

1 I certainly can give the one across from the
2 custodial room at the Killam Elementary School,
3 which was a custodial slop room/office area
4 that was renovated, painted, and converted into
5 space for the purpose I just mentioned.

6 Q. And right now that room has
7 inadequate ventilation for the use that is
8 being made of it?

9 A. It has less than adequate.

10 Q. Which is different than inadequate?

11 MR. BUSCONI: Well, he's --

12 MR. BIERWIRTH: I'm trying to
13 understand his testimony.

14 MR. BUSCONI: Well, I think the
15 thought is there, that it's his opinion it's
16 not adequate. I think that his response should
17 stand on that.

18 BY MR. BIERWIRTH:

19 Q. Is it inadequate?

20 A. It's not adequate.

21 Q. In paragraph 11 you make reference
22 to portable classrooms again at the end of the
23 first sentence. With respect to the Barrows
24 School, you said that there are currently six

1 portable classrooms; is that correct?

2 A. Four.

3 Q. Four. Which classes are using those
4 four portable classrooms?

5 A. Primary.

6 Q. Can you explain that for me?

7 A. Sure. Grades kindergarten through
8 to -- specifically which grades, I can't tell
9 you. It changes every year.

10 Q. How about this year, do you know?

11 A. Again, I don't.

12 Q. You don't?

13 A. I don't remember. I know who the
14 teachers are. I forget the grades.

15 Q. In paragraph 12 you make reference
16 to a District Enrollment and School Size
17 Committee. Do you see that, sir?

18 A. Yes.

19 Q. What was the purpose for forming
20 that committee?

21 A. To take information that had been
22 produced from demographic companies, to take
23 that information and to look to long-term
24 solutions, recommendations, based on the given

1 number of square feet classrooms that presently
2 exist and come up with recommendations for
3 long-term solutions.

4 Q. Which demographic companies were you
5 referring to?

6 A. Particularly NESDEC, but also one
7 done by George Collins as part of a feasibility
8 study.

9 Q. What feasibility study was that?

10 A. DRA, on the high school.

11 Q. The name of the company was DRA?

12 A. That's correct.

13 Q. And it was a high school feasibility
14 study?

15 A. That's correct.

16 Q. Do you know when that was performed?

17 A. Between 1996 and 1997, if I recall.

18 Q. What work arose from that
19 feasibility study?

20 A. I'm sorry?

21 Q. What work at the high school arose
22 from that feasibility study? Is there work
23 that has been performed to date?

24 A. No, it was not the purpose of the

1 feasibility study.

2 Q. What was the purpose of the
3 feasibility study?

4 A. To find out, if the Town of Reading
5 wanted to renovate the high school, what it
6 would cost.

7 Q. And was a decision made whether or
8 not to renovate the high school?

9 A. No.

10 Q. There was no decision ever made?

11 A. Oh, well, prior to me coming to
12 Reading in 1995, an amount of money had been
13 placed in a long-term capital plan to do work
14 at the high school. The DRA report was to put
15 a number in there that was more closely aligned
16 to what it would really cost.

17 Q. And what number did DRA determine
18 was more likely that it would really cost, if
19 you remember?

20 A. Give or take 5 million, I would say
21 around 30 million is my recollection.

22 Q. But to date, the Town has not
23 decided to go forward with that renovation; is
24 that correct?

1 A. The Town is determined to move
2 forward with the renovation, yes.

3 Q. Is there a timetable in place?

4 A. Yes, there is.

5 Q. Can you tell me roughly what that
6 timetable is?

7 A. In the next three years to begin the
8 project.

9 Q. And the proposed cost is
10 \$30 million?

11 A. No.

12 Q. What is the cost?

13 A. Another report was done in the last
14 24 months by Stekalovsky & Hoit, and depending
15 on which option is chosen, it could be between
16 48 and 50 million, I believe are the numbers
17 that I've seen. And, again, I'm off by maybe
18 5 million either way.

19 Q. Did the Town recently do any
20 renovation work to any of the middle schools?

21 A. Yes.

22 Q. Which middle school?

23 A. They built a brand new middle school
24 at Parker and renovated the auditorium.

1 Q. When was that work performed?

2 A. Between 1995 and 1998.

3 Q. Do you know the total cost for that
4 project?

5 A. I believe it was approximately
6 12 million, give or take a million.

7 Q. Has any work, substantial renovation
8 work, recently been performed at the Coolidge
9 Middle School?

10 A. It has.

11 Q. And when was that work performed?

12 A. The last 24 months.

13 Q. And what was the scope of that work?

14 A. It was approximately 48,000 square
15 feet of addition and renovation and upgrade of
16 the entire school.

17 Q. And what was the cost of that?

18 A. I believe that was approximately
19 \$9 million.

20 Q. Is there currently a plan to do
21 renovations to the Killam School?

22 A. There's been discussion. One of
23 the -- the Enrollment Study Committee was
24 concerned about the Killam, only because the

1 other schools were in the plan. And when
2 Flansburgh came back with options -- referred
3 to as options A, B and C -- Killam was
4 superficially priced out because we know we
5 need to do work there. So it's our belief that
6 Killam is in the capital plan for renovation.

7 Q. Is there currently money in the
8 capital plan for a renovation project for the
9 Killam School?

10 A. There is never enough money to do
11 everything the Town of Reading wants to do in
12 its capital plan.

13 Q. Is there currently a line item, for
14 lack of a better term, in the capital budget
15 plan for renovation of Killam Elementary
16 School?

17 A. It's my understanding, yes.

18 Q. And what is the number that is in
19 that item?

20 A. I believe it's approximately 6 1/2
21 to 7 million.

22 Q. The School Size Committee that is
23 referenced in paragraph 12 of your affidavit --

24 A. Yes.

1 Q. -- did that School Size Committee
2 study only the K through 5 system?

3 A. No.

4 Q. Tell me what work was performed to
5 study the system outside of K through 5 by the
6 School Size Committee.

7 A. I did not attend any but the first
8 meeting as an introduction, but the minutes and
9 the report, the addendums, indicates that more
10 than 35 options were discussed as possible
11 solutions, and in there, there was reference
12 made to other schools in town other than the
13 four elementary.

14 Q. Attached as Exhibit A to your
15 affidavit which we've marked as Exhibit 1 in
16 this deposition, you will see in paragraph 12
17 there's a reference that says, "A copy of
18 School Size Committee's report is attached
19 hereto as Exhibit A."

20 This does not appear to me to be the
21 full report; is that correct?

22 A. I'm not sure. I haven't had a
23 chance to go through every page. What I can
24 tell you is I'm making reference to a page that

1 existed that was included in the report that
2 listed more than 35 different options that were
3 discussed. To what depth, I can't tell you.

4 Q. Is there any reason that you know of
5 why the full School Size Committee report would
6 not have been included as Exhibit A to your
7 affidavit?

8 A. No.

9 Q. Can you identify that as the full
10 report?

11 A. I cannot. I can tell you that it is
12 the report. I don't know if it is the full
13 report. It's been several years.

14 Q. I'm going to show you another
15 document that you can take a look at, and we'll
16 get it marked as the next exhibit.

17 (Exhibit No. 2 was marked for
18 identification.)

19 BY MR. BIERWIRTH:

20 Q. I'll direct your attention to the
21 second page.

22 MR. BIERWIRTH: Off the record.

23 (Discussion off the record.)

24 BY MR. BIERWIRTH:

1 Q. Did the School Size Committee review
2 all available space in all of the public school
3 buildings in the Town of Reading?

4 A. Public schools?

5 Q. Yes.

6 A. What do you mean by "reviewed"?

7 Q. Did they review the data and employ
8 that review in reaching their conclusions?

9 A. My understanding is they discussed
10 it. To what level of review, I do not know.

11 Q. Do you know if the School Size
12 Committee considered enrollment projections for
13 K through 12?

14 A. My understanding is that those
15 projections which were given to them were K
16 through 12.

17 MR. BIERWIRTH: We can get this
18 marked as the next exhibit, Exhibit 3, please.

19 (Exhibit No. 3 was marked for
20 identification.)

21 BY MR. BIERWIRTH:

22 Q. Have you taken a look at that, sir?

23 A. (Reviewing document.) Yes.

24 Q. And that is, I can represent to you,

1 an excerpt from the report that was attached as
2 Exhibit A to your affidavit. I just wanted to
3 isolate these particular pages for you.

4 And my understanding from reviewing
5 this document -- and please tell me if you have
6 a different understanding -- is that this is a
7 report of a subcommittee of the School Size
8 Committee, made up of six members of the School
9 Size Committee, and it is a report recommending
10 that the Town adopt a policy of renovating the
11 existing elementary schools to address the
12 enrollment problem as it was perceived.

13 Is that your understanding of this
14 report too?

15 A. My understanding is it is one of
16 several subcommittees, and it is one
17 recommendation.

18 Q. And under the "Statement of Proposed
19 Solution," which is included on the first page
20 of this subcommittee report, you will see that
21 in the first bullet point, they recommend an
22 addition to Barrows of 12 classrooms; in the
23 second bullet point, they recommend an addition
24 to Birch Meadows of three more classrooms; and

1 in the third bullet point, they recommend an
2 addition to Killam of two classrooms.

3 Do you see that, sir?

4 A. Yes.

5 Q. And in the fifth bullet point, it
6 summarizes that there will be a total of 17 new
7 classrooms added to the system.

8 Would those 17 new classrooms
9 address the enrollment problems as you perceive
10 them at the elementary schools?

11 A. My recollection is that it's a
12 slightly larger number.

13 Q. Do you know what the number is?

14 A. I believe it's closer to 19.

15 Q. Sir, the School Building Committee,
16 were you Superintendent when it was created?

17 A. No.

18 Q. Can you explain to me your
19 understanding of its function?

20 A. My understanding is Town Meeting
21 created the committee in 1988 for the purpose
22 of -- on behalf of Town Meeting -- of working
23 on the issue of overcrowding, enrollment, and
24 renovation of school buildings, or building

1 new.

2 Q. To whom does the School Building
3 Committee report?

4 A. Town Meeting.

5 Q. Not to the School Committee?

6 A. No.

7 Q. And how does it report to Town
8 Meeting?

9 A. It was formed by Town Meeting, it
10 does at least one annual report, and it
11 presents to Town Meeting any major
12 construction, renovation, or additions to any
13 of the schools. It does the presentation at
14 the Town Meeting, it puts the Warren Article on
15 Town Meeting, and the amount of money.

16 Q. Other than the RFQ's that were
17 issued by the School Building Committee in
18 relation to the project that brings us here
19 today, what other RFQ's have been issued by the
20 School Committee, to your knowledge?

21 MR. BUSCONI: School Building
22 Committee.

23 MR. BIERWIRTH: I'm sorry, the
24 School Building Committee. Thank you.

1 A. My knowledge is that they did the
2 RFP or RFQ for Joshua Eaton, Birch Meadow,
3 Coolidge, Parker, and, of course, these two
4 projects. They have also issued the RFQ on the
5 high school feasibility study that was done by
6 DRA between '96 and '97.

7 Q. If you'd look at Exhibit B to your
8 affidavit marked as Exhibit 1.

9 A. (Witness complies.)

10 Q. You'll see that there's an RFQ dated
11 May 12, 1998. Was this RFQ generated by the
12 School Building Committee?

13 A. At their request.

14 Q. Who prepared it?

15 A. My office, under the supervision of
16 the School Building Committee.

17 Q. And the responses that were made
18 pursuant to this RFQ, to whom are they
19 directed?

20 A. I don't understand the question.

21 Q. The responses that were submitted in
22 response to this RFQ, where were they sent?

23 A. I believe they were sent to the
24 Superintendent's Office. Yes, they were sent

1 to the Superintendent's Office.

2 Q. And why is that?

3 A. Because the Reading School Building
4 Committee has no staff, has no permanent
5 location. To my understanding, they have
6 traditionally used the School Department
7 because their function is only within school
8 buildings.

9 Q. So it's a matter of administration
10 and convenience for the Superintendent's Office
11 to --

12 A. Yes.

13 Q. -- put together the RFQ and to
14 collect the responses when they come in; is
15 that correct?

16 A. That's correct.

17 Q. But the awarding authority is the
18 Reading School Building Committee?

19 A. That's correct.

20 Q. Now, if you continue on looking at
21 Exhibit B of this affidavit, you'll see on page
22 5, Roman Numeral III, the scope of the work.

23 A. Yes.

24 Q. Under paragraph B it says, "The firm

1 selected will be required to perform the
2 following services under its contract with the
3 AA" -- which is Awarding Authority.

4 A. Uh-huh.

5 Q. Paragraph 1, "Complete
6 investigations of existing physical conditions
7 and conformance with applicable codes and
8 regulations of the Alice M. Barrows and J.
9 Warren Killam schools only."

10 Do you know why the scope of work
11 was limited only to the Barrows and Killam
12 schools?

13 A. Yes.

14 Q. Why is that?

15 A. The Birch Meadow and the Joshua
16 Eaton, which are the only two other elementary
17 schools, had recently been renovated in
18 '93/'94.

19 Q. So it was not going to be part of
20 the work for the architectural firm that did
21 the feasibility study to investigate the
22 physical conditions of those two buildings?

23 A. No.

24 Q. And, in fact, Flansburgh did not

1 investigate the physical condition of those two
2 buildings?

3 A. Not to my knowledge.

4 Q. So the feasibility study that was
5 performed by Flansburgh was not an analysis of
6 the entire public school system in the Town of
7 Reading?

8 A. It was.

9 Q. Okay. How was it?

10 A. It utilized all four buildings'
11 classroom space in their projections, but it
12 did not -- and the way I read this is that this
13 has to do with building regulations,
14 compliance, ADA, those kind of things. But in
15 determining what space would be needed for
16 future enrollments, all schools were
17 considered, and Flansburgh provided charts
18 representing them.

19 Q. Other than enrollment, did
20 Flansburgh perform any other work with respect
21 to the remaining two elementary schools other
22 than Barrows and Killam?

23 A. Not to my knowledge.

24 Q. And Flansburgh provided no review or

1 analysis with respect to any of the middle
2 school or the high school building; is that
3 correct?

