

Volume 2
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

No. 1:15-CV-13647-RGS

BOSTON EXECUTIVE HELICOPTERS, LLC,

Plaintiff

vs.

FRANCIS T. MAGUIRE, ET AL.,

Defendants

DEPOSITION of KEVIN J. SHAUGHNESSY

Wednesday, May 30, 2018

9:42 a.m.

Held at: Pierce & Mandell, P.C.

11 Beacon Street

Boston, Massachusetts

Megan M. Castro, RPR, Court Reporter

Real Time Reporting, Inc.

One Monarch Place
1414 Main Street
Suite 1330
Springfield, MA 01144

9 Hammond Street
Worcester, MA 01610
508-767-1157

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3	Michael C. Fee, Esquire			3	Exhibit 343	Email dated 3-13-14	266
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6	Boston, Massachusetts 02108			5		4-9-14	
7	617-720-2444			6	Exhibit 345	Norwood Airport Commission	269
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<p>1 PROCEEDINGS</p> <p>2 - - -</p> <p>3 KEVIN J. SHAUGHNESSY, first having been</p> <p>4 satisfactorily identified by the production of</p> <p>5 his driver's license and duly sworn by the Notary</p> <p>6 Public, testified under oath as follows in answer</p> <p>7 to examination by MR. FEE:</p> <p>8 - - -</p> <p>9 Q. Good morning, Mr. Shaughnessy.</p> <p>10 A. Good morning, Mr. Fee -- Attorney Fee.</p> <p>11 Q. Thanks for coming back. I appreciate</p> <p>12 your coming to finish the second half of your</p> <p>13 deposition.</p> <p>14 I know that you were previously sworn and</p> <p>15 I did have an opportunity ask you some questions</p> <p>16 previously.</p> <p>17 MR. FEE: Is there anything else that we</p> <p>18 need to discuss with counsel before we begin</p> <p>19 this.</p> <p>20 MR. HARTZELL: Only that I have a hearing</p> <p>21 that I have to leave for.</p> <p>22 MR. FEE: At 12:30, I understand that.</p> <p>23 MR. HARTZELL: All right.</p> <p>24 MR. SIMMS: Same stipulations?</p>	<p>1 Please.</p> <p>2 MR. SIMMS: Are you done with your</p> <p>3 answer? Then you are done with your answer.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Are you done with your answer?</p> <p>6 A. Yes.</p> <p>7 Q. Do you regularly look at the Norwood</p> <p>8 Memorial Airport general regulations or minimum</p> <p>9 standards in the course of your duties as an</p> <p>10 airport commissioner?</p> <p>11 A. Could you define "regularly"?</p> <p>12 Q. Yes. Do you look at them at all?</p> <p>13 A. I have looked at them.</p> <p>14 Q. And would you say that you have looked at</p> <p>15 them more than five times?</p> <p>16 A. No.</p> <p>17 Q. So is it fair to say that normally you</p> <p>18 rely on others on the airport commission or the</p> <p>19 airport manager to inform you as to what is</p> <p>20 actually contained in the airport regulations?</p> <p>21 A. Yes.</p> <p>22 Q. Under what circumstances would you refer</p> <p>23 to the airport regulations? Do you recall any</p> <p>24 point in time when you did that?</p>
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<p>1 MR. FEE: Same stipulations.</p> <p>2 I will proceed with alacrity, given</p> <p>3 Mr. Hartzell's time constraints.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Mr. Shaughnessy, I just want to ask you a</p> <p>6 couple questions about some of the things you</p> <p>7 said in your last deposition. And I want to</p> <p>8 begin, first of all, discussing the regulations</p> <p>9 at the Norwood Airport, as well as the minimum</p> <p>10 standards. Are you familiar with the regulations</p> <p>11 and the minimum standards?</p> <p>12 A. Somewhat.</p> <p>13 Q. I am going to show you what has been</p> <p>14 previously marked as Exhibit 190.</p> <p>15 (Handing document to the witness.)</p> <p>16 Q. And I ask you if you recognize that</p> <p>17 document.</p> <p>18 (Witness viewing document.)</p> <p>19 A. I think I have seen it before.</p> <p>20 Q. And in what context have you seen it</p> <p>21 before?</p> <p>22 A. I couldn't honestly say I have seen it</p> <p>23 before.</p> <p>24 Q. Sorry. I didn't mean to interrupt.</p>	<p>1 MR. SIMMS: Objection to form.</p> <p>2 You can answer.</p> <p>3 A. I don't recall.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Well, do you believe that the airport</p> <p>6 regulations govern the conduct of the airport</p> <p>7 commission?</p> <p>8 MR. HARTZELL: Objection. Same</p> <p>9 objection.</p> <p>10 You can answer.</p> <p>11 A. Can you define "conduct"?</p> <p>12 BY MR. FEE:</p> <p>13 Q. Sure. Do you believe that the airport</p> <p>14 regulations are binding on the airport</p> <p>15 commission?</p> <p>16 MR. HARTZELL: Objection.</p> <p>17 A. I believe they are a guideline.</p> <p>18 BY MR. FEE:</p> <p>19 Q. They are a guideline?</p> <p>20 A. Um-hmm.</p> <p>21 Q. Do you know -- sorry.</p> <p>22 Do you believe that there are any other</p> <p>23 guidelines that are applicable to your job as</p> <p>24 airport commissioner?</p>