4 A. That's my understanding.

5 Q. You'll see in paragraph B-5, again
6 there on page 5 of Exhibit B, the third bullet
7 point, the last full paragraph on the page, it
8 provides that the scope of work will include a
9 requirement that the architect determine
10 whether School Department land at Dividence
11 Road, Reading, is suitable for a fifth
12 elementary school, to house approximately 480
13 students, including space for a school parking
14 lot and adjacent soccer field, with
15 softball/baseball field overlapping it.

16 Did that scope of work include -- in
17 determining whether the land was suitable, did
18 it include an investigation of the wetlands and
19 their impact upon the site?

20 A. Would you ask the question again?

21 Q. Sure. Under the scope of work in
22 this RFQ, Flansburgh was supposed to determine
23 whether the site was suitable; is that correct?

24 A. Uh-huh.

1 Q. Did that include an investigation
2 into the wetlands at the site and the impact of
3 the wetlands on the site?

4 A. I don't recall.

5 Q. Did it include an investigation into
6 the soil conditions at the site?

7 A. The amount of money for the
8 feasibility study was small. There were
9 limited, if you will, subcontractors utilized
10 during the two years it took to get the project
11 approved. Exactly who, I don't know. I do
12 know that -- I don't know the right word --
13 it's either a delineation or determination line
14 for wetlands were flagged very early in the
15 project.

16 Q. Did the scope of work include
17 investigation into the soil conditions?

18 A. I don't know.

19 Q. If you'd look at the top of page 6
20 there.

21 A. (Witness complies.) Yes.

22 Q. You will see there's an indication
23 that the successful architect is to determine
24 the present traffic conditions and future

1 traffic conditions at all four current
2 elementary schools and compare the impact of a
3 four elementary school solution and five
4 elementary school solution on traffic
5 conditions.

6 Do you know if this work was
7 performed by Flansburgh during the feasibility
8 study stage of this project?

9 A. Well, let me say something. My
10 responsibility as Superintendent of Schools
11 took place in the morning of January 12, 2000.
12 I am not an ex-official of the Building
13 Committee. I am not a member of the Building
14 Committee. I was many years ago. I sit in the
15 audience, I don't sit at the table, and I have
16 no determination. I only provide resource.

17 The work was performed by Flansburgh
18 under the control and responsibility of the
19 Building Committee, which is completely
20 autonomous from the Superintendent and the
21 School Committee. Exactly what tests were
22 done, what organizations were brought in, I can
23 only give you hearsay because they did not
24 report to me, they did not provide documents to

1 me specifically for that purpose. Everything
2 was sent to the Reading School Building.

3 Q. Do you know whether Flansburgh
4 performed the work which is described in this
5 scope of work in the first paragraph of page 6?

6 A. I do know from hearsay that
7 Flansburgh utilized some type of traffic
8 subcontractor to help determine flow in and
9 flow out.

10 Q. Do you know who that was?

11 A. Again, it was hearsay.

12 Q. Do you know who that was?

13 A. Who what was?

14 Q. Who the traffic consultant was.

15 A. No.

16 Q. Do you know when that traffic
17 consultant was consulted?

18 A. No.

19 Q. Do you know whether or not, in
20 determining the suitability of the land at
21 Dividence Road for this fifth elementary
22 school, Flansburgh conducted any analysis on
23 issues of setbacks and problems with abutters?

24 A. I don't know what a setback is.

1 Q. Okay. Do you know if Flansburgh
2 took into account any problems that were raised
3 or had to do with abutters to the property?

4 A. Specifically, I remember a meeting
5 at the Parker Middle School where the School
6 Building Committee invited abutters through a
7 mailing through the Assessor's Office, and it
8 was at that meeting that input from the
9 abutters was given to the Building Committee as
10 well as the architect.

11 Q. Do you know when that meeting
12 occurred?

13 A. Fall of 1998.

14 Q. Do you know if Flansburgh's work on
15 the feasibility study, as performed in the fall
16 of 1998, included investigation into issues
17 having to do with access to the Dividence Road
18 property?

19 A. Would you say that again, please?

20 Q. Sure. Do you know if Flansburgh's
21 work on the feasibility study, performed in the
22 fall of 1998, included an investigation into
23 issues having to do with access to the
24 Didence Road property?

1 A. My understanding is that to create a
2 drawing, a plan, superficial, with access to
3 the property, that they did some type of
4 determination on which streets would be used to
5 come in and leave the property.

6 Q. If you look at Exhibit D to your
7 affidavit.

8 A. (Witness complies.)

9 Q. And you'll see in paragraph 21, if
10 you would like to look, of your affidavit
11 that --

12 A. What page?

13 Q. Paragraph 21. It's on page 6 of
14 your affidavit. Exhibit D is described as an
15 executive summary of the feasibility study, and
16 on the second page of Exhibit D, there is
17 something that looks like a plan.

18 A. Right.

19 Q. Is this the type of preliminary plan
20 that you are referring to?

21 A. Yes. This is a drawing that was
22 sent to Town Meeting members and given out at
23 the Town Meeting in the fall of '98.

24 Q. And it was intended to represent the

1 architect's best estimate of what the site
2 would look like upon completion?

3 A. Actually, I believe it was one of
4 several options, but the option that they were,
5 at this point, leaning towards. Preliminary.

6 Q. Do you know if those other options
7 were presented to Town Meeting?

8 A. They were not.

9 Q. So when Town Meeting took its vote,
10 this was the plan that it was reviewing; is
11 that correct?

12 A. Yes. It's also my understanding, if
13 I recall correctly, that both at the meeting
14 held in November -- or rather during the fall
15 of '98 -- with the abutters and the four
16 meetings held by the School Building Committee
17 at the elementary schools where parents were
18 invited, as well as at Town Meeting, that this
19 was considered a draft; that there had not been
20 any extensive work looking at ledge and those
21 types of things, but that based on the small
22 amount of money that we had put forward, this
23 was one of many options, but the one they were
24 leaning toward as a preliminary.

1 Q. Now, the school that is depicted in
2 this preliminary -- granted, it's a preliminary
3 plan -- do you know if Flansburgh's feasibility
4 study included an investigation into the
5 expandability of this school building?

6 A. I can tell you that since they took
7 this project on in the spring of 1998, to date,
8 expandability has been discussed and areas
9 located and shown on preliminary drawings of
10 where that space would be for expandability.

11 Q. Do you know if the school building
12 that's depicted in this site plan, which is the
13 second page of Exhibit D --

14 A. Uh-huh.

15 Q. -- would be expandable as situated
16 in this site plan?

17 A. I do not.

18 Q. Do you know if that was a topic of
19 discussion before Town Meeting in the fall of
20 1998?

21 A. I don't recall.

22 Q. Before the Flansburgh firm was
23 selected for the feasibility study, did you
24 know of the firm?

1 A. What do you mean by did I know?

2 Q. Did you recognize the name when you
3 heard it?

4 A. Yes.

5 Q. How did you recognize the name?

6 A. It was a name that I had seen in
7 bids in other towns, and I believe that -- if
8 my recollection is correct -- that they had put
9 in at least one bid on one other project in
10 town.

11 Q. Were you familiar with the firm at
12 all from being the Assistant Superintendent in
13 Beverly?

14 A. No.

15 Q. Did you know any of the principles
16 in the firm?

17 A. No.

18 Q. When was the first time you met Sid
19 Bowen?

20 A. As an employee of the Reading Public
21 Schools.

22 Q. Sometime during the summer of 1998?

23 A. I met Sid Bowen at the interview
24 process held by the Building Committee in

1 interviewing candidates for the selection of
2 the feasibility study -- the awarding of the
3 feasibility study .

4 Q. Let me show you another document.

5 MR. BIERWIRTH: We can get this
6 marked, Carolyn.

7 (Exhibit No. 4 was marked for
8 identification.)

9 BY MR. BIERWIRTH:

10 Q. Have you seen that document before,
11 sir?

12 A. I don't recall.

13 Q. It's addressed to you.

14 A. I probably did.

15 Q. Looking at that document, it's a
16 facsimile letter from Sid Bowen to you dated
17 June 9, 1998?

18 A. Uh-huh.

19 Q. "In that there is a standing School
20 Building Committee which will not serve as
21 client for the elementary school study, we
22 would appreciate your advice as to whether the
23 contract with the study architect will permit
24 continued service into the design/construction

1 phase."

2 What did Mr. Bowen mean when he said
3 that the School Building Committee will not
4 serve as the client for the study?

5 A. I don't know. I can only surmise.
6 Once the money is approved by Town Meeting, it
7 goes under the jurisdiction -- the spending and
8 disbursement -- of the Reading School
9 Committee.

10 Q. And you're talking about money being
11 approved for the feasibility study?

12 A. No. I'm talking about money being
13 approved for the project.

14 Q. Mr. Bowen's letter refers to the
15 client for the elementary school study.

16 A. Right.

17 Q. Do you see that?

18 A. Yes.

19 Q. Was the School Building Committee
20 the client for the elementary school study?

21 A. Yes.

22 Q. So you believe he was just mistaken
23 when he stated that?

24 A. Yes. Reading has an unusual

1 situation. Most towns have a standing Building
2 Committee. We do not. The School Building
3 Committee -- once the money has been allocated
4 by Town Meeting?

5 Q. Yes.

6 A. The actual motion that is made
7 within the Article at Town Meeting states that
8 the money for the building of the school design
9 will be under the control and disbursement of
10 the Reading School Committee. It is the
11 Building Committee who puts that on.

12 Q. And that has to do with design
13 contracts?

14 A. Design and construction.

15 Q. But not contracts for feasibility
16 studies?

17 A. Yeah. This is incorrect.

18 Q. He goes on to -- let me ask you
19 this: Did you have any conversation with
20 Mr. Bowen as a result of receiving this letter?

21 A. I don't even remember receiving the
22 letter.

23 Q. So you don't remember any response
24 that you may have made --

1 A. No.

2 Q. -- to the letter?

3 A. I do not. I suspect I did, but I
4 don't recall.

5 Q. He goes on to ask for your advice as
6 to whether the contract with the study
7 architect will permit continued service into
8 the design and construction of the phase.

9 And, again, you don't remember any
10 conversation with Mr. Bowen or anyone else from
11 Flansburgh relating to that topic?

12 A. I do not.

13 Q. Did you assume from this time, from
14 the time of publication of the RFQ for the
15 feasibility study and shows of interest from
16 architectural firms in June of 1998, did you
17 assume from this time that whichever firm was
18 awarded the feasibility study would also
19 continue on to perform the design services?

20 A. If there was a successful contract.

21 Q. If there was a successful contract
22 for the design services?

23 A. Correct, and construction.

24 Q. And what did you base that

1 assumption on?

2 A. The other projects. Specifically,
3 the Parker and Coolidge projects, which started
4 being constructed during my tenure, and
5 completed.

6 Q. For the Parker School project, which
7 design firm obtained the feasibility study?

8 A. My recollection, my understanding is
9 it was Design Partnership of Cambridge.

10 Q. And Design Partnership also
11 performed the designer services for the job?

12 A. Yes, that's my understanding. That
13 part was completed before I entered the
14 district, both parts.

15 Q. Both parts?

16 A. Yes.

17 Q. For the Coolidge project?

18 A. Strekalovsky & Hoit.

19 Q. Did both the feasibility study and
20 the design?

21 A. That's my recollection.

22 Q. On the Parker School project, if you
23 know, did the Town separately advertise the
24 design services contract before it was awarded

1 to Design Partnership of Cambridge?

2 A. My understanding is it was not.

3 Q. And for the Coolidge School project,
4 did the Town separately advertise the design
5 services contract before it was awarded to
6 Strekalovsky & Hoit?

7 A. My understanding was it was handled
8 exactly like the Parker project.

9 Q. In other words, no?

10 A. Right.

11 MR. BUSCONI: Joe, we've been at
12 this a little over an hour. I would like to
13 take a short break.

14 MR. BIERWIRTH: That's fine.

15 (Recess taken from 10:30 a.m. to
16 10:35 a.m.)

17 MR. BIERWIRTH: Back on record.

18 Q. Dr. Harutunian, if you could look
19 again at Exhibit 4 which you have in front of
20 you there.

21 A. (Witness complies.)

22 Q. Prior to receiving that letter, had
23 you spoken with Sid Bowen?

24 A. I'm sorry, say that again?

1 Q. Prior to receiving that letter,
2 which is Exhibit 4, had you spoken with Sid
3 Bowen?

4 A. Yes. I saw him at the interview.

5 Q. And do you believe the interviews
6 took place before June 9?

7 A. I don't recall.

8 Q. Could you look at Exhibit C, please,
9 to your affidavit?

10 A. (Witness complies.)

11 Q. Exhibit C is a form which you state
12 in your affidavit was used by the School
13 Building Committee to evaluate the architects
14 who submitted proposals pursuant to the RFQ for
15 the feasibility study.

16 I have never seen a completed copy
17 of these forms. Do you know if any exist?

18 A. I do not.

19 Q. Have you ever seen completed copies
20 of these forms?

21 A. I don't think so.

22 Q. During the interview process, what
23 was your role?

24 A. I don't recall if I was asked to be

1 part of the interview or not.

2 Q. Do you know whether you took part in
3 the interviews?

4 A. I don't recall.

5 Q. You may have, you may not have, you
6 just don't remember?

7 A. Yeah.

8 Q. Were you familiar with the work
9 performed by Flansburgh & Associates on the
10 Andover project?

11 A. To the extent of the information
12 that was provided to the Building Committee.

13 Q. Who provided that information to the
14 Building Committee?

15 A. My understanding is it was Russell
16 Graham, the Chairman.

17 Q. And before Mr. Graham provided that
18 information to the Building Committee, you had
19 no knowledge of a dispute or concerns about
20 work performed by Flansburgh in Andover?

21 A. I did.

22 Q. How did you come by that knowledge?

23 A. Hearsay and conjecture from
24 individuals who were Superintendents. We have

1 several high administrators, Associate
2 Superintendent and the high school Principal,
3 who both live in Andover, and so through idle
4 chat, I became aware that there was a problem
5 up in Andover.