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<p>1 A. Yes.</p> <p>2 Q. What other guidelines are there?</p> <p>3 A. There are federal guidelines, state</p> <p>4 guidelines.</p> <p>5 Q. But in terms of local documents that</p> <p>6 govern what you do as an airport commissioner, is</p> <p>7 there any other document, other than the airport</p> <p>8 regulations?</p> <p>9 A. That is a tough question, because the</p> <p>10 town -- there are building codes and all kinds of</p> <p>11 regulations that the town has, so.</p> <p>12 Q. So the local zoning codes and building</p> <p>13 codes are applicable to what happens at the</p> <p>14 airport; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. But in terms of what you do as an airport</p> <p>17 commissioner in reviewing activities, commercial</p> <p>18 activities at the airport, is there any other</p> <p>19 municipal document or guideline that you refer to</p> <p>20 when discharging your duties as an airport</p> <p>21 commissioner?</p> <p>22 A. So you are aware that if someone was</p> <p>23 building something, that those guidelines would</p> <p>24 be applicable on the airport as well.</p>	<p>1 page 13 of the general regulations and I will</p> <p>2 help you get there.</p> <p>3 (Pause.)</p> <p>4 Q. What is page 12, sir?</p> <p>5 Page 12 talks about commercial</p> <p>6 aeronautical operations. Do you see that?</p> <p>7 A. There is a heading under Roman</p> <p>8 numeral III that says "commercial aeronautical</p> <p>9 operations."</p> <p>10 MR. HARTZELL: What page are you on?</p> <p>11 MR. FEE: I was on page 12.</p> <p>12 MR. HARTZELL: Oh, there is multiple</p> <p>13 different pages here.</p> <p>14 MR. FEE: Yes, it is a very complex</p> <p>15 document. You might want to --</p> <p>16 MR. HARTZELL: I might want to study it?</p> <p>17 MR. FEE: You might want to spend some</p> <p>18 time for it.</p> <p>19 MR. HARTZELL: Thank you. We are still</p> <p>20 not on the right page.</p> <p>21 MR. FEE: Off the record.</p> <p>22 (Discussion off the record.)</p> <p>23 BY MR. FEE:</p> <p>24 Q. Now I am on page 13. It says, "General</p>
Page 211	Page 213
<p>1 Q. Right.</p> <p>2 A. That is what I just said.</p> <p>3 Q. So there is building codes and zoning</p> <p>4 codes and then there is these airport regulations</p> <p>5 that you would refer to; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. So do you know whether the airport</p> <p>8 regulations define what constitutes a commercial</p> <p>9 activity?</p> <p>10 A. No.</p> <p>11 Q. Do you know if the airport regulations</p> <p>12 define what constitutes an FBO?</p> <p>13 A. No.</p> <p>14 Q. Do you know what an FBO is?</p> <p>15 A. Yes.</p> <p>16 Q. What is your definition of an FBO?</p> <p>17 A. A fixed base operator that provides</p> <p>18 services such as line services, fuelling,</p> <p>19 repairing, aircraft, that type of thing.</p> <p>20 Q. And do the regulations describe what is</p> <p>21 necessary in order to be approved as an FBO?</p> <p>22 A. I believe that we have -- they may have</p> <p>23 some guidelines.</p> <p>24 Q. Okay. Can you turn your attention now to</p>	<p>1 requirements for commercial operations."</p> <p>2 Do you see that?</p> <p>3 A. Under Roman numeral V, "general</p> <p>4 requirements, commercial operations"?</p> <p>5 Q. Correct, yes. Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Do you believe that these general</p> <p>8 requirements are applicable for all operators at</p> <p>9 the airport?</p> <p>10 A. Yes.</p> <p>11 Q. And it would be applicable to any FBO</p> <p>12 applicant as well, would it not, Roman numeral V,</p> <p>13 general requirements for commercial operators?</p> <p>14 A. I am going to read them, if you don't</p> <p>15 mind.</p> <p>16 Q. Sure, absolutely.</p> <p>17 (Pause.)</p> <p>18 (Witness viewing document.)</p> <p>19 A. I read it. What was the question?</p> <p>20 Sorry.</p> <p>21 Q. The question was, was it your</p> <p>22 understanding that these general requirements</p> <p>23 apply to all FBO applicants?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 214</p> <p>1 Q. Turning your attention to page 31, now.</p> <p>2 Page 31 is the definitions under Norwood</p> <p>3 Airport minimum standards. And on page 31, there</p> <p>4 appears to definition of FBO. Do you see that?</p> <p>5 A. The middle of the name says a bold "FBO."</p> <p>6 Q. Right. And the language after the bold</p> <p>7 "FBO" says, "Shall mean a fixed based operator,</p> <p>8 an airport-based organization which permitted</p> <p>9 yearly and under a lease agreement with the</p> <p>10 Norwood Airport commission provides aircraft</p> <p>11 fueling services while engaging in a minimum of</p> <p>12 one of the primary service areas included." And</p> <p>13 then it lists four service areas.</p> <p>14 Do you see that? Do you see where I am</p> <p>15 reading?</p> <p>16 A. I am reading it, yes.</p> <p>17 Q. I just read the paragraph that I want to</p> <p>18 talk to you about.</p> <p>19 A. Yes. You mentioned the four things, so I</p> <p>20 just thought you wanted me to read them.</p> <p>21 Q. No, I don't. I want to ask you a</p> <p>22 question about the first paragraph that I just</p> <p>23 read.</p> <p>24 A. Okay.</p>	<p style="text-align: right;">Page 216</p> <p>1 your question was, do I think you need to have a</p> <p>2 lease --</p> <p>3 BY MR. FEE:</p> <p>4 Q. No. My question was, do you believe that</p> <p>5 the minimum standards require that an FBO</p> <p>6 operator have a lease agreement with the Norwood</p> <p>7 Airport?</p> <p>8 A. No.</p> <p>9 Q. What circumstances under which -- what</p> <p>10 circumstances were you thinking about that an FBO</p> <p>11 would not have a lease with the Norwood Airport?</p> <p>12 A. They could have a lease with Boston</p> <p>13 Metropolitan Airport, which controls quite a bit,</p> <p>14 still, of the airport. So it would be</p> <p>15 really -- instead of with, it would be in the</p> <p>16 Norwood Airport.</p> <p>17 Q. Okay. But would you agree that an FBO</p> <p>18 needs a lease of some sort of space, in order to</p> <p>19 operate?</p> <p>20 A. Yes, of course.</p> <p>21 Q. Do you have an idea of how much space an</p> <p>22 FBO needs in order to operate safely?</p> <p>23 MR. SIMMS: Objection. Beyond the scope.</p> <p>24 Go ahead.</p>
<p style="text-align: right;">Page 215</p> <p>1 Q. Would you agree with me that the minimum</p> <p>2 standards require that an FBO, approved by the</p> <p>3 Norwood Airport Commission, must have a lease</p> <p>4 agreement with the Norwood Airport Commission?</p> <p>5 A. No.</p> <p>6 Q. You do not believe that an FBO has to</p> <p>7 have a lease agreement with the airport</p> <p>8 commission; is that correct?</p> <p>9 A. That's correct.</p> <p>10 Q. Why?</p> <p>11 A. The -- I can think of an instance, now,</p> <p>12 where we would be willing to have an FBO where</p> <p>13 they have a lease agreement with -- we don't</p> <p>14 control all of the space on the airport.</p> <p>15 Q. Understood. But the language that I just</p> <p>16 read says that a fixed based operator is an</p> <p>17 "airport-based operation which is permitted</p> <p>18 yearly and under a lease agreement with the</p> <p>19 Norwood Airport."</p> <p>20 What does that language mean to you?</p> <p>21 MR. SIMMS: Objection.</p> <p>22 Go ahead.</p> <p>23 A. You asked me the question and I answered</p> <p>24 it. I don't know what to tell you other than</p>	<p style="text-align: right;">Page 217</p> <p>1 A. You would have to really be -- there is</p> <p>2 these different things that are listed here and</p> <p>3 it depends on what they are doing. But the</p> <p>4 question was, do I have an idea of how much space</p> <p>5 they need, no.</p> <p>6 BY MR. FEE:</p> <p>7 Q. How about, how much space does an FBO</p> <p>8 need to sell fuel?</p> <p>9 MR. SIMMS: Same objection.</p> <p>10 You can answer.</p> <p>11 A. I wouldn't know.</p> <p>12 BY MR. FEE:</p> <p>13 Q. Who would know?</p> <p>14 A. Who would know?</p> <p>15 Q. Yes. At the airport, who would know?</p> <p>16 A. You would have it be more specific,</p> <p>17 because it depends on where they are, what they</p> <p>18 are doing, you know. I don't even know if -- you</p> <p>19 know, if someone is going to look to fuel</p> <p>20 directly where the fuel tanks are would be</p> <p>21 different than someone who is mobile fueling. I</p> <p>22 think that that is subjective. Who would know, I</p> <p>23 guess the person that is in charge of the airport</p> <p>24 would know.</p>

<p style="text-align: right;">Page 218</p> <p>1 Q. That would be Russ Maguire?</p> <p>2 A. Yes.</p> <p>3 Q. I guess, if I am understanding your</p> <p>4 testimony, you are saying that an FBO can be a</p> <p>5 varied type of operation. And therefore, the</p> <p>6 amount of space necessary to safely conduct an</p> <p>7 FBO depends on what being proposed.</p> <p>8 Is that a fair characterization of your</p> <p>9 testimony?</p> <p>10 A. Could you repeat that?</p> <p>11 MR. SIMMS: Objection.</p> <p>12 BY MR. FEE:</p> <p>13 Q. Sure. As I understand your testimony,</p> <p>14 you said that an FBO can be a varied type of</p> <p>15 operation with various types of activities. And</p> <p>16 therefore, the amount of space necessary to</p> <p>17 safely conduct those activities depends on the</p> <p>18 nature of the FBO. Is that a fair</p> <p>19 characterization of your testimony?</p> <p>20 A. I don't think so. I answered questions,</p> <p>21 so I would say, no.</p> <p>22 Q. Turning your attention to page 32. Down</p> <p>23 below, it says, "Additional requirements, initial</p> <p>24 application."</p>	<p style="text-align: right;">Page 220</p> <p>1 Q. Sure. You would agree with me that the</p> <p>2 items that I read on page 32, Roman numeral V,</p> <p>3 are the financial documents that are to be</p> <p>4 requested from an initial FBO applicant pursuant</p> <p>5 to the minimum standards. Is that fair to say?</p> <p>6 A. No.</p> <p>7 Q. Did I read it incorrectly?</p> <p>8 A. I think the first time you asked me,</p> <p>9 would these be the minimum standards? And then</p> <p>10 you just asked me -- I think what you are asking</p> <p>11 me, is that all we could ask for.</p> <p>12 Q. No, that is not what I asked.</p> <p>13 MR. SIMMS: Listen to the question.</p> <p>14 Answer what he asks you.</p> <p>15 THE WITNESS: Okay.</p> <p>16 MR. SIMMS: That is not what he asked</p> <p>17 you. He didn't ask you if that is all you can</p> <p>18 ask for.</p> <p>19 Mike, can you state the question again?</p> <p>20 MR. FEE: Sure.</p> <p>21 BY MR. FEE:</p> <p>22 Q. Would you agree that the items listed in</p> <p>23 Roman numeral V on page 32 are the financial</p> <p>24 documents required of an initial FBO applicant?</p>
<p style="text-align: right;">Page 219</p> <p>1 Do you see that?</p> <p>2 A. I do, under Roman numeral V.</p> <p>3 Q. Right. And under that heading, it lists</p> <p>4 various financial documents and I will read them</p> <p>5 for you. Current financial statement, proof of</p> <p>6 minimum of three months operating expenses,</p> <p>7 two-year business plan for the proposed</p> <p>8 operation, previous history of payment, three</p> <p>9 credit references, tax identification number, tax</p> <p>10 resale number, copy of any and all pertinent</p> <p>11 certificates and licenses relative to the</p> <p>12 proposed operation.</p> <p>13 Did I read that correctly?</p> <p>14 A. Honestly, Mike I wasn't following along,</p> <p>15 but I believe you read it correctly.</p> <p>16 Q. So is it your belief that the minimum</p> <p>17 standards require these financial documents from</p> <p>18 an initial FBO applicant?</p> <p>19 A. I am not sure if the minimum standards</p> <p>20 list all of these.</p> <p>21 Q. I am reading from the minimum standards,</p> <p>22 which begins on page 30 of the document that we</p> <p>23 are looking at.</p> <p>24 A. Okay. Then I -- could you ask it again?</p>	<p style="text-align: right;">Page 221</p> <p>1 A. These are -- yes, these are part of the</p> <p>2 minimum standards, some of the things we would</p> <p>3 ask for.</p> <p>4 Q. Is there any other financial document</p> <p>5 listed anywhere in the minimum standards, that</p> <p>6 you are aware of?</p> <p>7 A. Not that I am aware of.</p> <p>8 Q. So I think you and I have talked about</p> <p>9 this before. But it is your belief that the</p> <p>10 minimum standards are minimum and that the NAC is</p> <p>11 entitled to ask for additional documentation,</p> <p>12 over and above the minimum standards; is that</p> <p>13 right?</p> <p>14 A. Yes.</p> <p>15 Q. And can you remind me what the basis is</p> <p>16 for your belief that the NAC is entitled to ask</p> <p>17 for documents over and above the minimum</p> <p>18 standards?</p> <p>19 MR. SIMMS: Objection. This was asked in</p> <p>20 day one by both counsel.</p> <p>21 Go ahead.</p> <p>22 A. Well, first of all, we had a member of</p> <p>23 the Massachusetts DOT on our airport who told us</p> <p>24 that we should -- that is one of the things we</p>

<p style="text-align: right;">Page 222</p> <p>1 should be asking for. 2 BY MR. FEE: 3 Q. Who is that? 4 A. I can't remember. But I remember, you 5 know, being there and him saying that these are 6 some of the things you should ask for. And that 7 prompted me to do a little research on my own. 8 I think this has been covered before. 9 Q. I remember. 10 A. I looked at -- typically, it is general 11 aviation airports of this size go out for an RFP 12 for these type of FBO services. If you look at 13 those, these are the requirements. In some 14 cases, it would be a little bit even more complex 15 than what we asked for. But typically, the 16 financial statements that I have asked for, all 17 along, were in every one that I saw. 18 Q. When you say, typically airports put out 19 RFPs for FBO services -- is that what you said? 20 A. That is what I saw. 21 Q. But that wasn't the case here; there was 22 with no RFP for FBO services put out of the 23 Norwood Airport Commission. Correct? 24 MR. HARTZELL: Objection.</p>	<p style="text-align: right;">Page 224</p> <p>1 The first page is a cover letter from Eastern Air 2 Center, Race and Smith. And then the document 3 that follows it -- sorry. My mistake. Let's do 4 this. 5 MR. HARTZELL: Separate them? 6 MR. FEE: Just take off the first page. 7 Stepping back, I am showing you an exhibit that 8 has been marked as Exhibit 105. 9 Actually, do you know what? This is a 10 prior. This is the federal case, this copy. 11 So let's mark that as the next exhibit. 12 The next exhibit number is 330. 13 (Exhibit 330, FlightLevel, LLC, 14 Introduction, dated December 2007, marked 15 for identification.) 16 BY MR. FEE: 17 Q. Just make sure that I have got the right 18 one. 19 Mr. Shaughnessy, I am showing you what 20 has been marked as Exhibit 330. It appears to be 21 a document -- a multi-page document dated 22 December 2007 entitled, "FlightLevel LLC 23 introduction." 24 Do you remember reviewing this in</p>
<p style="text-align: right;">Page 223</p> <p>1 A. Correct. 2 BY MR. FEE: 3 Q. So let me show you what has been marked 4 as Exhibit 207. 5 (Handing document to the witness.) 6 (Witness viewing document.) 7 Q. Which appears to be FlightLevel's 8 2007-2008 commercial permit application. And you 9 were on the commission when FlightLevel applied 10 initially as an FBO; correct? 11 A. I believe I was on the airport commission 12 at this time, but I am not sure. 13 Q. Do you recall anything about reviewing 14 FlightLevel's FBO application? 15 A. No. 16 Q. Do you recall reviewing what has been 17 marked as Exhibit 208, in connection with 18 FlightLevel's initial FBO application in 2008? 19 (Handing document to the witness.) 20 (Witness viewing document.) 21 A. Sorry. This says, Eastern Air Center. 22 What is the question? 23 Q. Right. This is a document that has been 24 marked as Exhibit 208 to the Eichleay deposition.</p>	<p style="text-align: right;">Page 225</p> <p>1 connection with FlightLevel's application as an 2 FBO in 2008? 3 A. No. 4 Q. Do you have any recollection, whatsoever, 5 of any of the documentation provided by 6 FlightLevel when it first applied to be an FBO 7 applicant in 2008? 8 A. No. 9 MR. HARTZELL: Sorry. I did not hear the 10 last question. Would you mind just reading it 11 back? 12 (Prior testimony was then read back.) 13 BY MR. FEE: 14 Q. At some point in time during your tenure 15 as an airport commissioner, did you become aware 16 of Boston Executive Helicopter's desire to 17 acquire or lease land at the airport? 18 A. Yes. 19 Q. When was that? 20 A. I don't know. 21 (Exhibit 331, Letter dated 9-1-10, marked 22 for identification.) 23 BY MR. FEE: 24 Q. Exhibit 331 appears to be a letter dated</p>

<p style="text-align: right;">Page 226</p> <p>1 September 1, 2010, from Mr. Donovan to the 2 commission, and it lists you as a recipient. And 3 it talks about asking -- inquiring as to the 4 availability of town land and, specifically, the 5 DC-3 ramp. 6 Do you see that? 7 A. This is a short letter. Would you mind 8 if I read it? 9 Q. Absolutely not. 10 (Pause.) 11 (Witness viewing Exhibit 331.) 12 A. Okay. 13 Q. Does this refresh your recollection as to 14 when the commission first learned of 15 Mr. Donovan's interest in acquiring land, 16 specifically the DC-3 ramp at Norwood Airport? 17 A. No. 18 Q. Do you have any reason to doubt that 19 Mr. Donovan expressed that desire to the airport 20 commission in as early as 2010? 21 MR. SIMMS: Objection. 22 Go ahead. 23 A. This letter is dated 2010. 24 BY MR. FEE:</p>	<p style="text-align: right;">Page 228</p> <p>1 email refresh your recollection as to when 2 Mr. Donovan expressed an interest to the 3 commission or the airport manager regarding his 4 desire to lease the DC-3 ramp? 5 A. No. 6 (Exhibit 333, Norwood Airport Commission 7 meeting minutes dated 10-20-10, marked for 8 identification.) 9 BY MR. FEE: 10 Q. Exhibit 333 are minutes of the 11 October 20, 2010 Norwood Airport Commission 12 meeting, and I would just direct your attention 13 to the third page, under "new business," where it 14 says, "Boston Executive Helicopter is looking to 15 purchase or lease land." 16 Do you see that? 17 A. I do. 18 Q. Does that refresh your recollection as to 19 when Boston Executive Helicopter expressed its 20 interest to the Norwood Airport Commission about 21 acquiring or leasing land at the Norwood Airport? 22 A. No. 23 Q. Having seen the last three documents that 24 we have looked at, does that -- would you agree</p>
<p style="text-align: right;">Page 227</p> <p>1 Q. Right. Do you have any reason to believe 2 that the commission didn't receive that letter or 3 that Mr. Donovan didn't forward that letter? 4 A. I don't remember. 5 MR. SIMMS: Same objection. 6 You have got to give me a chance to 7 interject. Okay? Thank you. 8 BY MR. FEE: 9 Q. You don't remember? 10 A. I don't remember. 11 (Exhibit 332, Email dated 10-13-10, marked 12 for identification.) 13 BY MR. FEE: 14 Q. Exhibit 332 is an email from Mr. Donovan 15 to Mr. Maguire dated October 13, 2010, again 16 expressing his interest in the DC-3 ramp area. 17 Does that refresh your recollection as to 18 when Mr. Donovan expressed his desire to the 19 Norwood Airport Commission regarding leasing of 20 the DC-3 ramp? 21 A. Is this an email? 22 Q. It is. 23 A. I don't recall this -- seeing this. 24 Q. Well, as you sit here today, does this</p>	<p style="text-align: right;">Page 229</p> <p>1 with me -- or do you have any reason to doubt 2 that as early as 2010, Boston Executive 3 Helicopter expressed its interest to the Norwood 4 Airport Commission about acquiring land at the 5 Norwood Airport? 6 A. No. 7 Q. During 2010, 2011, 2012, was it your 8 understanding that Boston Executive Helicopter 9 was operating within all -- in conformity with 10 all of the rules and regulations of the airport? 11 MR. SIMMS: Can you read that one back, 12 please. 13 (The pending question was then read 14 back.) 15 A. I can honestly say, I don't remember 16 those. 17 BY MR. FEE: 18 Q. Do you remember, at any time, any 19 discussion at airport commission meetings -- and 20 I am talking about between 2010 and 2012 -- about 21 Boston Executive Helicopters being not in 22 conformance with airport rules and regulations? 23 A. I can't be specific of the times but 24 there have been instances.</p>