6 Q. What are the names of the gentlemen
7 who told you about the problems Flansburgh was
8 experiencing in Andover?

9 A. Specifically, I can recall a
10 conversation with Frank Orlando, our high
11 school Principal.

12 Q. What did Mr. Orlando tell you?

13 A. My recollection was there was a cost
14 overrun on the project.

15 Q. Anything else?

16 A. Not that I recall -- oh, and that
17 they were in -- and they were also in
18 litigation.

19 Q. What information did Mr. Graham
20 provide to the School Building Committee in
21 your presence?

22 A. My understanding was Mr. Graham had
23 lunch with the Town Manager of Andover and that
24 Flansburgh got caught into a difficult

1 situation where the general contractor, shortly
2 after, I guess, either the steel or the framing
3 took place, either went bankrupt, filed Chapter
4 11, or whatever, which resulted in another
5 general contractor coming in.

6 Q. And Mr. Graham relayed this story to
7 the School Building Committee, and you were
8 present and heard this; is that correct?

9 A. He relayed the information to me. I
10 can't recall, but I'm fairly certain that
11 information was passed on. He also indicated
12 that the Town Manager was very -- my
13 understanding from what he said to me -- was
14 very pleased with the work that Flansburgh had
15 done given the difficulty of the situation.

16 Q. And Mr. Graham told this to you
17 outside of the presence of the School Building
18 Committee?

19 A. I don't remember. I just remember
20 that the information that I had came from the
21 Chairman.

22 Q. And --

23 A. The Chairman and I talk quite
24 frequently, obviously, because we do a lot of

1 his secretarial work, so I don't remember if it
2 was via a phone call or -- but I do recall that
3 Mr. Graham did give a report with those people
4 present in the Building Committee at a meeting
5 referencing the work that had been done by
6 Flansburgh up in Andover.

7 Q. And did this presentation take place
8 prior to the award of the feasibility contract
9 to Flansburgh?

10 A. My recollection is yes.

11 Q. I had asked you earlier about art
12 teachers, and you testified that there was an
13 art teacher for each of the elementary schools?

14 A. No. I indicated I didn't know the
15 number of art teachers that were in the
16 elementary schools, but I suspect that there's
17 probably at least one.

18 Q. Okay. Do you know if they are
19 full-time?

20 A. The vast majority are, yes.

21 Q. There's four elementary schools. Do
22 you know --

23 A. Full-time FTE's, or full-time in the
24 schools?

1 Q. I mean full-time art teachers, if
2 that helps.

3 A. They are full-time employees, the
4 vast majority of them.

5 Q. Do they serve as art teachers
6 full-time?

7 A. To the best of my knowledge, yes.

8 Q. So to the best of your knowledge,
9 there are four art teachers, one for each
10 school, and each of them are full-time?

11 A. Yes.

12 Q. Okay. Do you know how it was that
13 Flansburgh, which was the fifth ranked firm,
14 became involved in the interview process?

15 A. Yes.

16 Q. Can you tell me about that, please?

17 A. My recollection is that when a
18 determination was made on the number of
19 architects to move forward, there was a concern
20 because of the bullish and booming market that
21 given the length of time it takes to conduct
22 the interview, that some of the architectural
23 firms may withdraw. And given the market,
24 there was a concern that we should interview at

1 least one more, just in case that does happen.

2 Q. And when you say, "we," you mean the
3 School Building Committee?

4 A. Yes.

5 Q. Do you know how it happened that
6 Flansburgh, the fifth ranked architect, was
7 awarded the feasibility study?

8 A. By a vote of the School Building
9 Committee.

10 Q. As I said earlier, I do not have
11 completed copies of Exhibit C, so I don't know
12 how each of these firms were ranked.

13 Was there a particular strength of
14 Flansburgh upon which the School Building
15 Committee relied when awarding it the
16 feasibility study?

17 A. I don't know. I assume. I can tell
18 you there was a vote, and the vote was for
19 Flansburgh.

20 Q. Did any member of the committee
21 express their reasons for voting for the fifth
22 ranked architect?

23 A. I suppose, but I don't recall. It's
24 important to note that the ranking of the five

1 just puts them forward, and then they start at
2 zero again, to my recollection.

3 Q. Why is that?

4 A. Just they move them forward. It's
5 only a paper -- a paper review, and some calls
6 are made.

7 Q. And are the --

8 A. The interview process is very
9 important to the Building Committee.

10 Q. Are the School Building Committee
11 members prohibited from returning to the
12 rankings which were prepared when deciding who
13 from the interviewees should be awarded the
14 contract?

15 A. I'm not aware of that, no.

16 Q. But it's your testimony that you
17 don't think they do look at those rankings?

18 A. They do look at them. How they are
19 weighed, I can't tell you. It's a vote. My
20 recollection is that the individuals were
21 allowed the opportunity to say whatever they
22 would like, members of the committee, following
23 the interview, recommendations, what have you.

24 Q. But you can't recall anything that

1 was said by anybody with respect to Flansburgh;
2 is that correct?

3 A. Specifically, no. I just remember
4 the comments were most favorable.

5 Q. If you could look at Exhibit G to
6 your affidavit, please?

7 A. (Witness complies.)

8 Q. And in Section 22 of Exhibit G,
9 which is some pages in, the first page after
10 the cover page for Section 2 is a presentation
11 of Option A. Do you see that?

12 A. Yes.

13 Q. Now, Option A was an option that was
14 presented by Flansburgh to the School Building
15 Committee; is that correct?

16 A. Yes.

17 Q. And at the same time that Flansburgh
18 presented Option A, they also presented an
19 Option B and an Option C; is that correct?

20 A. That's correct.

21 Q. Did Flansburgh make any
22 recommendation among those options to the
23 School Building Committee?

24 A. Flansburgh indicated, based on

1 conversations that both the Building Committee
2 had had, and Flansburgh, with SBA, that
3 Option A would not be a project that the State
4 would reimburse.

5 Q. And did Flansburgh make any comments
6 with respect to Option C?

7 A. My recollection is that on Options B
8 and C, they were presented, and Flansburgh
9 answered questions about all three options.
10 And I don't recall specifically, though the
11 minutes of the meetings may reflect it, but a
12 conclusion was drawn based on input that the --
13 or not input from -- it may have, in fact, been
14 input from the School Committee.

15 But the School Committee had made it
16 clear that if there was going to -- School
17 Committee made it clear before this process
18 started that they would like to have, as close
19 as possible, four equal-sized schools. And I
20 don't remember Flansburgh indicating a
21 recommendation, but, again, the minutes may
22 reflect that. I don't recall.

23 But I do know that any option that
24 provided as close as possible equal-sized

1 schools was consistent with what the Reading
2 School Committee had indicated, through their
3 meetings and discussions with the Enrollment
4 Study Committee and what have you.

5 Q. So if I can maybe summarize that,
6 you don't recall Flansburgh making any direct
7 recommendation; is that correct?

8 A. No, I do not.

9 Q. Of the three options presented by
10 Flansburgh, Option A was not palatable to the
11 School Building Committee because it would not
12 receive reimbursement from the State SBA; is
13 that correct?

14 A. Yes.

15 Q. And Option C was not palatable to
16 the School Building Committee because it did
17 not comply with the desire of the School
18 Committee for equal-sized schools; is that
19 correct?

20 A. Say that one again? I was still
21 looking at Option A.

22 MR. BIERWIRTH: Sure. Actually,
23 Carolyn, would you read it back?

24 (Record read.)

1 A. Well, my recollection is that is one
2 of two parts. The second was -- my
3 understanding was Option C was more expensive
4 than Option B, and I'm looking at that now.

5 Q. Okay, let's take a look. Option B
6 would have a total expense of \$15.5 million,
7 whereas Option C would have a total expense of
8 \$11.5 million; is that correct?

9 A. My understanding is that Option C
10 also includes the right side of the paper, too.

11 Q. Which is the Barrows renovation, the
12 Killam renovation, and the Eaton renovation?

13 A. That's correct.

14 Q. So it was your understanding when
15 this feasibility study was presented to the
16 School Building Committee that under Option B,
17 the renovations to Killam and Eaton would not
18 be necessary?

19 A. No. If you -- my recollection is
20 that if you look at Option C and you look at
21 the right side and you look at the column
22 marked "minimum," there is a 6.1 number. That
23 needs to be added to the 11.5, which includes a
24 solution based on adding some space.

1 Q. And you're referring to Option B?

2 A. Yeah. Option B refers to these two
3 buildings with no additional space to the other
4 buildings.

5 Q. So Option B, as presented by
6 Flansburgh to the School Building Committee,
7 took care of the problem in such a way that
8 there was no need for renovation to Killam or
9 Eaton?

10 A. No, that's incorrect. There would
11 need to be renovations. There would need not
12 to be additional space at those buildings. In
13 meetings held with SBAB, they had indicated
14 that the footprint of the Killam School could
15 not be expanded, not within the confines of its
16 design if we wanted to do something, but that
17 the school, given its parcel of land, had
18 pretty much expanded the footprint as large as
19 SBA would allow.

20 Q. So Option C would have been a
21 solution that included the costs for Killam and
22 Eaton, whereas Option B is a solution that does
23 not include the costs for Killam and Eaton,
24 which nevertheless would have had to have been

1 incurred by the Town; is that correct?

2 A. That's incorrect.

3 Q. Tell me why that's incorrect.

4 A. Eaton does not need any renovations.

5 It was done in '93/'94.

6 Q. So why is Eaton included in Option

7 C?

8 A. There would have been some

9 additional space added to the school.

10 Q. Even though it wasn't necessary?

11 A. No, to solve -- to do a complete

12 K-5, to solve the long-term enrollment issue.

13 Q. And those renovations would not have

14 been necessary if Option B was selected; is

15 that what you are saying?

16 A. At the Eaton School, yes.

17 Q. Okay. So tell me what is your

18 understanding of the total cost -- and I don't

19 mean to say the total cost to the Town of

20 Reading -- I mean to say the total cost of

21 Option C?

22 A. I have not seen these documents in a

23 couple of years. I'll have to use a little bit

24 of recollection here. But my recollection is

1 that the column marked "minimum," which is 6.1
2 million would be added to the 11.5 to solve a
3 K-5 enrollment issue.

4 And, again, that puts Option C
5 slightly more expensive than Option B and
6 creates at least one, if not several schools,
7 significantly larger than the other schools.

8 Q. So what Flansburgh did was present
9 three options to the School Building Committee,
10 two of which were inherently flawed; is that
11 correct?

12 A. Flansburgh was hired because the
13 Enrollment Study Committee had gone as far as
14 it could and had made recommendations. The
15 recommendations of the Enrollment Study
16 Committee were limited because they did not
17 have the knowledge base to apply dollars and
18 cents and architectural and SBA regulations.

19 So it was the role of the School
20 Building Committee, on the recommendation of
21 the Reading School Committee, to take the
22 Enrollment Study Report, hire an architectural
23 firm to take the recommendations that appeared
24 in the Enrollment Study Report -- which these

1 recommendations are -- and to have an
2 architectural firm cost out these. So, the
3 recommendations that were brought forth are as
4 much an attempt by the Building Committee to
5 have a professional organization apply the
6 recommendations of the Enrollment Study
7 Committee to a report.

8 Q. Under Option B --

9 A. Uh-huh.

10 Q. -- any renovations to the Killam
11 School are not included; is that right?

12 A. Yes. Renovations, no. There is no
13 expansion of space. The Killam School needs to
14 be renovated, but the issue foremost in the
15 eyes of the School Committee was to first
16 create space and then renovate space.

17 Q. And the renovation to the Killam
18 School needs to take place regardless of the
19 fact that it is not included in Option B?

20 A. Yes.

21 Q. Now, in Option B, you'll see the
22 total amount for the Barrows School addition
23 and renovation is 6.6 million and the total
24 amount for the new school construction is 8.9

1 million, making a total of 15.5 million; is
2 that correct?

3 A. That's correct.

4 Q. And that was the number that was
5 presented by Flansburgh to the School Building
6 Committee; is that correct?

7 A. This document, as it shows, was
8 presented to the School Building Committee.

9 Q. And the School Building Committee
10 voted to select Option B as the plan that it
11 would put forward; is that correct?

12 A. Yes.

13 Q. And the School Building Committee
14 put that plan forward to Town Meeting; is that
15 correct?

16 A. Yes.

17 Q. And they did so with the project
18 that they recommended having a total price tag
19 of 15.5 million; is that correct?

20 A. Yes, based on 10/1/98.

21 Q. Right. And I should have said the
22 Town Meeting vote in -- was it December of
23 1998?

24 A. Late fall, yes.

1 Q. Did the School Committee need to
2 approve the recommendation of the School
3 Building Committee?

4 A. The School Committee needs to
5 approve any recommendation for any work done on
6 a school building before SBAB will allow it to
7 be moved forward. The School Committee did
8 take a vote that was not required by Town
9 Charter supporting the project when it moved
10 forward in the late fall of '98.

11 Q. When you say, "moved forward," you
12 mean moved forward from the School Building
13 Committee to Town Meeting?

14 A. That's correct.

15 Q. Did the School Committee vote on the
16 selection of Flansburgh for the feasibility
17 study?

18 A. No.

19 Q. What was your role at this time?

20 A. Which time?

21 Q. During the time from when the School
22 Building Committee voted to accept Option B up
23 until the time of the Town Meeting.

24 MR. BUSCONI: So in the fall of

1 '98, late fall of '98?

2 MR. BIERWIRTH: Correct.

3 A. I served as a resource to the
4 Building Committee during its meeting with
5 abutters and its four meetings with the
6 elementary school parents.

7 Q. Did you also serve as an advocate on
8 behalf of Option B?

9 A. Yes.

10 Q. I'm going to show you a document I'm
11 going to mark as the next exhibit.

12 (Exhibit No. 5 was marked for
13 identification.)