<p style="text-align: right;">Page 230</p> <p>1 Q. There have been instances where there has 2 been discussion at airport commission meetings 3 about Boston Executive Helicopters not operating 4 within the rules and regulations of the Norwood 5 Airport, is that what you are saying? 6 A. Yes. 7 Q. When was the first time you remember that 8 happening? 9 A. I don't know. 10 Q. Do you have any specific recollection? 11 MR. SIMMS: By year or event? 12 MR. FEE: I am just asking. He says he 13 doesn't remember anything, so I am asking if he 14 has any specific recollection of any instance 15 where the Norwood Airport Commission discussed 16 Boston Executive Helicopters not operating within 17 the rules and regulations. 18 A. I take offense to you saying I don't 19 remember anything. You are asking for specific 20 times, Mike, and I can't be -- my memory -- I 21 don't have that type of memory. 22 BY MR. FEE: 23 Q. I apologize. I am not trying to offend 24 you, at all. I am just having a discussion with</p>	<p style="text-align: right;">Page 232</p> <p>1 Q. You have no specific recollection of 2 discussing -- 3 MR. FEE: Strike that. Let me go back. 4 A. You are asking me when, Mike. You are 5 confusing me because -- 6 BY MR. FEE: 7 Q. Okay. Let me ask it again. 8 What was the subject matter of that 9 discussion? 10 A. It was landing on the north maintenance 11 area with the helicopter. There was a complaint 12 from, I believe it was, Boston Air Charter, 13 interference with their operator or getting too 14 close to their plane. I believe we just asked 15 BEH to use the helicopter landing pads that were 16 installed pretty much at a their request, in the 17 future. 18 There was another instance of someone 19 kind of hovering to their hangar. I believe it 20 was Chris Donovan. And that is against the 21 regulations. So it was just, please land where 22 you are supposed to land your helicopter, and 23 then they, you know, use whatever they use to 24 pull it into the hangar.</p>
<p style="text-align: right;">Page 231</p> <p>1 Adam about the clarity of my last question. 2 So my understanding, your response to my 3 question regarding BEH operating within 4 regulations is that you have no specific 5 recollection of discussing it at airport 6 meetings; is that fair to say? 7 MR. SIMMS: Kevin, at any point in time, 8 any instance, any incident, any event? 9 It is not just 2010 to '12 for this 10 question; correct. 11 MR. FEE: Correct. 12 A. So you are asking if there has been 13 instances where we have had complaints or we have 14 had issues with Boston Executive Helicopters? 15 BY MR. FEE: 16 Q. I framed it a little differently. 17 My question was, can you describe for me, 18 at any time, any discussion at airport meetings 19 where the subject matter was Boston Executive 20 Helicopters not operating within the rules and 21 regulations of the airport? 22 A. Yes. 23 Q. When was that? 24 A. I don't know.</p>	<p style="text-align: right;">Page 233</p> <p>1 I mean, those are two instances I can 2 recall. 3 Q. Those are the two that you remember, and 4 you are not sure when you had those discussions 5 in airport meetings; correct? 6 A. No. 7 Q. As a result of each of those discussions, 8 did BEH conform to the requests of the airport 9 commission to operate in a different manner? 10 A. Yes, I believe so. 11 Q. Do you know if the airport regulations 12 that were being violated are written down 13 anywhere? 14 A. This -- I am not sure. 15 Q. Do you know which agency is the sole 16 arbiter of safe operations at the airport? 17 MR. HARTZELL: Objection. 18 MR. FEE: I can rephrase that. 19 BY MR. FEE: 20 Q. Do you know which agency has jurisdiction 21 to determine whether operations are conducted 22 safely at the airport? 23 MR. HARTZELL: Objection. 24 A. I don't think that is a yes-or-no answer,</p>

<p style="text-align: right;">Page 234</p> <p>1 so.</p> <p>2 BY MR. FEE:</p> <p>3 Q. I asked you, do you know?</p> <p>4 A. Well, you said the sole. I don't believe</p> <p>5 that there is a sole agency. I believe that</p> <p>6 there is guidelines. And the airport is trying</p> <p>7 to operate safety, so they have their own</p> <p>8 guidelines as well. But I would think the FAA</p> <p>9 has the superseding guidelines on safety.</p> <p>10 Q. Do you think the FAA's guidelines on</p> <p>11 safety take precedence over any local rules or</p> <p>12 regulations that may be enacted by the NAC?</p> <p>13 A. I don't know.</p> <p>14 Q. At some point, did you learn that</p> <p>15 Mr. Donovan or BEH was going to purchase the</p> <p>16 hanger building that was previously occupied by</p> <p>17 Swift?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know when that was?</p> <p>20 A. Sorry, no.</p> <p>21 (Exhibit 334, Norwood Airport Commission</p> <p>22 meeting minutes dated 12-14-11, marked for</p> <p>23 identification.)</p> <p>24 BY MR. FEE:</p>	<p style="text-align: right;">Page 236</p> <p>1 A. Can you repeat that?</p> <p>2 Q. Sure. Do you have any recollection,</p> <p>3 whatsoever, of the process that the NAC went</p> <p>4 through in reviewing the transaction that BEH was</p> <p>5 proposing with respect to the BEH hangar parcel?</p> <p>6 A. I can remember bits and pieces.</p> <p>7 Q. What do you remember?</p> <p>8 A. Coming forward, I remember there was a</p> <p>9 problem. They had a -- they wanted a long-term</p> <p>10 lease agreement. This involves -- remember, I</p> <p>11 talked about Boston Metropolitan Airport and us</p> <p>12 not having total control? But essentially, they</p> <p>13 wanted a long-term lease for financing reasons,</p> <p>14 and I remember us trying to work with them to get</p> <p>15 that -- I forget, 30 years or whatever the amount</p> <p>16 of time was. In general, I remember them</p> <p>17 bringing plans, talking about the progress of the</p> <p>18 building and where it was at, that type of thing.</p> <p>19 Q. Is it fair to say that there were</p> <p>20 two pieces to the approval process, the first</p> <p>21 being the actual assignment of the sublease from</p> <p>22 Swift to BEH, and then the second being the</p> <p>23 approval of the construction process?</p> <p>24 A. I guess that is -- I don't know how much</p>
<p style="text-align: right;">Page 235</p> <p>1 Q. I am showing you meeting minutes from the</p> <p>2 Norwood Airport Commission meeting on</p> <p>3 December 14, 2011. It has been marked as 334.</p> <p>4 On page 2, there is an entry at the top of the</p> <p>5 page that says, "Boston Executive Helicopter,</p> <p>6 Chris Donovan. Mr. Donovan is in the process of</p> <p>7 buying a building on the airport."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Does that refresh your recollection as to</p> <p>11 when you first learned that BEH was acquiring the</p> <p>12 Swift hangar parcel?</p> <p>13 A. I see the date, but I don't specifically</p> <p>14 remember this.</p> <p>15 Q. Do you have any reason to doubt that in</p> <p>16 or about December of 2011, Mr. Donovan informed</p> <p>17 the commission that he intended to purchase the</p> <p>18 Swift hangar parcel?</p> <p>19 A. No.</p> <p>20 Q. Now, do you know if -- do you have any</p> <p>21 recollection, whatsoever, regarding the process</p> <p>22 that the Norwood Airport Commission went through</p> <p>23 in reviewing the transaction that BEH proposed</p> <p>24 with respect to the Swift hangar parcel?</p>	<p style="text-align: right;">Page 237</p> <p>1 we were involved in the lease part of it.</p> <p>2 MR. SIMMS: Can you read the last Q and A</p> <p>3 back? Kevin, please just answer what he asks</p> <p>4 you. If you are about to say "I guess," then</p> <p>5 stop.</p> <p>6 THE WITNESS: Okay.</p> <p>7 MR. SIMMS: Mr. Fee doesn't want you to</p> <p>8 guess.</p> <p>9 THE WITNESS: All right.</p> <p>10 MR. SIMMS: Could you read back the last</p> <p>11 Q and A, please.</p> <p>12 (Prior testimony was then read back.)</p> <p>13 BY MR. FEE:</p> <p>14 Q. Okay. So I am just trying to frame up my</p> <p>15 next question. That is, with respect to that</p> <p>16 first part, you said that the NAC didn't have</p> <p>17 much involvement in the lease approval process.</p> <p>18 Is that fair to say?</p> <p>19 A. No.</p> <p>20 Q. What do you remember about the Norwood</p> <p>21 Airport Commission's process in approving the</p> <p>22 sublease assignment from Swift to BEH?</p> <p>23 A. I don't remember.</p> <p>24 Q. Do you remember that, ultimately, that</p>

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<p>1 NAC took a vote to approve the sublease 2 assignment from Swift to BEH? 3 A. Yes. 4 Q. Do you know when that was? 5 A. No. 6 (Exhibit 335, Norwood Airport Commission 7 meeting minutes dated 12-13-13, marked for 8 identification.) 9 BY MR. FEE: 10 Q. Mr. Shaughnessy, 335 is a document that 11 appears to be the March 13, 2013 Norwood Airport 12 Commission meeting minutes. And the 13 first -- under "Appointments," the second 14 paragraph says, "Sublease interest: Boston 15 Executive Helicopters/Swift aviation; Chris 16 Donovan: Requesting signatures to cancel prior 17 lease assumption because FAA did not agree. On a 18 motion by Mr. Wynne and seconded, the commission 19 voted unanimously to sign the document." 20 And then down below, under the airport 21 manager's report, it says, "BEH sublease: NAC 22 approved document." 23 Did I read that language correctly? 24 A. Yes, I think you did.</p>	<p>1 anything -- what, if anything, do you recall 2 about the NAC's role in approving the 3 construction process? 4 A. I don't remember. 5 Q. Do you recall being presented with plans? 6 A. I remember seeing plans. 7 Q. Do you recall getting updates at monthly 8 NAC meetings regarding the scope of the 9 construction? 10 A. There were updates. 11 Q. Do you recall discussing with Mr. Maguire 12 any concerns that he might have had regarding the 13 construction process? 14 A. I don't remember anything specific. 15 Q. At your earlier deposition, you testified 16 that you thought that you had a recollection of 17 Mr. Maguire warning Mr. Donovan regarding the 18 size of the building. Do you recall that 19 testimony? 20 A. I don't know if "warning" is a fair 21 characterization of that, but I remember 22 something specific about Russ mentioning that the 23 existing footprint, or the footprint before, if 24 you exceed that, you should make sure you are</p>
Page 239	Page 241
<p>1 Q. Does that refresh your recollection as to 2 what the NAC did in terms of the approval process 3 for the assignment of the Swift lease to BEH? 4 A. I don't remember it. 5 Q. Do you recall, at all, this discussion 6 regarding the FAA approval of the sublease? 7 A. No. 8 Q. Is it your understanding that, at some 9 point, the sublease transfer from Swift to BEH 10 was approved by the commission? 11 A. Yes. 12 Q. You just don't know when? 13 A. I don't remember it. 14 Q. And is it your understanding that after 15 the sublease transfer was approved -- or, I am 16 sorry -- sublease assignment was approved, that 17 BEH commenced construction? 18 A. Could you repeat that? 19 Q. Sure. Is it your understanding that at 20 some point after the sublease assignment was 21 approved, BEH commenced construction on that 22 parcel? 23 A. Yes. 24 Q. And do you recall what, if</p>	<p>1 aware of any TOFA restrictions. That is what I 2 remember. 3 Q. Do you have any understanding of how the 4 footprint of the BEH hangar was different from 5 the prior building that was on the lot? 6 A. I am not sure if it is. 7 Q. Do you recall, at any time, being 8 informed by Mr. Donovan, at a Norwood Airport 9 Commission meeting, regarding the differences in 10 size between the Swift hangar and the BEH 11 proposed construction? 12 A. No. 13 Q. Do you know that the only difference 14 between the Swift hangar and the BEH hangar is 15 that the BEH hangar is 20 feet longer toward the 16 back, toward the woods? 17 A. It is the same question, but no. 18 Q. Do you know that the BEH hangar is in 19 exactly the same configuration as the Swift 20 hangar with respect to its orientation to the 21 taxiway? 22 A. It looks like it is the same orientation. 23 Q. Do you know that the BEH hangar is in 24 exactly the same orientation as the Swift hangar</p>

<p style="text-align: right;">Page 242</p> <p>1 was to lot G?</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. I am not sure what lot G is.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Lot G is the condo hangar operated by</p> <p>6 FlightLevel, immediately to the east of the</p> <p>7 current BEH hangar.</p> <p>8 A. You are asking me if the east wall of the</p> <p>9 new building is in the same location as the east</p> <p>10 wall of the Swift building?</p> <p>11 Q. Yes.</p> <p>12 A. If you are telling me it is --</p> <p>13 MR. SIMMS: No. He is asking, do you</p> <p>14 know? Yes, no, you don't know. That is the</p> <p>15 answer, not what Mike is telling you.</p> <p>16 A. I don't know.</p> <p>17 MR. SIMMS: That is your answer.</p> <p>18 A. I am going to leave. If my attorney is</p> <p>19 going to be so mad at me, then I am going to</p> <p>20 leave.</p> <p>21 (Laughter.)</p> <p>22 MR. FEE: Adam gets like that.</p> <p>23 A. God almighty. I wish Nick was sitting</p> <p>24 over here.</p>	<p style="text-align: right;">Page 244</p> <p>1 A. Yes.</p> <p>2 Q. Is this the type of update from</p> <p>3 Mr. Donovan that you were alluding to earlier,</p> <p>4 that were given to the Norwood Airport Commission</p> <p>5 during the construction process?</p> <p>6 A. Yes.</p> <p>7 Q. During this timeframe, you were</p> <p>8 aware -- or the airport commission was aware that</p> <p>9 fuel tanks were being installed; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. And it was your -- you were aware that</p> <p>12 the purpose of the fuel tank was to provide fuel</p> <p>13 to aircraft; correct?</p> <p>14 MR. HARTZELL: Objection.</p> <p>15 A. Yes.</p> <p>16 BY MR. FEE:</p> <p>17 Q. The Norwood Airport Commission was aware,</p> <p>18 at this time, that BEH's intention was to become</p> <p>19 an FBO and sell fuel; correct?</p> <p>20 A. I am not sure.</p> <p>21 Q. Well, when did you become aware that BEH</p> <p>22 was anticipating selling fuel?</p> <p>23 A. I don't remember.</p> <p>24 Q. As a member of the airport commission</p>
<p style="text-align: right;">Page 243</p> <p>1 (Exhibit 336, Norwood Airport Commission</p> <p>2 meeting minutes dated 6-19-13, marked for</p> <p>3 identification.)</p> <p>4 BY MR. FEE:</p> <p>5 Q. You testified that you thought, from time</p> <p>6 to time, Mr. Donovan gave updates to the</p> <p>7 commission regarding the progress of</p> <p>8 construction; correct?</p> <p>9 A. Yes.</p> <p>10 Q. And what has been marked as 336 appears</p> <p>11 to be the regular meeting minutes for the</p> <p>12 June 19, 2013 meeting, at which you were present.</p> <p>13 Do you see that?</p> <p>14 (Witness viewing Exhibit 336.)</p> <p>15 A. Yes.</p> <p>16 Q. And there is a description on page 1 of</p> <p>17 this document regarding the proposed construction</p> <p>18 chronology. Do you see that?</p> <p>19 A. There is a section that is --</p> <p>20 Q. Highlighted?</p> <p>21 A. Yes. There is a square around it,</p> <p>22 probably highlighted before it was copied.</p> <p>23 Q. That's correct. Do you see where I am</p> <p>24 referring to?</p>	<p style="text-align: right;">Page 245</p> <p>1 reviewing the construction that was proposed, you</p> <p>2 were aware, were you not, that BEH intended to</p> <p>3 install two tanks, 120,000 gallons and</p> <p>4 110,000 gallons; correct?</p> <p>5 A. That is what it says here, yes, I recall</p> <p>6 two tanks.</p> <p>7 Q. And that was because they wanted to</p> <p>8 sell -- have two types of gas; correct?</p> <p>9 A. I don't know.</p> <p>10 Q. Well, there are two types of gas that are</p> <p>11 used on the airport; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. That is av. gas and jet fuel; right?</p> <p>14 A. Yes.</p> <p>15 Q. You are an engineer; right?</p> <p>16 A. I am an electrical engineer.</p> <p>17 Q. Did you form any opinion when you saw the</p> <p>18 size of the tanks that were to be installed in or</p> <p>19 about June of 2013, as to what use they might be</p> <p>20 put?</p> <p>21 A. I don't remember.</p> <p>22 Q. So were you under the impression in June</p> <p>23 of 2013 that BEH intended only to fuel its own</p> <p>24 vehicles or aircraft?</p>