14 BY MR. BIERWIRTH:

15 Q. Do you see that document, sir?

16 A. Yes.

17 Q. Mr. Davidson was the Chair of the
18 School Size Committee; is that --

19 A. Co-Chair.

20 Q. Who was the other Co-Chair?

21 A. I believe Beth Kleipis, the Town
22 Finance Director.

23 Q. And you prepared this document for
24 him?

1 A. I prepared the document for the
2 Enrollment Study Committee.

3 Q. And what was the purpose of this
4 document?

5 A. I was asked by a member of the
6 Enrollment Study Committee -- or Subcommittee I
7 don't recall. But I was asked by members of
8 that committee to provide a document, to the
9 best of my recollection or the best of my
10 knowledge, in the late fall/December of '97, on
11 what kind of staff would be needed to be added
12 to a new school and what the approximate cost
13 would be.

14 Q. And that's what you did?

15 A. Yes.

16 Q. And that's what this document
17 reflects?

18 A. Yes.

19 Q. And the total initial start-up costs
20 are \$367,000; is that correct?

21 A. Yeah, at that time.

22 Q. And that was a compilation of
23 salaries only, it seems; is that correct --

24 A. Yes.

1 Q. -- for the various employees who are
2 listed there, and it did not include any
3 additional salary for teachers which may be
4 necessary, as you say in your memorandum, due
5 to re-districting and the opening of a new
6 elementary school; is that accurate?

7 A. Correct.

8 Q. So that would be an additional cost
9 event if those costs had to be incurred?

10 A. There are certain speculations that
11 were made here that need to be pointed out.
12 This assumes that whatever we've done in the
13 past we're going to do in the future, which
14 means that we have one principal per building,
15 we have one secretary full-time at each
16 building, we have one full-time school
17 psychologist, one full-time speech teacher,
18 etc. This was based on doing what we have been
19 doing in the past, we will do in the future.

20 Q. Is there some reason that those
21 assumptions would not be accurate?

22 A. There's always the possibility that
23 financially, we can't have all of the things
24 that we've had in the past in the future.

1 Q. But this was your best estimate at
2 the time of the initial start-up costs.

3 A. Yes.

4 Q. I'm going to show you another
5 document here.

6 (Exhibit No. 6 was marked for
7 identification.)

8 BY MR. BIERWIRTH:

9 Q. I'm going to draw your attention to
10 the first paragraph of the document, sir.

11 A. (Reviewing document.) Uh-huh.

12 Q. And this is a cover letter from Sid
13 Bowen, B-O-W-E-N, at Flansburgh & Associates
14 directed to you dated October 14, 1998. It's a
15 cover letter where he says that he's enclosing
16 copies of the proposed contract, and he says
17 that what he's done in putting together the
18 contract is taken out from the scope of
19 services in the RFP the traffic analysis. And
20 he says that there's simply not enough money to
21 undertake full traffic studies at the sites
22 under consideration.

23 Do you recall receiving this letter?

24 A. I don't recall, but, yes, I receive

1 a lot of letters from Mr. Flansburgh, and I do
2 seem to recall this one.

3 Q. Do you remember having any
4 conversation with him about the substance of
5 this letter; namely, taking out the traffic
6 analysis?

7 A. I don't recall.

8 Q. Now, you stated earlier that the
9 School Building Committee was the awarding
10 authority here and that its Chairman -- was it
11 Russell Graham? Is that his name?

12 A. Yes.

13 Q. -- was, obviously, involved in the
14 work that had to be done on the feasibility
15 study. Do you know of any reason why Mr. Bowen
16 directed this letter to your attention?

17 A. Virtually everything that goes
18 through the Reading School Committee, Building
19 Committee -- because the Building Committee
20 does not have an office of any type -- relative
21 to the schools, we provide some logistical
22 support for the Building Committee. And my
23 suspicion is that Mr. Bowen wanted to make sure
24 that it got to the Building Committee.

1 Q. So, again, it's simply a matter of
2 convenience in administration that Mr. Bowen
3 directs his letters which are intended for the
4 client, the School Building Committee, to you
5 personally?

6 A. Uh-huh.

7 Q. You have to answer "yes" or "no" for
8 the record.

9 A. Oh, yes.

10 Q. Do you recall having any input as to
11 whether or not the traffic analysis would be
12 included in the contract as something that
13 Flansburgh needed to perform under the
14 feasibility study?

15 A. There was a conversation -- I don't
16 remember with who. Mr. Bowen was present, but
17 I don't remember if it was just the Chairman
18 and myself, or if it was at a meeting, or
19 what-have-you -- where a question was raised
20 by, I believe, Mr. Graham, relative to a
21 traffic study, because people were very
22 concerned about the area up there, which is a
23 highly traveled road with no sidewalks, and
24 also the congestion and what have you, lights.

1 And I remember Mr. Bowen indicating
2 that whatever group they used within the
3 architectural firm had indicated to them that
4 there was adequate flow of traffic; and that
5 since SBAB does not reimburse for work done off
6 the site, sidewalk, streets, anything like
7 that, that, you know, they felt that the study
8 covered the school department, which was that
9 the flow was fine. It's a small school.

10 Q. And any work that would have to be
11 performed at the site would be the burden of
12 the Town of Reading; is that correct?

13 A. Yes.

14 Q. Do you have right now an estimate as
15 to the cost of such work that would be required
16 to make it a safe school building in that
17 neighborhood --

18 A. No.

19 Q. -- with regards to traffic?

20 A. I have no knowledge.

21 Q. But, again, you believe that
22 Mr. Bowen had consulted with a traffic engineer
23 or a traffic consultant prior to the School
24 Building Committee electing Option B as its

1 choice?

2 A. No, I don't know that. I know that
3 before the project went to Town Meeting in '98,
4 that that information I just shared was shared
5 with me and members -- at least the Chairman of
6 the Building Committee.

7 Q. All right. I'm going to show you
8 another document we can get marked.

9 (Exhibit No. 7 was marked for
10 identification.)

11 BY MR. BIERWIRTH:

12 Q. Do you recognize that document, sir?

13 A. (Reviewing document.) Yes.

14 Q. And what is that document?

15 A. It is a timetable for new elementary
16 schools.

17 Q. Do you know who prepared that?

18 A. It was prepared under my direction
19 except for -- let me do the pages. Page 1 was
20 done under my direction, page 2 was done under
21 my direction, page 3 was under my direction, 4
22 was done under my direction, 5 was done under
23 my direction, page 6 was not, 7 was not, 8 I
24 believe was under my direction, and 9 and 10

1 were under my direction.

2 Q. The pages -- I believe they were 6
3 and 7 -- that you said were not created under
4 your direction, who created those documents?

5 A. School Building Committee.

6 Q. And what was the purpose for
7 creating this 10-page document?

8 A. I believe it was created as an
9 information sheet for Town Meeting.

10 Q. Who presented it to Town Meeting?

11 A. Members of the School Building
12 Committee.

13 Q. If you could turn to page 6 of the
14 document, sir.

15 A. (Witness complies.)

16 Q. You'll see that page 6 of the
17 document is a graph representing the enrollment
18 in K through 5 in the Town of Reading for
19 certain school years; is that correct?

20 A. Yes.

21 Q. And this document, prepared, as it
22 was, in the fall of 1998, has actual numbers up
23 to enrollment in September 1998 and projections
24 for enrollments thereafter; is that correct?

1 A. Yes.

2 Q. So that number that is indicated as
3 enrollment for the school year 1998/1999 of
4 2,047, that's an actual number?

5 A. I didn't prepare this document.

6 Q. Do you know if that is the actual
7 number?

8 A. Without having my enrollment, I
9 can't tell you, but I believe that number to be
10 accurate.

11 Q. Let me show you another document.

12 MR. BIERWIRTH: This is a
13 four-page exhibit.

14 (Exhibit No. 8 was marked for
15 identification.)

16 BY MR. BIERWIRTH:

17 Q. You'll see on the second page of
18 that exhibit, sir --

19 A. (Reviewing document.) Uh-huh.

20 Q. -- near the bottom left-hand corner
21 there's a chart which indicates that the
22 elementary schools have an enrollment as of
23 October 1, 1998, of 2,040 students. Do you see
24 that?

1 A. Uh-huh.

2 Q. First let me ask you, do you
3 recognize that exhibit, or the pages to that
4 exhibit, more accurately said?

5 A. They look familiar.

6 Q. Do you know where they are from?

7 A. They are similar to documents that I
8 produce.

9 Q. Why do you say that they are similar
10 to documents that you produce?

11 A. Other than page 1, all of the other
12 pages are undated. And page 1 is a year after
13 this projected enrollment.

14 Q. That's correct, sir. And you
15 believe that the documents that you produce
16 would be dated; is that your point?

17 A. No. Generally, my documents, if
18 undated, are attached to a cover page, or a
19 distribution is done.

20 Q. Do you know what these pages are
21 part of? Let me ask it that way.

22 A. They are our October -- it appears
23 to be our October 1 enrollment for a given
24 year.

1 Q. Are these documents included as part
2 of a budget package that you prepare or another
3 larger document that you prepare?

4 A. No. These are single, standalone
5 documents.

6 Q. All right. Let me ask it this way,
7 then: Are they included in budget documents or
8 budget packages that the Town prepares based
9 upon submissions from various departments
10 within the Town, to your knowledge?

11 A. The portion above "current
12 enrollment" compared with the prior years?

13 Q. Yes.

14 A. Yes. The portion below, I don't --
15 it appears in a very different format.

16 Q. Drawing your attention back to the
17 number 2,040, do you see it there?

18 A. Yes.

19 Q. Is that an accurate -- strike that.

20 Is 2,040 the enrollment number for
21 October 1, 1998, for K through 5 in the Town of
22 Reading?

23 A. You're asking me if the enrollment
24 on October 1, 1998, K through 5 was 2,040?

1 Q. Yes.

2 A. From this document, I would say yes.

3 Q. Do you know that of your own
4 personal knowledge?

5 A. Without checking my files, I do not.

6 Q. Do you know of any reason why that
7 would be inaccurate?

8 A. No.

9 Q. Turning back to Exhibit 7, if you
10 would?

11 A. (Witness complies.)

12 Q. If this chart which was prepared by
13 the School Building Committee for presentation
14 at Town Meeting is accurate, that number of
15 2,047 is a decrease in enrollment from the
16 prior year; is that correct?

17 A. Yes. According this to chart, yes.

18 Q. Do you know of any circumstances
19 that would explain that?

20 A. The Reading School Committee made a
21 change in the date for kindergarten entrance,
22 which only allowed, for one year, eight months
23 of students to enter the school district,
24 instead of the normal 12, and my understanding

1 is -- if my recollection is correct -- that
2 that is what contributed to that dip.

3 Q. That would be in the academic year
4 '98/'99?

5 A. I believe that was the impact year.
6 The decision was made years earlier, but my
7 recollection is it was in the fall of '98 that
8 instead of having your normal 12 months of
9 births, whatever the period was, because of one
10 year, a change, the School Committee only had
11 eight months of kindergarteners born five years
12 earlier.

13 Q. And that's because the kindergarten
14 enrollment deadline was changed from a birth
15 date of December 31 to August 31?

16 A. That's correct.

17 Q. Do you know -- well, actually, it
18 says, just looking at this again. I was going
19 to ask you if you knew what data the School
20 Building Committee relied upon in making the
21 projections which are depicted on this chart to
22 the right of the academic year '98/'99, and it
23 says above that it was based upon NESDEC. And
24 you spoke of NESDEC earlier in this deposition;

1 is that correct?

2 A. That's correct, but you'll also
3 notice in the middle of the page to the right
4 it says, "current enrollment," which leads me
5 to believe it was not an October 1 date.

6 Q. You'll have to explain that to me,
7 sir.

8 A. Sure. These are official records,
9 this document, Exhibit 8. It indicates on
10 October 1st, 1998, there were 2,040 students.
11 This chart indicates to me that the creator of
12 this document used the number of students on
13 the particular day they created the chart.

14 Q. So perhaps in late fall of 1998
15 there were 2,047 students?

16 A. That's correct.

17 Q. And that's what you're explaining
18 here?

19 A. Right. It says, "current
20 enrollment," not October 1, so my belief is
21 that it was on that particular day that this
22 document -- whatever was done.

23 Q. I understand. The projections for
24 enrollment were based upon NESDEC figures; is

1 that right?

2 A. That's right, I assume based on what
3 the creator has indicated under the word
4 "future."

5 Q. If you could turn now to page 1 of
6 Exhibit 8.

7 A. (Witness complies.) Yes.

8 Q. You'll see that this document
9 indicates that the enrollment as of October 1,
10 1999, for the Reading Elementary Schools is
11 1,980. Do you see that, sir?

12 A. Yes.

13 Q. Whereas, the projected number in
14 Exhibit 7, if you could look at that side by
15 side, sir, on page 6?

16 A. (Reviewing documents.)

17 Q. And the point on the graph that
18 indicates the projected enrollment for academic
19 year '99/2000 does not indicate a projection of
20 enrollment that comports with the actual
21 enrollment of 1,980; is that correct, sir?

22 A. That's what I see.

23 Q. And the projected enrollment for the
24 academic year 2000/2001, which we are currently

1 in, according to this chart seems to indicate
2 that it would be somewhere around 2200
3 students; is that correct?

4 A. As I see it.

5 Q. And I had asked you earlier in the
6 deposition, but I'll ask you again, do you know
7 what the current enrollment is in K through 5
8 for this academic year that we are currently
9 in?

10 A. I do not have that specific number.
11 Again, I distributed a chart with that number
12 to the School Committee earlier this week.

13 Q. I'm just going to show you another
14 document quickly, sir, and I just have a single
15 question on it.

16 (Exhibit No. 9 was marked for
17 identification.)

18 MR. BIERWIRTH: Actually, that's a
19 lawyer's mistake. I have more than one
20 question on it.

21 Q. Let me ask you, have you seen that
22 document before?

23 A. (Reviewing document.) Yes.

24 Q. Do you know how this document was

1 distributed to parents and guardians?

2 A. My understanding is it was sent home
3 via the students.

4 Q. At each of the elementary schools in
5 the Town of Reading?

6 A. That's my understanding, yes.

7 Q. The document references in the
8 second paragraph the Special Town Meeting that
9 has been scheduled for December 7, 1998, and in
10 the last sentence of that paragraph states that
11 "Your support is urgently needed to make these
12 plans a reality."