<p style="text-align: right;">Page 246</p> <p>1 A. I don't remember. 2 (Exhibit 337, Email dated 9-24-12, marked 3 for identification.) 4 BY MR. FEE: 5 Q. 337 is an email, and I am beginning in 6 the middle of the page. It appears to be from 7 Mr. Donovan to Mr. Maguire, September 24, 2012. 8 And the subject matter is, "DC-3 ramp or any 9 other available lease space OWD." 10 "OWD" refers to the Norwood Memorial 11 Airport; correct? 12 A. Yes. 13 Q. And the first paragraph of that email 14 says, "I just wanted to check in and see if the 15 DC-3 ramp will become available now that the BAC 16 situation is resolved." 17 Do you see that? 18 A. Down at the bottom here? 19 Q. Yes. 20 A. Yes. 21 Q. He also says, "I want to inquire if any 22 other Town-owned lease ramp or property is 23 available or will become available in the next 24 five years, so we can plan for potential lease."</p>	<p style="text-align: right;">Page 248</p> <p>1 was advisable for the commission to find leased 2 space for BEH? 3 MR. SIMMS: Just so I am clear, Mike, it 4 is the same two-year period? 5 MR. FEE: Yes. 6 MR. SIMMS: Okay. 7 A. I don't remember. 8 (Exhibit 338, Memo dated 6-17-13, marked for 9 identification.) 10 BY MR. FEE: 11 Q. 338 is an email -- sorry -- a memo to the 12 Norwood Airport Commission dated June 17, 2013, 13 from Mr. Maguire. I draw your attention to the 14 bottom paragraph, where he states, and I quote, 15 "To remain in compliance with federal standards, 16 I would therefore ask the NAC to consider any 17 applicable lease opportunities moving forward." 18 Do you see that? 19 A. Yes. 20 Q. Does that refresh your recollection as to 21 any recommendations that Mr. Maguire made in 2013 22 regarding providing leased space to BEH? 23 A. No. 24 Q. Do you have any recollection, whatsoever,</p>
<p style="text-align: right;">Page 247</p> <p>1 Do you see that? 2 A. Yes. 3 Q. And were you, as a commissioner, made 4 aware of the fact, in September of 2012, that BEH 5 was seeking additional leased space at Norwood 6 Airport? 7 A. I don't remember. 8 Q. If you were informed, would it be 9 something that would be reflected in the meeting 10 minutes? 11 A. I don't know. 12 Q. Do you recall any discussion, whatsoever, 13 regarding -- at any time, regarding Mr. Donovan 14 or BEH's interest in leasing the DC-3 ramp? 15 A. I can't remember anything specific. 16 Q. Do you recall any discussions at any 17 Norwood Airport Commission meeting in 2012 18 or 2013, where the commission discussed the 19 interest expressed by BEH in acquiring any space 20 at Norwood Airport? 21 A. I don't remember. 22 Q. Do you recall, any time, Mr. Maguire 23 speaking at a Norwood Airport Commission meeting 24 in which he informed the commissioners that it</p>	<p style="text-align: right;">Page 249</p> <p>1 of any discussions in 2013 whereby the importance 2 or the advisability of providing BEH with leased 3 space was discussed? 4 A. No. 5 Q. Do you have any recollection regarding 6 the RFP for the DC-3 ramp? 7 A. Just in general, Mike, I couldn't tell 8 you when. 9 Q. Was it your understanding that the RFP 10 for the DC-3 ramp allowed commercial activity? 11 A. I don't remember. 12 (Exhibit 339, Addendum #1 dated 12-28-13, 13 marked for identification.) 14 BY MR. FEE: 15 Q. 339 is the entire RFP for the DC-3 ramp. 16 But the first three documents -- first three 17 pages are an addendum dated January 28, 2013, 18 prepared by John Carroll's office. 19 Have you seen this document before? 20 (Witness viewing Exhibit 339.) 21 A. I don't remember. 22 Q. Do you remember the fact that the Norwood 23 Airport Commission issued an RFP for lease of the 24 DC-3 ramp?</p>

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<p>1 A. Yes.</p> <p>2 Q. That was in or about January of 2013;</p> <p>3 correct?</p> <p>4 A. It says that here.</p> <p>5 Q. Well, do you have any reason to doubt</p> <p>6 that the Norwood Airport Commission put out an</p> <p>7 RFP for the DC-3 ramp in or about January</p> <p>8 of 2013?</p> <p>9 A. No.</p> <p>10 Q. My question earlier was, do you know</p> <p>11 whether the RFP allowed for commercial activity</p> <p>12 on the DC-3 ramp?</p> <p>13 A. I don't remember.</p> <p>14 Q. Turning your attention to the first page,</p> <p>15 answer number 1, where it states, "The successful</p> <p>16 proposer may also park aircraft owned and/or</p> <p>17 leased by the successful proposer and operated by</p> <p>18 the successful proposer."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. So was it your understanding that an FBO</p> <p>22 could be conducted on the DC-3 ramp pursuant to</p> <p>23 the parameters set forth in the DC-3 ramp RFP?</p> <p>24 A. Could you repeat that one?</p>	<p>1 A. I don't want to say, controversy, no.</p> <p>2 Q. Do you recall any disagreements?</p> <p>3 A. No.</p> <p>4 Q. Do you recall any correspondence from</p> <p>5 Mr. Donovan or any discussion at any NAC meeting</p> <p>6 regarding his dissatisfaction with the DC-3 ramp</p> <p>7 RFP?</p> <p>8 A. I don't.</p> <p>9 (Exhibit 340, Letter dated 3-14-13, marked</p> <p>10 for identification.)</p> <p>11 BY MR. FEE:</p> <p>12 Q. I have shown you Exhibit 340, which</p> <p>13 appears to be a letter from Mr. Donovan from</p> <p>14 Chairman Tom Wynne in March 14, 2013.</p> <p>15 The first paragraph -- sorry -- the first</p> <p>16 page states, "This letter is in response to your</p> <p>17 email dated Sunday, February 24, 2013, in</p> <p>18 connection with the Request For Proposals that</p> <p>19 the Town of Norwood issued for the so-called DC-3</p> <p>20 apron at the Norwood Memorial Airport."</p> <p>21 Does that refresh your recollection as to</p> <p>22 whether or not you saw any correspondence</p> <p>23 regarding BEH's complaints about the DC-3 ramp</p> <p>24 bidding process?</p>
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<p>1 Q. Sure. Is it your understanding that an</p> <p>2 FBO activity could be conducted on the DC-3 ramp,</p> <p>3 given the parameters imposed by the DC-3 ramp</p> <p>4 RFP?</p> <p>5 A. I don't remember. So is your question,</p> <p>6 do I think, reading it now, what I think?</p> <p>7 Q. Yes.</p> <p>8 MR. SIMMS: Well, wait. Have you formed</p> <p>9 an opinion, as we sit here today, about that</p> <p>10 particular issue?</p> <p>11 A. No.</p> <p>12 MR. SIMMS: Then you are not required to</p> <p>13 form an opinion, as we sit here today, to speak</p> <p>14 about that issue.</p> <p>15 BY MR. FEE:</p> <p>16 Q. Do you have an opinion as to whether or</p> <p>17 not the RFP for the DC-3 ramp allowed an FBO</p> <p>18 activity?</p> <p>19 A. No.</p> <p>20 Q. Do you know whether the RFP for the DC-3</p> <p>21 ramp allowed for commercial activity?</p> <p>22 A. No.</p> <p>23 Q. Do you recall any controversy regarding</p> <p>24 the DC-3 ramp bidding?</p>	<p>1 A. No.</p> <p>2 Q. Did you -- have you seen this letter</p> <p>3 before, what has been marked as Exhibit 340?</p> <p>4 A. I believe so.</p> <p>5 Q. Did you see it at or about the time it</p> <p>6 was sent?</p> <p>7 A. I don't remember.</p> <p>8 Q. Did you play any part or role in the</p> <p>9 preparation of this letter?</p> <p>10 A. I don't remember.</p> <p>11 Q. Turning your attention to the third page,</p> <p>12 first full paragraph at the top, there is a</p> <p>13 citation to an FAA grant assurance in a case, and</p> <p>14 then Mr. Wynne states, and I quote, "Although you</p> <p>15 seemingly assert that the DC-3 apron should be</p> <p>16 considered for use by a fixed-based operator, the</p> <p>17 DC-3 is approximately 15,295 plus or minus square</p> <p>18 feet" --</p> <p>19 A. Sorry, Mike. Where are you? I thought</p> <p>20 you said page 3.</p> <p>21 Q. You are missing a page. Your copy is</p> <p>22 missing a page, Mr. Shaughnessy.</p> <p>23 (Pause.)</p> <p>24 Q. Here you go. I misspoke. It is the</p>

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<p>1 fourth page.</p> <p>2 And I was reading from the first full</p> <p>3 paragraph on the top of the fourth page. In the</p> <p>4 middle of the paragraph, Mr. Wynne says, and I</p> <p>5 quote, "Although you seemingly assert that the</p> <p>6 DC-3 apron should be considered for use by a</p> <p>7 fixed-base operator, the DC-3 apron is</p> <p>8 approximately 15,295 square feet in area. This</p> <p>9 relatively limited size of the DC-3 apron</p> <p>10 restricts its utility as a site for a full-scale</p> <p>11 FBO, given paramount safety and efficiency</p> <p>12 concerns, along with the overarching concerns for</p> <p>13 the future development of the airport property."</p> <p>14 Did I read that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. So is it fair to say that the position of</p> <p>17 the Norwood Airport Commission in March of 2013</p> <p>18 was that a minimum of 15,000 square</p> <p>19 feet -- sorry -- that an area of 15,000 square</p> <p>20 feet, plus or minus, is too small to conduct an</p> <p>21 FBO operation?</p> <p>22 MR. SIMMS: Objection.</p> <p>23 Go ahead.</p> <p>24 A. No.</p>	<p>1 Q. Was Mr. Wynne the chairman of the airport</p> <p>2 commission at this time?</p> <p>3 A. I don't remember.</p> <p>4 Q. Well, it says at the last page,</p> <p>5 "Thomas J. Wynne, Chairman, Norwood Airport</p> <p>6 Commission."</p> <p>7 A. Okay.</p> <p>8 Q. So again, is it fair to say that in March</p> <p>9 of 2013, the Norwood Airport Commission's</p> <p>10 position was that an area of 15,295 square feet</p> <p>11 was not sufficient to support a full-scale FBO?</p> <p>12 MR. HARTZELL: Objection.</p> <p>13 MR. SIMMS: Same objection.</p> <p>14 A. No.</p> <p>15 BY MR. FEE:</p> <p>16 Q. Why not?</p> <p>17 A. This was -- something like this, I would</p> <p>18 imagine, would be voted on. This is an opinion</p> <p>19 of the chairman.</p> <p>20 Q. Okay. So as you sit here today, you say</p> <p>21 that you don't recall participating in this</p> <p>22 letter; is that right?</p> <p>23 A. That's correct.</p> <p>24 Q. And were you consulted before this letter</p>
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<p>1 BY MR. FEE:</p> <p>2 Q. Well, tell me how I am reading that</p> <p>3 incorrectly, then.</p> <p>4 MR. SIMMS: Objection.</p> <p>5 Go ahead.</p> <p>6 BY MR. FEE:</p> <p>7 Q. Go ahead.</p> <p>8 A. Full-scale FBO.</p> <p>9 Q. Right. What is the difference?</p> <p>10 A. It would be providing all of the services</p> <p>11 that were listed, that you showed me before.</p> <p>12 Q. Okay. Let me amend my question, then.</p> <p>13 Perhaps I was imprecise.</p> <p>14 Is it fair to say the position of the</p> <p>15 Norwood Airport Commission in March of 2013 was</p> <p>16 that an area of 15,295 square feet was not</p> <p>17 sufficient to support a full-scale FBO?</p> <p>18 MR. SIMMS: Objection.</p> <p>19 Go ahead.</p> <p>20 A. No.</p> <p>21 BY MR. FEE:</p> <p>22 Q. That was not the position of the airport</p> <p>23 commission?</p> <p>24 A. This letter is from Mr. Wynne.</p>	<p>1 was sent?</p> <p>2 A. I don't remember.</p> <p>3 Q. And you are not aware that the positions</p> <p>4 here were voted by the airport commission; is</p> <p>5 that fair to say?</p> <p>6 A. Yes, that is fair to say.</p> <p>7 Q. Okay. And yet, the chairman of the</p> <p>8 airport commission wrote a letter to BEH making</p> <p>9 certain factual statements; is that fair to say?</p> <p>10 A. I don't know about factual, but he wrote</p> <p>11 this letter here.</p> <p>12 Q. Right. So this contained certain facts</p> <p>13 and arguments; right?</p> <p>14 A. Yes.</p> <p>15 Q. Is it your position that Mr. Wynne was</p> <p>16 speaking for himself and not on behalf of the</p> <p>17 airport commission when he wrote this letter and</p> <p>18 sent it in March of 2017?</p> <p>19 A. I don't believe he was speaking for me.</p> <p>20 Q. My question is whether he was speaking</p> <p>21 for the airport commission.</p> <p>22 MR. SIMMS: If you have an opinion, one</p> <p>23 way or the other.</p> <p>24 A. I don't know.</p>

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<p>1 BY MR. FEE: 2 Q. Do you have an opinion as to what amount 3 of space is sufficient to safely operate a 4 full-scale FBO? 5 MR. HARTZELL: Objection. 6 A. No. 7 BY MR. FEE: 8 Q. Upon whom would you rely for that 9 judgment? 10 A. I think we would take it on a 11 case-by-case basis. 12 Q. Is it your belief that any communications 13 from the Norwood Airport Commission must be the 14 subject of a vote in order to be valid? 15 A. I don't know. I mean, can you give me a 16 specific example? 17 Q. I am trying to understand your position 18 with respect to Exhibit 340. It is written by 19 the chairman and directed to Mr. Donovan. And 20 yet, you seem -- your testimony seems to be that 21 you didn't know about it and you didn't vote on 22 it and, therefore, it doesn't speak for you and 23 you are not sure if it speaks for the commission. 24 So I am wondering, is this an isolated</p>	<p>1 Like I said, I would take things on a 2 case-by-case basis. 3 You pointed to something very specific 4 that I obviously don't agree with, because we 5 have offered less area than that and we have 6 already said you can be an FBO. So you know, I 7 wouldn't agree with what is written in that 8 letter. 9 Q. Um-hmm. So from your perspective, the 10 importance of taking a vote as a commission is an 11 important factor in determining whether the 12 action is valid. Is that fair to say? 13 MR. SIMMS: Objection. 14 Go ahead. 15 A. Sometimes. 16 BY MR. FEE: 17 Q. How do you differentiate between when you 18 need a vote and when you don't need a vote? 19 MR. SIMMS: Same objection. 20 A. I think when something comes before the 21 commission, like this happened in this case, we 22 have tried to deal with it on a case-by-case 23 basis. A response like that does not have my 24 name on it. It has the -- you know, it would be</p>
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<p>1 example of that, or do you believe that all 2 communications that come from the commission are 3 somehow invalid, unless they are the subject of a 4 vote? 5 MR. SIMMS: Objection to form. 6 You can answer. 7 A. I don't believe that. I don't believe 8 all communications are -- could you ask that 9 again? I am not sure what you are saying. 10 BY MR. FEE: 11 Q. That is fine. I am trying to understand 12 your testimony as to why you think that this 13 particular document, number 340, didn't speak for 14 the commission. 15 A. Okay. 16 Q. So do you want to explain that to me? 17 A. To me, I don't remember it. But I don't 18 necessarily agree with it. And if something was 19 to be an absolute, I think we would vote on it, 20 unless we voted to allow someone to deal with it. 21 The airport manager is in charge of the 22 airport. I assume that we work very closely -- I 23 have never been the chairman or the vice 24 chairman, but I assume they work very closely.</p>	<p>1 the same as, you know, Russ speaking for the 2 commission in certain instances, but not in every 3 instance. 4 BY MR. FEE: 5 Q. And how is someone dealing with Russ to 6 know whether or not he is speaking for the 7 commission or not? 8 MR. SIMMS: Objection. 9 Go ahead. 10 A. I don't know. They would have to come 11 back, if they had an issue, and they typically 12 do, and we would talk about it in one of our 13 meetings. 14 BY MR. FEE: 15 Q. Is it your belief that a letter from 16 Mr. Maguire is not a valid action of the 17 commission unless it is the subject of a vote? 18 A. Mr. Maguire is usually directed by the 19 commission. 20 Q. But my question is different. 21 Is it your understanding that 22 communication from Mr. Maguire is not necessarily 23 valid, unless it is the subject of a vote? 24 MR. SIMMS: Objection.</p>