13 Further on, it indicates that the
14 Reading School Building Committee will be
15 holding four information sessions or meetings,
16 and it indicates that you will be in attendance
17 at each of those. Do you know if you did
18 attend each of those four meetings?

19 A. I did.

20 Q. And at those meetings you advocated
21 on behalf of Option B as selected by the School
22 Building Committee; is that right?

23 A. As determined by the Reading School
24 Committee.

1 Q. I'm sorry, can you explain that for
2 me?

3 A. The School Committee thought Option
4 B was the right option, so as the chief agent
5 of the School Committee moving forward, I
6 advocated for Option B.

7 Q. Okay. As did the Chairman of the
8 Reading School Building Committee, Mr. Graham?

9 A. Yes.

10 Q. And it says that representatives
11 from Flansburgh would also be at the meeting.
12 Do you know if Mr. Bowen or some surrogate of
13 his was at each of those meetings?

14 A. My recollection is yes.

15 Q. I'm going to show you another
16 document quickly.

17 (Exhibit No. 10 was marked for
18 identification.)

19 BY MR. BIERWIRTH:

20 Q. And, again, sir, you're welcome
21 to -- but I don't think you need to -- read the
22 whole document in detail. I just have some
23 questions about it.

24 A. (Reviewing document.) All right.

1 Q. You'll see on the bottom there, sir,
2 that in brackets it says, "For submission to
3 the Birch Meadow PTO newsletter on October 29,
4 1998."

5 Do you know if this letter from
6 Mr. Struble of the Reading School Building
7 Committee was, indeed, part of the Birch Meadow
8 PTO newsletter?

9 A. To the best of my knowledge, I guess
10 it was.

11 Q. Do you know if similar letters were
12 sent out as part of PTO newsletters in the fall
13 of 1998 prior to the Town Meeting?

14 A. I don't know that for sure.

15 Q. Do you know what other efforts were
16 made by either members of the School Building
17 Committee, your department, or the School
18 Committee, to educate and to advocate on behalf
19 of Option B? And, again, prior to the Town
20 Meeting in December, 1998.

21 A. Exhibit 7 --

22 Q. Okay.

23 A. -- last two pages.

24 Q. All right. Let's take a look at

1 that.

2 A. It lists all meetings that were held
3 leading up to Town Meeting in the fall of '98.

4 Q. Okay. Now, in the last sentence in
5 that document on page 10 of Exhibit 7 that you
6 just referred to --

7 A. Uh-huh.

8 Q. -- it says, "All meetings were
9 public meetings and most were televised." I
10 think you had indicated earlier that this page
11 10 was one of the pages that was created at
12 your direction; is that correct?

13 A. Yes, pages 9 and 10, correct.

14 Q. Just looking at the meetings which
15 were held, starting with the joint SBCSC
16 meeting of April 13, 1998, and continuing
17 thereafter, how many of those meetings were
18 televised, do you know?

19 A. I do not know.

20 Q. Do you have an estimate?

21 A. I do not.

22 Q. Is it the ordinary practice for
23 joint School Committee and School Building
24 Committee meetings to be televised?

1 A. The request is usually made.

2 Q. Is it the ordinary practice for them
3 to be televised?

4 A. Joint meetings of the School
5 Committee and the Building Committee?

6 Q. Yes.

7 A. It doesn't happen that often, but
8 generally speaking, when it does happen, we do
9 make an attempt to get it televised.

10 Q. When what happens?

11 A. Joint meetings with the two boards.
12 The only meetings, prior to the change of the
13 Media One to RCPV, is there was an
14 understanding in the Town of Reading that the
15 only meetings that would be guaranteed to be
16 televised are the ones that are regularly
17 scheduled by the Reading School Committee,
18 Selectmen, what have you. So a special request
19 needs to be made for any joint meeting, or any
20 other meeting.

21 Q. Do you know if any of the meetings
22 which are set forth on pages 9 and 10 from July
23 20, 1998, through to and including November 5,
24 1998, all of which have the description "SBC

1 meeting with architect to develop, review, and
2 approve all options," do you know if any of
3 those meetings were televised?

4 A. Which ones specifically, I do not.

5 Q. Do you know if any of them were?

6 A. I don't recall. I know that
7 meetings of the School Building Committee have
8 been televised, to my recollection.

9 MR. BIERWIRTH: Can we get this
10 marked, Carolyn.

11 (Exhibit No. 11 was marked for
12 identification.)

13 BY MR. BIERWIRTH:

14 Q. Do you recognize that document, sir?

15 A. (Reviewing document.) Everything to
16 the right of the arrows I do. I don't recall
17 the left-hand side.

18 Q. Do you know who created this
19 document, at least to the right of the bulletin
20 points?

21 A. Yeah, I believe I did.

22 Q. And for what purpose?

23 A. People were asking what the
24 timetable for the projects would be on

1 11/30/98, or whenever this document was
2 created, as going into Town Meeting.

3 Q. You'll see here at the top with
4 respect to the new elementary school -- we'll
5 just follow the arrows -- the proposed deadline
6 at that time for submission to the SBAB,
7 education plan and drawings, was March 1,
8 1999 --

9 A. That's correct.

10 Q. -- for the new elementary school; is
11 that correct?

12 A. That's correct.

13 Q. And below that, the timetable for
14 the Barrows Elementary School, the deadline for
15 submission to the SBAB of education plans and
16 drawings was a year later, March 1, 2000. Do
17 you see that?

18 A. That's correct.

19 Q. The March 1, 1999 deadline for the
20 new elementary school was not met?

21 A. That's correct.

22 Q. The March 1, 2000 deadline for the
23 Barrows Elementary School was met?

24 A. Based on this timetable on 11/30/98,

1 yes.

2 Q. Well, just as a matter of fact, the
3 March 1, 2000 deadline for submission to the
4 SBAB of education plans and drawings was met by
5 the Town of Reading; is that correct?

6 A. That's correct.

7 Q. And that comported with your plan
8 for submission of those documents as of
9 November 30, 1998; is that correct?

10 A. Say that again, please?

11 Q. Sure. The submission which occurred
12 just this previous March, March 1, 2000 --

13 A. Yes.

14 Q. -- comported with the plan that you
15 had in place with respect to the Barrows
16 Elementary School as of November 30, 1998?

17 A. Yes.

18 Q. Is the current plan to move forward
19 with construction of the new school and the
20 renovation and additions to the Barrows School
21 simultaneously?

22 A. No.

23 Q. What is the current plan vis-a-vis
24 those two aspects?

1 A. My best recollection -- the
2 timetable has changed several times because
3 this is the original, and there's been
4 several -- many modifications.

5 The opening of the new school, or
6 the availability of taking over the new school,
7 should take place in the summer of 2002. In
8 the summer of 2001, based on my best
9 recollection, is that work would start on the
10 Barrows School based on the plan that is in
11 place now to build the new additions during the
12 course of the 2001/2002 school year;
13 re-district in the fall of 2002, which would
14 lower the population at the Barrows School, and
15 then begin the renovation in the inside of the
16 Barrows School in the summer of 2002 through
17 the spring of 2003.

18 Again, that's based on my
19 recollection. It has changed a number of
20 times.

21 Q. So your best testimony as to the
22 current plan is that there will be
23 groundbreaking at the Barrows School in the
24 summer of 2001?

1 A. Yes.

2 THE WITNESS: Can I take a short
3 break?

4 MR. BIERWIRTH: Sure.

5 (Recess taken from 11:45 a.m. to
6 11:50 a.m.)

7 (Exhibit No. 12 was marked for
8 identification.)

9 BY MR. BIERWIRTH:

10 Q. Have you had a chance to read that,
11 sir?

12 A. (Reviewing document.) Yes.

13 Q. This is a letter, again, from
14 Mr. Bowen to you, and it refers to a
15 conversation that you had with him. Do you
16 recall that conversation?

17 A. I do.

18 Q. Was the content of the conversation
19 essentially as set forth in Mr. Bowen's letter.

20 A. Yes.

21 Q. And he indicates in his letter that
22 if the decisions of the Town Meeting were put
23 to a referendum in early January, 1999, it was
24 his opinion that, quote, "We would lose

1 valuable time." Do you see that, sir?

2 A. Yes.

3 Q. And down below, in the last sentence
4 in the second paragraph, he states Flansburgh's
5 belief that the project would be harmed by the
6 restrictive timetable inherent in such an
7 outcome. Do you see that, sir?

8 A. Yes.

9 Q. Now, just putting this in context,
10 this is December 15, 1998. This is after the
11 Town Meeting has approved the Barrows
12 renovation and addition, as well as
13 construction of the new school; is that
14 correct?

15 A. I believe so.

16 Q. Let me ask you: Why was the Barrows
17 aspect of the project and the new school aspect
18 of the project presented to Town Meeting as two
19 separate votes?

20 A. It has to be. The bond counsel will
21 not allow two projects to be combined because
22 if during the construction phase, one project
23 had a problem, it's both projects, and would
24 expose the Town to a greater liability. So the

1 finance director and bond counsel notified me
2 that both projects had to be separate.

3 Q. And once the projects are separated
4 at the Town Meeting, it follows, does it not,
5 that they would need to be voted upon
6 separately if there was a Town Referendum vote;
7 is that correct?

8 A. I don't know that, on the
9 referendum. I only know it on the ballot for
10 the -- because I asked the question because we
11 were interested in both ways.

12 Q. Is it your best memory that at the
13 Town Referendum vote which was held in early
14 January, 1999, there were two votes to be cast?

15 A. That was my understanding.

16 Q. Okay. And do you know why it was
17 presented to Town Referendum that way?

18 A. I do not.

19 Q. Turning back to the letter, did you
20 share Mr. Bowen's belief that the project would
21 be harmed if the project was put to a Town
22 Referendum vote in early January 1999?

23 A. With who?

24 Q. I'm sorry?

1 A. Who did I share it with? You asked
2 if I shared that information.

3 Q. I asked if you shared his belief.

4 A. With who?

5 Q. Did you agree with his belief, is
6 the point of my question, sir?

7 A. I don't recall agreeing or
8 disagreeing with it.

9 Q. You didn't think about it one way or
10 the other when you had this conversation with
11 Mr. Bowen and when he wrote you this letter and
12 you read it?

13 A. My recollection is the conversation
14 was around the concerns by both the Building --
15 I know by the Reading School Committee, but I
16 also believe by the School Committee, having to
17 do with the second paragraph.

18 Q. Can you explain that to me?

19 A. Sure. The Reading School Committee
20 made it a condition that any timetable for this
21 project had to have adequate abutters' input
22 into the project, which was demonstrated by
23 meetings that we had held. So that I needed to
24 get from Mr. Bowen information relevant to, um,

1 this was the first time this had happened on a
2 school building project since I came to
3 Reading.

4 Q. If I can interrupt you there for a
5 second. When you say, "it" you're meaning a
6 Town Referendum vote on approval of the
7 project?

8 A. Yes.

9 Q. Okay. Please continue.

10 A. It didn't happen on Coolidge or
11 Parker, and so there was concern because of the
12 March 1st deadline and moving back and the
13 June 1st deadline. If, also, my recollection
14 is correct, this was the first year that the
15 State established a March 1st deadline. It had
16 traditionally been a June 1st, but the State
17 had moved forward, and I believe it was this
18 year, in requiring a March 1st high water mark
19 and a June 1st.

20 Q. So the School Committee at least
21 shared Mr. Bowen's belief that the project
22 would be harmed by the restricted timetable
23 which was necessitated by the Town Referendum
24 vote and the inability to have a dialogue with

1 abutters during that restricted timetable; is
2 that correct?

3 A. I don't know if the School Committee
4 had that feeling. I do know that Mr. Bowen had
5 that feeling, and I articulated that through
6 this document, I believe, and I presented it to
7 both the School Committee and the Chairman of
8 the Building Committee.

9 Q. And do you recall any reaction from
10 either of those gentlemen?

11 A. Yes.

12 Q. What was their reaction?

13 A. I recall a conversation with at
14 least one member of the School Committee where
15 it needed to be made clear that adequate time
16 needed to be built in for the public.

17 Q. And how were you going to do that,
18 seeing as how the referendum vote did go
19 forward in early January 1999?

20 A. Would you say the question again,
21 please?

22 MR. BIERWIRTH: If you could,
23 Carolyn.

24 (Record read.)

1 A. I could not move one project forward
2 without the other project in early 1999.

3 Q. So it never came to pass that you
4 were faced with the crisis of a Town Referendum
5 vote in early 1999 and then a March 1 deadline
6 in 1999; is that correct?

7 A. That's correct.

8 Q. I'm going to show you another
9 document, sir.

10 (Exhibit No. 13 was marked for
11 identification.)

12 BY MR. BIERWIRTH:

13 Q. Do you recall receiving that
14 document, sir?

15 A. (Reviewing document.) Yes.

16 Q. You will see at the end of paragraph
17 1 Mr. Bowen states that "In order to make the
18 SBA deadline of March 1, 1999, and the June
19 deadline, as well, it would be necessary to
20 have a complete topographical survey of the
21 site, as well as a preliminary geotechnical
22 investigation of the proposed site."

23 Do you know when the topographical
24 survey was performed?

1 A. No. Specifically, no.

2 Q. Do you know when the preliminary
3 geotechnical investigation was performed?

4 A. Specifically, no, but I can tell you
5 it was between January and June of '99.

6 Q. January and June of 1999 for both of
7 those things?

8 A. Yes.

9 Q. Who performed the geotechnical
10 investigation between January and June of 1999?

11 A. I have no idea.

12 Q. Were these tests performed after the
13 results of the Town Referendum were known?

14 A. I believe so, yes.

15 Q. Did you provide authority for
16 Flansburgh & Associates to have the
17 topographical survey and geotechnical
18 investigation performed?

19 A. Yes.

20 Q. Under what authority did you
21 authorize that?

22 A. I'm not sure. I believe I went to
23 the School Committee.

24 Q. You believe there was a School

1 Committee vote on those proposed expenditures?

2 A. I believe so.

3 Q. And that would have also occurred
4 sometime between January and June of 1999?

5 A. That's correct.

6 Q. And at the time of that School
7 Committee vote, was it already determined that
8 neither aspect of the project would go forward
9 in 1999?

10 A. I don't know. Again, I don't know
11 the date that the test was performed, I only
12 know that we authorized it to take place.

13 Q. Do you know if you paid the outfits
14 that did the topographical survey and
15 geotechnical investigation directly, or if you
16 paid them through Flansburgh?

17 A. I don't know.

18 Q. When the Town Referendum vote
19 occurred in early January 1999, the outcome was
20 that the voters approved the Barrows renovation
21 and addition but did not approve the new
22 building; is that correct?

23 A. That's my understanding.

24 Q. Given that vote, why did the Town

1 not move forward in calendar year 1999 with the
2 Barrows renovation and addition?

3 A. The Chairman of the Reading School
4 Building Committee, myself, and at least one
5 School Committee member -- it may have been
6 two, and which ones I don't recall -- had many
7 meetings with the Interim Director of SBAB, at
8 the time, Jim Anderson. He had made it clear
9 to all parties attending those meetings -- and
10 it happened at least once, but my recollection
11 is it was more than once -- that we could not
12 move forward either project separately, but
13 they needed to move forward together.

14 Q. And when you say, "project," you're
15 referring to -- when you say each of the
16 projects, you're referring to the projects as
17 they were outlined in Option B presented by
18 Flansburgh to the School Building Committee?

19 A. The two schools were the new school
20 at Dividence Road and the renovation and
21 additions to the Barrows School.

22 Q. Let's focus on the renovations and
23 additions to the Barrows School, because those
24 were the ones that you received approval from

1 the Town Meeting and Town Referendum vote. And
2 it's your testimony that Mr. Anderson made
3 clear that the SBA would not provide funding
4 for the Barrows renovation as it was proposed
5 by Flansburgh in Option B separately?

6 A. As a standalone.

7 Q. Mr. Anderson didn't say you could
8 not move forward on your own without SBA
9 funding; is that correct?

10 A. He did.

11 Q. He did. Why did he say that?

12 A. He said the Town of Reading can do
13 anything it wants with its own money.

14 Q. So he did say that you could move
15 forward with the Barrows renovation, it's just
16 that your SBA funding was at risk?

17 A. Sixty-six percent reimbursement.

18 Q. Did you or the Chairman of the
19 School Building Committee or the School
20 Committee members who you say you had these
21 meetings with, did you give any consideration
22 to reworking the Barrows renovation and
23 addition, the scope of that project, and
24 beginning construction in 1999?

1 A. No.

2 Q. Did you give any consideration to
3 reworking the scope of the Barrows project and
4 submitting it to SBA?

5 A. We were told not to.

6 Q. So that's a yes, you did give some
7 consideration to it?

8 A. No, we gave no consideration,
9 because we were told that we could not do
10 either project separately unless we did it on
11 our own. And I recall the Chairman of the
12 Building Committee saying that we -- you know,
13 "We're not about to move these projects forward
14 without SBAB reimbursement."

15 Q. You had this conversation with
16 Mr. Anderson where you raised the possibility
17 of reworking the Barrows renovation and
18 addition and then submitting it to SBA?

19 A. No.

20 Q. So his statement to you was that the
21 proposal for the Barrows renovation, as put
22 together by Flansburgh in the Option B, as a
23 standalone should not be presented?

24 A. There was no reworking of the

1 Barrows project --

2 Q. Why is that?

3 A. -- that could be presented by
4 itself, given the money that was approved, that
5 would meet SBAB requirements of a K-5 town-wide
6 solution.

7 Q. So the problem was in the amount of
8 money that was approved at the Town Meeting and
9 the referendum?

10 A. Yes.

11 Q. Did you give any consideration to
12 instructing Flansburgh to provide other options
13 to the School Building Committee?

14 A. It would not be my responsibility to
15 do that.

16 Q. Did any of these other gentlemen
17 with whom you met give any consideration to
18 that?

19 A. I don't know. Not at that meeting.

20 Q. Did you ever have any conversation
21 with any representative from the School
22 Building Committee where the topic of asking
23 Flansburgh to submit additional options was
24 discussed?

1 A. Within the parameters of the money
2 approved?

3 Q. In any way, any conversation
4 relating to that topic at all.

5 A. I'm not aware of any.

6 Q. Did you ever have any conversation
7 with any member of the School Building
8 Committee relating to starting the process anew
9 and requesting a new feasibility study?

10 A. Could you say that again?

11 Q. Sure. Did you ever have any
12 conversation with any member of the School
13 Building Committee relating to requesting a new
14 feasibility study?

15 A. No. It would not be my privy to do
16 that.

17 Q. To have a conversation with a member
18 of the School Building Committee?

19 A. The School Building Committee
20 controls where it goes and things like that. I
21 had no conversation. But it would, you know,
22 not be my responsibility to do that.

23 Q. Were you ever a member of the School
24 Building Committee?

1 A. Yes, I was.

2 Q. When was that?

3 A. Well before these projects ever came
4 forward, I believe.

5 Q. When did you stop -- I'm sorry, I
6 interrupted you.

7 A. I was on it a year, I believe a
8 year.

9 Q. When did you stop being a member of
10 the School Building Committee?

11 A. Exact dates I don't have. I think I
12 was on the Building Committee somewhere between
13 '96 and '97.

14 Q. So you did not vote on the
15 feasibility study that was awarded to
16 Flansburgh?

17 A. No.

18 Q. Given that you did not give any
19 consideration to moving forward with the
20 Barrows project alone or starting anew with a
21 new feasibility study, what work was performed
22 in 1999 in furtherance of these two projects?

23 A. The only work was Exhibit 13, the
24 geotech and the topographical.

1 Q. Why did you feel it necessary to
2 move forward with those?

3 A. Again, I don't know the date that
4 those were performed, but they were not time
5 sensitive, so that if they were done then, they
6 still could be used years later if the project
7 moved forward. The ground wouldn't change. So
8 my best recollection is that we did this, and
9 we did it relatively quickly, in case it did
10 pass. But, again, I don't have the date
11 exactly of when that happened.

12 Q. And this geotechnical survey, did it
13 disclose the existence of ledge at the site?

14 A. The geotechnical survey, to my
15 knowledge, is a superficial. It's not borings.
16 So it detected surface ledge, but the extent of
17 that ledge can only be determined through
18 borings, which were done much later.

19 Q. Do you know when that was
20 determined?

21 A. The borings?

22 Q. Right.

23 A. This past spring. Late spring,
24 early summer.

1 Q. So after the Town Meeting vote of
2 December 1999 and the Town Referendum of
3 January 2000; is that correct?

4 A. My understanding is yes.

5 Q. Is there some reason why it was not
6 done beforehand?

7 A. There was no money.

8 Q. There was only sufficient money to
9 do this geotechnical survey?

10 A. No. The geotechnical survey and the
11 topographical was taken from the School
12 Committee's allocated budget.

13 Q. From what portion, do you know?

14 A. What account?

15 Q. Yes.

16 A. I believe maintenance, facilities.

17 Q. And there wasn't an opportunity to
18 do that to have a more in-depth geotechnical
19 examination of the site?

20 A. My understanding is those two items
21 needed to be done for a submittal for
22 March 1st. The borings don't need to be done
23 for the March 1st or June 1st submittal.

24 Q. They need to be done before

1 construction can commence?

2 A. Determination of where the placement
3 of the school would be.

4 Q. So they need to be done before site
5 plan review?

6 A. By who?

7 Q. Any site plan review.

8 A. Yeah, I would -- well, the
9 determination of the site, because there is no
10 agency, other than the Reading School
11 Committee, that has authority to determine the
12 location of the school.

13 Q. How was it determined that the
14 proposed project for the building of the new
15 school would be resubmitted to Town Meeting?

16 A. I don't believe that there was a
17 specific moment that was determined. I think
18 it was assumed that since one project went
19 through, the other was close, and because we
20 needed this, that there would be a re-submittal
21 at the earliest possible time to do it.

22 Q. Which was the following calendar
23 year?

24 A. Yes.

1 Q. And was it also assumed that if the
2 new school was not approved by either Town
3 Meeting or Town Referendum in that winter, that
4 it would be resubmitted the following winter?

5 A. No discussion was made about that
6 that I'm aware of.

7 Q. During 1999 was there consideration
8 given to moving forward with peer review of the
9 feasibility study?

10 A. No, not by any conversations I had
11 with Building Committee members, School
12 Committee, or my office staff.

13 Q. Why not?

14 A. It was our understanding, after
15 meeting with officials from SBAB, that we could
16 not move one project forward without the other.
17 That meant we had to have Town Meeting and Town
18 approval of money to be authorized to spend on
19 both projects because the State was looking for
20 a total solution. So any work that was done on
21 the project had to be done with both moving
22 forward.

23 Q. And in your mind, the peer review
24 could only be done after approval of both

1 aspects of the project?

2 A. A peer review would only be done if
3 we were moving forward in the design phase,
4 because the peer review is, in essence, a
5 review of the feasibility study to move forward
6 with the design, and if you don't have both
7 schools approved, you're not moving forward on
8 design.

9 Q. Well, the peer review is a peer
10 review of the feasibility study, is it not?

11 A. It is moving forward as a basis for
12 the design.

13 Q. But you don't believe that it has
14 any beneficial impact to the Town to have a
15 peer of an architect review the proposed
16 feasibility study before it is put to Town
17 vote?

18 MR. BUSCONI: I'm going to object
19 to the form of the question. I think he's
20 answered the reason in his mind why peer review
21 wasn't taking place, because it was viewed as
22 an entire project, rather than singularly.
23 What you're asking for now is pure speculation
24 on his part, and that's objectionable.

1 Q. You can go ahead and answer.

2 A. I don't know what the question is.

3 Q. Do you believe there would be any
4 benefit to the Town to have the feasibility
5 study peer reviewed prior to Town Meeting vote
6 or Town Referendum vote on the project?

7 A. There's no advantage.

8 Q. Why is that?

9 A. Since the project wasn't approved in
10 a form that allowed the architect to continue
11 to -- the feasibility study for this project
12 went on for two years. It did not end in the
13 fall of '98. And so the feasibility study was
14 a document, a working document, if you will,
15 and so to have a review of a document that was
16 still changing would have been premature, in my
17 estimation.

18 Q. So it was your understanding that
19 Flansburgh continued to perform work for the
20 Town, pursuant to its contract it perform the
21 feasibility study, up until January 2000 when
22 the Town Referendum vote approved all aspects
23 of the project; is that correct?

24 A. Yes.

1 Q. Why were you never able to get from
2 a representative of the SBA a written statement
3 to the effect that SBA would not provide
4 reimbursement for the Barrows renovation and
5 addition without the new school being involved
6 in the proposal, as well?

7 A. SBA's response was it was coming.

8 Q. Really. Who told you that?

9 A. Mr. Anderson.

10 Q. When did he tell you that?

11 A. Specifically, I don't remember, but
12 in my conversations with him, to remind him, he
13 said it was coming.

14 Q. And you wrote him letters to try to
15 get him to send you a written document?

16 A. That's correct.

17 Q. And you received no written
18 response?

19 A. I did not.

20 Q. Did he ever give you an explanation
21 as to why he never gave you a written response?

22 A. He retired first.

23 Q. Did Christine Lynch or anyone else
24 at SBA ever give you any explanation as to why

1 there was no written response?

2 A. No.

3 Q. Let me direct your attention to
4 Exhibit F of your affidavit, which was Exhibit
5 1 in this deposition.

6 A. (Reviewing document.) Yes.

7 Q. Do you see that, sir?

8 A. Yes.

9 Q. Now, I will show you another
10 document, which is a letter from you.

11 (Exhibit No. 14 was marked for
12 identification.)

13 BY MR. BIERWIRTH:

14 Q. Do you recognize that, sir?

15 A. (Reviewing document.) Yes. It's a
16 memo to the Reading School Committee.

17 MR. BUSCONI: Are you going to
18 introduce that as an exhibit?

19 MR. BIERWIRTH: It's been marked
20 as Number 14.

21 MR. BUSCONI: I'm sorry.

22 BY MR. BIERWIRTH:

23 Q. That's a letter from you to the
24 Reading School Committee enclosing the form of

1 the contract, which has been referred to as the
2 time and materials contract, which, in its
3 signed form, is attached as Exhibit F to your
4 affidavit; is that correct?

5 A. Yes.

6 Q. Now, why did you believe that this
7 time and materials contract was necessary?

8 A. We had to meet a submittal date of
9 March 1st, and we had no contract, and the
10 contract usually takes some time. And so this
11 was a holdover contract, more or less piece
12 work.

13 Q. Is that ordinary practice?

14 MR. BUSCONI: I object to this
15 extent: Is it ordinary practice with respect
16 to what?

17 Q. Had you done this before?

18 A. Not to my recollection.

19 Q. This was the first time that you've
20 recommended that the School Committee enter
21 into a time and materials contract of this
22 type?

23 A. To the best of my knowledge, yes. I
24 don't -- I wasn't here for -- actually, I don't

1 recall on Parker or on Coolidge.

2 Q. Now, the work that was proposed to
3 be performed by Flansburgh pursuant to this
4 contract is work that would be required to be
5 performed pursuant to the design services
6 contract; is that correct?

7 A. This was work to be performed to
8 meet our March 1st date.

9 Q. In the ordinary practice, the design
10 services contract that you would enter into
11 with an architect would include work that would
12 be required to meet a March 1 deadline from the
13 SBA; is that correct?

14 A. That's correct.

15 Q. In your affidavit you state in
16 paragraph 35, which is on page 9 --

17 A. Yes.

18 Q. -- that Flansburgh would be paid
19 under the time and materials contract only if
20 the designer services contract were ultimately
21 awarded to Flansburgh. Do you see that?

22 A. Yes.

23 Q. Is that accurate?

24 A. Yes.

1 Q. How did you come by that
2 understanding?

3 A. It's been assumed in the contracts
4 that we've entered into.

5 Q. Let's focus on this particular
6 contract. Is that provision, to your
7 understanding, contained within the text of the
8 contract?

9 A. My understanding is that it's
10 implied.

11 Q. Did you have any discussions with
12 the School Committee so that they would know it
13 was implied?

14 A. No.

15 Q. Did you have discussions with anyone
16 from Flansburgh & Associates relating to that
17 aspect of this contract prior to submitting the
18 contract to the School Committee?

19 A. Not to my recollection.

20 Q. So it's your understanding, based
21 upon these implied terms, that if Flansburgh
22 did not get the contract for design services,
23 that they would not have been entitled to
24 payment under the time and materials contract?

1 A. That's correct.

2 Q. Prior to the date that the design
3 services contract was signed with Flansburgh,
4 did the Town of Reading make any payment
5 pursuant to this time and materials contract to
6 Flansburgh?

7 A. Yes.

8 Q. In what amount?

9 A. Approximately \$20,000.

10 Q. And it was your understanding that
11 if the design services contract was not signed
12 with Flansburgh, that you would have been able
13 to get that money back from Flansburgh?

14 A. The payment should not have been
15 made in -- yes.

16 Q. Tell me why the payment should not
17 have been made.

18 A. Because of the understanding that
19 the work completed by Flansburgh would only be
20 paid if we were successful in executing a
21 design contract.

22 Q. Was the payment made at your
23 direction?

24 A. I don't believe so.

1 Q. How was it made?

2 A. The first invoice or first bill from
3 Flansburgh came in sometime in the spring, and
4 I had made the determination that no payments
5 would be made, and I forwarded the invoice to
6 one of my office people, and I did not direct
7 her not to pay it. And so when you give one of
8 my people an invoice, they pay it. So I take
9 full responsibility for not clearly
10 articulating and directing the individual that
11 we were holding up on this.

12 Q. Now, the invoice was submitted by
13 Flansburgh. Did Flansburgh expect that it
14 would be paid?

15 A. Flansburgh had the same
16 understanding that I did. It was implied in
17 the time and materials and appears in my
18 affidavit.

19 Q. So it's your belief that when
20 Flansburgh received this check for payment,
21 they were surprised?

22 A. My understanding is that no member
23 of the accounting department at Flansburgh is
24 surprised when a check comes in from the

1 Reading Public Schools. The understanding is
2 between the architectural -- the individual
3 providing the services and the Town of Reading.
4 I don't know if the accounting office knows at
5 what point the contract is with the company.

6 Q. Was the check returned?

7 A. No.

8 Q. So Flansburgh retained that payment;
9 is that correct?

10 A. Yes.

11 Q. To this date?

12 A. To the best of my knowledge, yes.

13 Q. Now, this memorandum is dated
14 February 3, 2000?

15 A. Right.

16 Q. At this point the Town of Reading
17 intended to award the contract to Flansburgh
18 for design services?

19 A. The Town of Reading was in the
20 process of working out a contract for design
21 services.

22 Q. Contract negotiations had already
23 begun at this point?

24 A. My understanding is yes.

1 Q. Was there any thought at this point
2 given to advertising for the design services
3 contract?

4 A. I'm not sure.

5 Q. Do you know when that consideration
6 first came into play?

7 A. For advertising?

8 Q. Yes.

9 A. Late February.

10 Q. And how was it raised as an idea?

11 A. Through Town Counsel.

12 Q. Did Town Counsel contact you?

13 A. No, I contacted Town Counsel.

14 Q. And why did you contact Town
15 Counsel?

16 A. Shortly after the project was
17 approved by the voters, I received from Sid
18 Bowen a document from Lawyers Weekly indicating
19 that there was a decision relative to LeClair
20 versus Norwell. I forwarded that document to
21 Town Counsel, who reviewed it, and indicated
22 that based on what I had given counsel and the
23 summary judgment by the SJC, that it didn't
24 affect Reading.

1 Following that, I shared that with
2 Sid Bowen, who, in turn, said, "Have Town
3 Counsel get a hold of me," and Town Counsel
4 then took it over at that point, had
5 conversations with different individuals, and
6 by the end of February, we became aware that we
7 needed to go out to bid on the design phase of
8 the project.

9 Q. I'm sorry, the receipt of the
10 article that you received from Sid Bowen, you
11 said that was shortly after -- was it the Town
12 Meeting or the Town Referendum vote?

13 A. No. It was somewhere in late
14 January, early February. Probably closer to
15 early February.

16 Q. I haven't seen that document
17 produced. Bowen was involved in the Norwell
18 case; is that right?

19 A. I believe so.

20 Q. And it's your testimony that the
21 communication from Mr. Bowen to you was the
22 first inkling that anyone associated with this
23 project in the Town of Reading had that the
24 design services contract needed to be

1 separately advertised?

2 A. Yes.

3 Q. Now, under this time and materials
4 contract, the school committee authorized
5 certain work, and in your affidavit, you state
6 that it was estimated that it would cost
7 approximately \$5,000?

8 A. Yes.

9 Q. It exceeded that, did it not?

10 A. Yes.

11 Q. In fact, it went up to \$20,000,
12 which you said was the amount of the payment
13 that was made?

14 A. Yes.

15 Q. Now, at the time of the signing of
16 the time and materials contract, the
17 feasibility study had not yet been peer
18 reviewed, correct?

19 A. That's correct.

20 Q. So Flansburgh & Associates was
21 moving ahead with design work without their
22 feasibility study having been subject to peer
23 review; is that correct?

24 A. Flansburgh moved forward with any

1 aspect relevant to a submittal date of
2 March 1st without the peer review being
3 completed.

4 (Exhibit No. 15 was marked for
5 identification.)

6 BY MR. BIERWIRTH:

7 Q. Did you prepare that document, sir?

8 A. (Reviewing document.) It was
9 prepared under my direction.

10 Q. Did you receive any responses to
11 this document prior to January 28, 2000?

12 A. Specifically, I believe not.

13 Q. And I want to clarify something in
14 your affidavit. If you could look at Exhibit
15 L, please?

16 A. (Witness complies.) Yes.

17 Q. It's a memorandum from Maureen
18 Hanifan -- she's in your office?

19 A. Yes.

20 Q. -- to you dated February 1. It
21 says, "Here's a list of the firms which I sent
22 the RFR to." She's referring, is she not, to
23 Exhibit 15, the RFR for the peer review; is
24 that correct?

1 A. Yes.

2 Q. So it was after January 28, when you
3 had not received any responses to this peer
4 review RFR, that Ms. Hanifan sent the RFR to
5 these firms; is that correct?

6 A. My understanding is that these
7 companies received copies of the peer review
8 prior to the 28th.

9 Q. Okay, fair enough. But none of them
10 responded?

11 A. No.

12 Q. Okay. And the only response that
13 you received was from TLCR; is that correct?

14 A. They never responded. No one did.

15 Q. TLCR, in fact, responded to a fax
16 that you sent to them?

17 A. They responded to a phone call.

18 Q. Why did you call them?

19 A. My understanding is my office called
20 all -- most or all of these companies asking if
21 they would do it after we received no response.

22 Q. And the cost of the peer review was
23 \$2,500?

24 A. I believe so, yes.

1 Q. If you could turn to Exhibit H,
2 please?

3 A. (Witness complies.)

4 Q. Do you see the third paragraph
5 there?

6 A. Yes.

7 Q. Did you have those discussions with
8 Flansburgh that were recommended?

9 A. Specifically to this letter, no.

10 Q. Do you see in the final paragraph it
11 says, "We believe that the recommendations
12 offered by SMMA are reasonable, adequate, and
13 appropriate."

14 When you received this letter, did
15 you make note of that reference to SMMA?

16 A. Yes.

17 Q. What did you do as a result of that?

18 A. We followed up and asked them to
19 send us one with the word processing corrected.

20 Q. I'm sorry, with --

21 A. With the word processing corrected.

22 Q. Where is the word "processing"?

23 A. This is a standard letter, and they
24 apparently used it for a previous company and

1 left the old company's name in there.

2 Q. Oh, I was looking for the actual
3 word, quote, "processing" in the document. But
4 you're saying it's word processing; that this
5 is a form letter that is on somebody's word
6 processing system and they just pump it out?

7 A. That's correct.

8 Q. Okay. I'm going to show you this
9 letter from the principle at TLCR.

10 (Exhibit No. 16 was marked for
11 identification.)

12 BY MR. BIERWIRTH:

13 Q. And, again, I can draw your
14 attention to the point of my question, which
15 will be on the second paragraph.

16 A. (Reviewing document.)

17 Q. Mr. Rozas says that "It should be
18 clear it is not our intention to second guess
19 the decisions already made." You agreed with
20 that? Let me ask it a better way. You agreed
21 that that was not within the scope of what you
22 hired TLCR to do in a peer review?

23 A. I have no knowledge base of what a
24 peer review is. I only know that it's

1 something I have to do.

2 MR. BIERWIRTH: Off the record for
3 a second.

4 (Discussion off the record.)

5 BY MR. BIERWIRTH:

6 Q. If you'll look at Exhibit I to your
7 affidavit, please, sir.

8 A. (Witness complies.)

9 Q. Who wrote this RFQ?

10 A. It was done under my direction.

11 Q. Who actually put it together?

12 A. A member of my staff, I believe.

13 Q. Do you know who?

14 A. Yes.

15 Q. Who?

16 A. Maureen Hanifan.

17 Q. And what is her title?

18 A. Administrative Assistant for
19 Finance.

20 Q. The language that is contained in
21 paragraph 2 of the exhibit, do you see that,
22 sir, paragraph 2 of the exhibit?

23 A. Beginning with what word?

24 Q. "The professional services."

1 A. Yes, I do.

2 Q. Who wrote that paragraph?

3 A. My understanding is portions, if not
4 the entire section, is written by Town Counsel
5 in conjunction with the Attorney General's
6 Office.

7 Q. And how did you come by that
8 understanding?

9 A. Following in late February Town
10 Counsel's knowledge that the Norwell LeClair
11 decision does have an effect on the design bid
12 process for this project, I asked Town Counsel
13 to secure/prepare an implementation and use
14 whatever resources necessary to get me whatever
15 I need to do to put this thing out.

16 So Mrs. Hanifan worked directly with
17 Town Counsel who, in turn, worked directly with
18 the Attorney General's Office in putting this
19 language together.

20 Q. To your knowledge, did Mr. Cohen
21 have contact with anyone in the Attorney
22 General's Office directly?

23 A. Yes, he did.

24 Q. Do you know who?

1 A. An Assistant Attorney General that
2 goes by the name of Chip Flaherty. My
3 understanding is he's in the Municipal
4 Division.

5 Q. All right. And you believe
6 Mr. Cohen had contact with Mr. Flaherty. Do
7 you know if Ms. Hanifan also had contact with
8 Mr. Flaherty?

9 A. Not Mr. Flaherty, but another member
10 of his staff.

11 Q. Ms. Hanifan had contact with another
12 member of Mr. Flaherty's staff?

13 A. Attorney General's staff.

14 Q. And when you say, "contact," did
15 anyone from the Attorney General's Office see
16 the actual language that is contained in this
17 RFQ before it was published?

18 A. It's my understanding that the
19 information that was sent to us that appears
20 here was obtained by Town Counsel through the
21 Attorney General's Office.

22 Q. So do you believe that someone from
23 the Attorney General's Office drafted the
24 language that is contained in paragraph 2 here?

1 A. I think they participated, at least
2 to some extent, in the development of this
3 language.

4 Q. But you don't know whether or not
5 they saw the actual language that was used
6 prior to its publication?

7 A. No.

8 Q. Who would know that?

9 A. Ted Cohen.

10 Q. Now, once this RFQ was published,
11 how many firms responded?

12 A. In what form?

13 Q. In any form.

14 A. We had three or four firms respond
15 to the pre-bidders conference.

16 Q. When you say they responded to it,
17 does that mean they sent a representative?

18 A. Yes.

19 Q. Did you keep a list of those three
20 or four firms?

21 A. I thought we did.

22 Q. I've not seen it. Do you know where
23 it is currently located?

24 A. We have no list.

1 Q. Who attended the pre-bid conference
2 on behalf of the Town?

3 A. Myself and Marine Hanifan.

4 Q. Do you recall which architectural
5 firms were represented?

6 A. I knew two of the three or four
7 companies that were there. Design Partnership,
8 Mt. Vernon Group, and there was at least one
9 other architectural firm there.

10 Q. Now, Mt. Vernon Group is the outfit
11 where the principle is Mr. Tedesco who
12 submitted an affidavit?

13 A. That's correct.

14 Q. But he himself did not attend?

15 A. No.

16 Q. Do you know who attended from his
17 firm?

18 A. Yes.

19 Q. Who?

20 A. Tim Kajusco (phonetic) I believe is
21 his last name.

22 Q. If you could perhaps spell that for
23 the court reporter?

24 A. Not a clue.

1 Q. Smart man.

2 A. I know him as Tim K.

3 Q. Okay, that's a start. What title
4 did Tim hold at that firm, do you know?

5 A. I don't know.

6 Q. Is he a principle?

7 A. I don't know.

8 Q. You said Design Partnership of
9 Cambridge was the other firm that responded?

10 A. Yes.

11 Q. Who did they send?

12 A. Vinnie Pellegrini.

13 Q. Do you know what title he holds?

14 A. Specifically, no.

15 Q. What was discussed at that pre-bid
16 conference?

17 A. I thanked everyone for coming,
18 indicated we were going out to bid on design
19 services, asked if all participants knew or
20 understood of the Norwell decision, and I
21 explained the Norwell decision and indicated
22 that we were pleased with the work that
23 Flansburgh had done, but that if any firm
24 wanted to submit a proposal, we would be happy

1 to review it.

2 Q. Why did you feel it necessary to
3 raise the Norwell decision?

4 A. Primarily because it was unusual
5 for -- in past practice -- for school systems
6 to go out for design services unless they were
7 unhappy with the company that did the
8 feasibility study.

9 Q. And how do you come by that
10 understanding, that it is "unusual"?

11 A. Just based on my experience.

12 Q. Your experience where?

13 A. In Reading and in Beverly.

14 Q. As far as you know, in Beverly on
15 any of the projects that took place while you
16 were employed by the Town of Beverly, it was
17 the practice for the design firm that conducted
18 the feasibility study to continue on without
19 re-advertisement of the designer services
20 contract?

21 A. Between '91 and '95 when I was
22 there, at least one feasibility study was done,
23 and the Superintendent and the principle for
24 the firm had a conversation relative to that

1 understanding.

2 Q. And that was their belief, that the
3 design services contract did not need to be
4 separately advertised?

5 A. Yes, if there was the ability to
6 negotiate a successful design services contract
7 with that company.

8 Q. Did you ever have a conversation
9 with Sid Bowen about his understanding of the
10 need to advertise separately the design
11 services contract?

12 A. Only after it was brought to my
13 attention.

14 Q. Did he tell you that the design
15 services contract was never separately
16 advertised in his experience?

17 A. I don't recall a conversation
18 relevant to that.

19 Q. You said you did have a conversation
20 with him about separate advertisement. What
21 did he tell you in that conversation?

22 A. I told him that based on the
23 information I had now received from Town
24 Counsel through the attorney -- or from the

1 Attorney General through Town Counsel, that we
2 had to go out to bid.

3 Q. And he never provided you with his
4 understanding of the usual practice?

5 A. Prior to the Norwell decision?

6 Q. At any time.

7 A. No.

8 Q. During your pre-bid conference, was
9 there any discussion about whether the
10 architectural firms that responded had
11 sufficient time to prepare for the March 1
12 deadline?

13 A. That specifically was not discussed
14 by either myself or any of the participants.

15 Q. Did any of the other participants
16 raise any objections or problems with the
17 procedure as it had been followed by the Town
18 of Reading?

19 A. No.

20 Q. Other than the pre-bid conference,
21 was there any communication between the Town of
22 Reading and any other prospective bidder with
23 respect to this RFP for design services?

24 A. I believe not, but those

1 communications would be directed to Maureen
2 Hanifan and then to me.

3 Q. And you don't recall any being
4 brought to your attention?

5 A. No, I do not.

6 Q. Once you recommended that Flansburgh
7 be awarded the design services contract and the
8 School Committee voted on that and approved it,
9 why was the contract with Flansburgh not
10 immediately executed?

11 A. The contract needed to be reviewed
12 by Town Counsel.

13 Q. Is that the only reason?

14 A. Yes. The contract, once received by
15 me, was forwarded to Town Counsel, and Town
16 Counsel normally is the reviewing party of all
17 contracts we sign. We forward all of our
18 contracts to Town Counsel.

19 Q. Is it your position that even if
20 another design firm or design firms had
21 responded to the request for the design
22 services contract, that Flansburgh would have
23 been awarded the design services contract?

24 MR. BUSCONI: I object to the

1 question. You can answer.

2 Q. You can answer.

3 A. Absolutely not.

4 Q. Why not?

5 A. We went through the process because
6 we were attempting to see if -- you know, we
7 knew what we had. We needed to see if we could
8 find someone who could do it better.

9 Q. And how would you have known if
10 someone, by their submission, could have done
11 it better?

12 MR. BUSCONI: I object to the
13 question. You may answer, if you are able.

14 A. I would use local people who serve
15 on the Building Committee to help me, or School
16 Committee, with expertise in that area.

17 Q. And they would have reviewed the
18 submissions with you?

19 MR. BUSCONI: I object to the
20 question.

21 Q. Go ahead.

22 A. There is a process that if we
23 receive any architectural designs that we would
24 use -- it is very similar to the one that the

1 Building Committee uses -- a subcommittee would
2 have been put together, etc.

3 Q. Is there anything about the work
4 that had been performed to date by Flansburgh
5 that gave you any doubt as to their ability to
6 perform to your satisfaction on the design
7 services contract?

8 A. No.

9 Q. If the Court issues an injunction in
10 this case and requires the Town to advertise
11 the design services contract separately, what
12 impact will that have on the Town and its
13 schools?

14 MR. BUSCONI: I object to the
15 question.

16 Q. Go ahead.

17 A. It will have the same impact that
18 the delay had. Number one, it will cost the
19 Town significantly. The number that has been
20 placed out there is 1.5 million per year. Two,
21 the enrollment continues to grow on the school
22 system, and for the first time in my tenure, I
23 no longer have room in the other elementary
24 schools for elementary children, and they are

1 now being bused and housed in a middle school.
2 And that will just become exacerbated each year
3 that goes by.

4 Q. Is that it?

5 A. Well, those are the two major
6 issues. There are many other issues, but those
7 are the two major focuses.

8 Q. Now, the action taken by the SBA in
9 response to your submission is to put the two
10 school projects on a list; is that correct?

11 A. Which submission?

12 Q. Your June 1 submission.

13 A. They have been placed on a list.

14 Q. And what is your understanding of
15 what that means?

16 A. My understanding is that once a
17 school district has a project on the list, that
18 the history of SBAB is the school will be
19 funded in five or less years, or the funding
20 mechanism will kick in in five or less years
21 for reimbursement to the Town.

22 Q. And the reimbursement is scheduled
23 to take place over the course of 20 years?

24 A. Yes.

1 Q. So it's your understanding that
2 within five years, the Town of Reading will
3 receive reimbursement in the amount of
4 one-twentieth of the total reimbursement
5 annually; is that correct?

6 A. Specifically, the one-twentieth I
7 don't believe to be accurate. There is a
8 sliding reimbursement, and my understanding is
9 the bonds are pulled for 20 years, and in 15 or
10 more years, the funding mechanism kicks in. So
11 the exact one-twentieth, I don't know.

12 Q. This \$1.5 million estimate that
13 Mr. Bowen has provided and that you've
14 mentioned today, that would be increased cost
15 to the total project; is that correct?

16 A. Yes -- no. That would be only to
17 the new school -- well, no, it would be the
18 estimate for both school projects, and it is
19 only a number for this year. In other words,
20 if the project was delayed, it's not 1 million
21 each year, it's 1 million for this year.

22 Q. 1.5 million?

23 A. 1.5 for a one-year delay. It was
24 800,000 last year, so the inflationary rate

1 would have to be adjusted.

2 Q. And would that \$1.5 million increase
3 be reimbursable?

4 A. Yes.

5 Q. Now, if the project is completed,
6 how many additional classrooms will be added?

7 A. Specifically, I think it's, you
8 know, somewhere around 18 or 19, but that
9 includes art, music, and computer lab.

10 Q. How many additional teaching
11 classrooms, not specialty classrooms?

12 A. To my recollection -- again, I have
13 these in my office, but I think it's somewhere
14 around 15.

15 Q. Fifteen?

16 A. Uh-huh. Actually, it may be 17.
17 It's -- it's somewhere in there.

18 Q. And does that include classrooms
19 that would replace the portable classrooms that
20 are currently in use?

21 A. Yes.

22 Q. Now, for those 15 additional
23 classrooms that would be created, the Town of
24 Reading would need to staff them with full-time

1 teachers; is that what you are saying?

2 A. I believe your question was about
3 the new school. You made no mention of the old
4 school.

5 Q. No, I was talking about the project
6 as a whole, sir. For the project as a whole,
7 what will be the net gain of teaching
8 classrooms?

9 A. Somewhere between 15 and 17. But on
10 the Barrows project, there are six additional
11 classrooms that are being added, and that would
12 remove the four portable classrooms.

13 Q. So let's look at the whole picture
14 then.

15 A. Okay.

16 Q. The whole picture is the Barrows
17 renovation and addition and the construction of
18 the new school. What would be the net gain of
19 teaching classrooms as a result of that
20 project?

21 A. Again, I think it's somewhere around
22 17, but I don't have a specific number in front
23 of me. These designs have changed many times.

24 Q. So those are 17 additional

1 classrooms that would need to be staffed with
2 full-time teachers; is that correct?

3 A. Existing teachers.

4 Q. Why do you say "existing teachers"?

5 A. We have advertised from the very
6 beginning that the new space that would be
7 created would be at about 90 to 92 percent --
8 all our existing buildings would be 92 percent
9 utilization and that most of the staffing in
10 the classroom, regular classroom, would come
11 from existing staff which are housed in
12 unsuitable and not desirable teaching stations.

13 Q. Okay. So when you answered my
14 question as far as a net gain of classrooms,
15 you interpreted it to mean an abolishing of
16 what you see as unfit classrooms and
17 replacement with what you see as fit
18 classrooms. I'm talking about a net gain of
19 teaching classrooms.

20 There are a certain number of
21 classrooms in the Town of Reading right now
22 where elementary school teachers are teaching
23 kids. I want to know how many additional
24 classrooms there will be after this project is

1 completed?

2 A. In the fall of 2002?

3 Q. Whenever the project is completed,
4 sir.

5 A. I don't have that information with
6 me.

7 Q. So you don't know how many
8 additional classrooms the Town stands to gain
9 from pressing forward with this project?

10 A. I do, but I don't have that
11 information specifically in front of me.

12 Q. Whatever the number is, would you
13 agree with me that those additional classrooms
14 will need to be staffed with teachers?

15 A. Not all of them.

16 Q. Why not?

17 A. Because we're only going to be at
18 92 percent capacity when all fives schools are
19 on-line and we open up, so there will be some
20 rooms that will be empty.

21 Q. At some point in time you anticipate
22 that you will be at 100 percent capacity?

23 A. Yes.

24 Q. And when is that?

1 A. Again, I have those charts in my
2 office, but I didn't bring them with me.

3 Q. At that point will you agree with me
4 that each of the additional classrooms will
5 need to be staffed with teachers?

6 A. Yes.

7 Q. With new teachers?

8 A. What do you mean by "new"?

9 Q. Teachers that have not worked there
10 before.

11 A. Not necessarily.

12 Q. Why is that?

13 A. Again, we have space and we are --
14 we have utilized space that is not recognized
15 as classroom environment. Those teachers with
16 the new space would then move into those
17 classrooms. We do not have designated space
18 for art and music, so some of the new space
19 that we're creating, and then space would then
20 become available in the four existing schools
21 for art and music.

22 Q. That's your explanation?

23 MR. BUSCONI: Yes, that's his
24 explanation.

1 MR. BIERWIRTH: Okay.

2 MR. BUSCONI: We've got five more
3 minute here, Joe.

4 MR. BIERWIRTH: Okay.

5 Q. Have payments been made to
6 Flansburgh pursuant to the design services
7 contract?

8 A. As of today?

9 Q. Yes.

10 A. Yes.

11 Q. How much?

12 A. Over 400,000.

13 Q. Is it your understanding that those
14 payments are not recoverable by the Town, even
15 if the plaintiffs in this case are successful
16 and the contract is voided?

17 MR. BUSCONI: I object to the form
18 of the question.

19 A. I would have to talk to counsel.

20 Q. And until talking to counsel, you
21 have no understanding of that?

22 MR. BUSCONI: I object to the
23 question. He's answered the question.

24 A. There is some kind of language in

1 the contract. I'm not aware of it, or I'm not
2 knowledgable enough to be able to interpret it.

3 Q. You make reference in your affidavit
4 in paragraph 44 to deteriorating elementary
5 school facilities. Can you explain that for
6 me?

7 A. Specifically, at the Barrows School
8 and at the Killam School. These are schools
9 that are 30 or more years without any major
10 renovation to windows, lights, floors, boilers,
11 roofs, etc., and we have deteriorating
12 conditions throughout the school, leaks, poor
13 lighting, poor ventilation, the floors, and the
14 school system is reluctant to put a significant
15 amount of money in that would not be
16 reimbursable.

17 Q. Was there a time in recent years
18 when kindergarten students were bused from
19 outside of the Barrows district into the
20 Barrows district? Into the Barrows School, I
21 should say?

22 A. Say that again, please?

23 Q. Sure. Was there a time in the past
24 couple of years when kindergarten students from

1 outside of the Barrows district were bused to
2 Barrows?

3 A. Yes.

4 Q. Why was that done?

5 A. That was done because the Barrows
6 School had -- we had moved the portable
7 classrooms over to the Barrows School because
8 Barrows had the space, and it was our smallest
9 school, and in an attempt not to overtax what
10 has already been overtaxed core facilities in
11 the other schools, we moved it to Barrows.

12 Q. Where were they moved from?

13 A. Some of them were moved from Killam,
14 and at least one was purchased new.

15 Q. And how many kindergarten students
16 were bused to Barrows from outside of the
17 Barrows district?

18 A. It varied.

19 Q. How many years did this occur?

20 A. It occurred during my tenure, and my
21 understanding is it occurred before my tenure.

22 Q. Can you give me an estimate for any
23 of the years as to how many students were
24 affected by that busing?

1 A. I would say -- I would guess between
2 50 and 100 students in any given year.

3 Q. And are students no longer being
4 bused to Barrows from outside of the district?

5 A. That is correct.

6 Q. And why did that change?

7 A. Because Barrows needed the space for
8 its own students.

9 Q. So each seat that a bused-in student
10 had previously occupied is now being occupied
11 by a student from the Barrows district; is that
12 correct?

13 A. Well, there are district-wide
14 special education programs which draw from
15 other schools, but in the regular classroom
16 area, yes, to the best of my knowledge.

17 MR. BUSCONI: Joe, do you have a
18 follow-up to this? Because otherwise, we
19 should call it right here.

20 MR. BIERWIRTH: No, it would be a
21 new topic.

22 MR. BUSCONI: All right. Why
23 don't we call it right here. It's 1:15.

24 MR. BIERWIRTH: We can put on the

1 record that we are suspending Dr. Harutunian's
2 deposition at this time pursuant to the Court's
3 order.

4 MR. BUSCONI: And please note it's
5 1:15, please.

6
7 (Whereupon the deposition was
8 suspended at 1:15 p.m.)

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CERTIFICATE

Commonwealth of Massachusetts
Barnstable, ss.

I, Carolyn Haddox, Registered
Professional Reporter and Notary Public in and
for the Commonwealth of Massachusetts, do
hereby certify that HARRY K. HARUTUNIAN, Ph.D,
the witness whose deposition is hereinbefore
set forth, was duly sworn by me and that such
deposition is a true and accurate
transcription, to the best of my ability, of
the testimony given by the witness.

I further certify that I am neither
related to, nor employed by, any of the parties
in or counsel to this action, nor am I
financially interested in the outcome of this
action.

In witness whereof, I have hereunto set
my hand and seal this 24th day of September,
2000.

Notary Public

My Commission expires: August 18, 2006