<p style="text-align: right;">Page 262</p> <p>1 MR. HARTZELL: Objection. 2 MR. SIMMS: Go ahead. 3 A. No. 4 BY MR. FEE: 5 Q. It is on a case-by-case basis, is what 6 you are saying? 7 A. I was really just referring specifically 8 to that letter. 9 (Exhibit 341, Letter dated 1-22-14, marked 10 for identification.) 11 BY MR. FEE: 12 Q. 341 is a letter from Mr. Maguire to 13 Mr. Donovan dated January 22, 2014. And at the 14 bottom of the page, the bullet says, "Regarding 15 your interest in a full service FBO commercial 16 permit as stated in the NAC January 15th public 17 meeting. A number of years ago, BEH filed its 18 initial commercial permit application that 19 included a business plan. Given your company's 20 interest in growing its operation beyond that 21 which was outlined in the original plan to a full 22 service FBO, the NAC would like you to update 23 said plan to support the changing interests of 24 your company. Per the Norwood Airport minimum</p>	<p style="text-align: right;">Page 264</p> <p>1 I have seen this before. 2 Q. As of January 22, 2014, these are the 3 documents that were being requested by the NAC; 4 correct? I am referring to the numbered items on 5 page 2 of Exhibit 341. 6 A. You are asking me, again, that these 7 items are requested in the letter? 8 Q. Yes. 9 A. There are six items requested in the 10 letter. 11 Q. Right. 12 I am asking you this question because a 13 minute ago we had a discussion regarding what may 14 or may not be a valid communication from a member 15 of the Norwood Airport Commission or the airport 16 manager, and you seemed to suggest that on a 17 case-by-case basis, sometimes communication from 18 Mr. Maguire might not necessarily be a binding 19 statement on the commission. So that is why I am 20 asking you this question. 21 As of January 22, 2014, do you believe 22 that the airport commission was requesting the 23 items listed on page 2 of Exhibit 341? 24 A. I believe these were some of the items we</p>
<p style="text-align: right;">Page 263</p> <p>1 standards and without getting into an unnecessary 2 documentation exercise on your part, as a 3 suggestion, these updates, under one cover, might 4 include the following." And then it lists a 5 variety of financial information. 6 Do you see that? 7 A. I do. 8 Q. First of all, do you have any reason to 9 doubt that this letter was sent by Mr. Maguire to 10 Mr. Donovan in or about January of 2014? 11 A. No. 12 Q. And do you recall a meeting on 13 January 15th of 2014, where Mr. -- sorry -- BEH's 14 interest in being a full service FBO was 15 discussed? 16 A. No. 17 Q. Do you believe that the information that 18 appears on page 2 was a valid communication from 19 the Norwood Airport Commission to Mr. Donovan, 20 describing what financial information the 21 commission required in support of an FBO 22 application? 23 A. I believe these are some of the things 24 that we requested, subsequently to this letter.</p>	<p style="text-align: right;">Page 265</p> <p>1 were requesting. 2 Q. Do you believe that there were other 3 items that were being requested in January 2014? 4 A. I don't remember. 5 Q. So you would agree with me, would you 6 not, given the context of this letter, that in 7 January of 2014, the NAC was aware of BEH's 8 desire to become a full service FBO? Is that 9 correct? 10 A. I don't remember, but that is what this 11 letter seems to state. 12 Q. You, personally, have no recollection of 13 that? 14 A. Not in the specific timeframe. 15 Q. So in 2014, do you recall BEH's filing of 16 a part 13 complaint with the FAA? 17 A. No. I do remember a part 13 complaint 18 was filed. I specifically remember that. 19 Q. But you don't remember when? 20 A. I will take your word, if there is 21 something -- 22 Q. I can refresh your recollection. 23 A. Okay. 24 (Exhibit 342, Letter dated 6-5-14, marked</p>

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<p>1 for identification.)</p> <p>2 BY MR. FEE:</p> <p>3 Q. Mr. Shaughnessy, Exhibit 342 is a letter</p> <p>4 dated June 5, 2014, to Mr. Maguire from the FAA.</p> <p>5 It references a part 13 complaint filed by Boston</p> <p>6 Executive Helicopters. Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. Does that refresh your recollection as to</p> <p>9 when a part 13 complaint was filled by BEH with</p> <p>10 the FAA?</p> <p>11 A. The letter is dated June 5th. It seems</p> <p>12 like that is -- I don't specifically remember it,</p> <p>13 but three or four years ago sounds about right.</p> <p>14 Q. Do you have any reason to doubt that --</p> <p>15 A. No.</p> <p>16 Q. -- in or about June of 2014 BEH filed a</p> <p>17 part 13 complaint?</p> <p>18 A. No reason to doubt that.</p> <p>19 Q. We talked about the DC-3 ramp. Do you</p> <p>20 have any recollection of Mr. Donovan or BEH</p> <p>21 expressing to the NAC his desire or its desire to</p> <p>22 lease portions of lots A, B and C at the airport?</p> <p>23 A. No.</p> <p>24 (Exhibit 343, Email dated 3-13-14, marked</p>	<p>1 responds to Mr. Donovan and says, "Chris, Your</p> <p>2 message has been received and the Norwood Airport</p> <p>3 Commission is being made aware of your interest."</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. Do you have any reason to doubt that the</p> <p>7 Norwood Airport Commission was made aware of</p> <p>8 BEH's desire to lease lots A, B, and C in or</p> <p>9 about May -- sorry -- March of 2014?</p> <p>10 A. I don't remember.</p> <p>11 Q. I think my question was, do you have any</p> <p>12 reason to doubt that?</p> <p>13 A. I don't remember being made aware of it.</p> <p>14 (Exhibit 344, Norwood Airport Commission</p> <p>15 meeting minutes dated 4-9-14, marked for</p> <p>16 identification.)</p> <p>17 BY MR. FEE:</p> <p>18 Q. 344 are the minutes of the April 9, 2014</p> <p>19 meeting at which you were present.</p> <p>20 (Witness viewing Exhibit 344.)</p> <p>21 Q. On the last page, it lists</p> <p>22 correspondence. It says at the top of the page,</p> <p>23 "3-12-14, an email from Chris Donovan to airport</p> <p>24 manager regarding negotiations for the lease of</p>
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<p>1 for identification.)</p> <p>2 BY MR. FEE:</p> <p>3 Q. 343 is an email from -- an email chain</p> <p>4 between Mr. Donovan, Mr. Moss, Mr. Maguire. And</p> <p>5 on the second page, the initial email from</p> <p>6 Mr. Donovan to Mr. Maguire states, "Since 2010, I</p> <p>7 have requested access to land and space available</p> <p>8 here at Norwood Airport. In accordance with that</p> <p>9 open request" --</p> <p>10 A. Sorry?</p> <p>11 Q. Page 2, top of the page.</p> <p>12 "In accordance with that open request, I</p> <p>13 made a request for negotiations for the lease of</p> <p>14 lots A, B, and C at Norwood Airport. As this</p> <p>15 lease is coming due in October 2014, I would like</p> <p>16 to discuss BEH leasing this property."</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. Does that refresh your recollection as to</p> <p>20 whether or not -- as to when BEH expressed</p> <p>21 interest to the commission regarding leasing the</p> <p>22 portions of the A, B, C ramps?</p> <p>23 A. No.</p> <p>24 Q. The page 1, at the top, Mr. Maguire</p>	<p>1 lots A, B, and C."</p> <p>2 Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. Does that notation on these minutes</p> <p>5 indicate that a copy of that letter would have</p> <p>6 been provided to you?</p> <p>7 A. I would think it would have -- I don't</p> <p>8 remember.</p> <p>9 Q. So do you recall any discussion at the</p> <p>10 April 9, 2014 meeting regarding BEH's desire to</p> <p>11 lease lots A, B, and C?</p> <p>12 A. No.</p> <p>13 Q. What happened with respect to the lease</p> <p>14 of lots A, B, and C?</p> <p>15 A. I don't specifically remember.</p> <p>16 (Exhibit 345, Norwood Airport Commission</p> <p>17 executive session meeting minutes dated</p> <p>18 4-9-14, marked for identification.)</p> <p>19 BY MR. FEE:</p> <p>20 Q. 345 are the minutes from executive</p> <p>21 session of the meeting on April 9, 2014. You may</p> <p>22 recall that we just looked at the minutes from</p> <p>23 the regular public session.</p> <p>24 A. Um-hmm.</p>

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<p>1 Q. The executive session -- sorry. Give me 2 a minute. 3 (Pause.) 4 Q. Sorry. I don't have a question about 5 that. 6 (Exhibit 346, Letter dated 4-15-14, marked 7 for identification.) 8 MR. FEE: Off the record. 9 (Recess taken at 11:03 a.m.) 10 (Recess ended at 11:13 a.m.) 11 BY MR. FEE: 12 Q. We were talking about the A, B, C lease, 13 and I asked you what happened, and you said that 14 you didn't remember. 15 But I am showing you a document that has 16 been marked as Exhibit 346. It appears to be a 17 letter to Mr. Eichleay from Mr. Maguire, dated 18 April 15, 2014, in which he states, "In a meeting 19 held April 9th, the Norwood Airport Commission 20 discussed your January 22, 2014 letter." 21 I am sorry. Let me skip down to lots A, 22 B, and C. He states, "The NAC voted to offer 23 FlightLevel an additional five-year lease for 24 lots A, B, and C. The current lease expires on</p>	<p>1 correspondence from Mr. Donovan expressing 2 interest in leasing the A, B, C lots; correct? 3 A. I don't remember if I said that I -- that 4 the commission or the manager received it, but I 5 believe that, at some point, we would have. 6 Q. So I am not going to go back, because I 7 think we discussed that already and it is on the 8 record. 9 But now I am asking you, as I put in 10 front of you Exhibit 346, is it your 11 understanding that, notwithstanding the NAC's 12 knowledge regarding BEH's interest in A, B, C, 13 you, nonetheless, went ahead and did an extension 14 of the A, B, C leases with FlightLevel in April 15 of 2014? Correct? 16 MR. SIMMS: Objection. 17 You can answer. 18 A. You are asking me -- I think you are 19 asking me if I remember that someone had -- that 20 BEH had requested to lease, which I don't 21 remember. I don't remember this specifically, 22 but I see that the current lease to FlightLevel 23 was extended. 24 BY MR. FEE:</p>
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<p>1 October 31, 2014." 2 Do you see that? 3 A. Yes. 4 Q. Does that refresh your recollection as to 5 what action the NAC took with respect to the A, 6 B, C -- the expiring A, B, C leases in or about 7 April of 2014? 8 A. I don't remember, but I can see what 9 happened. 10 Q. So is it your recollection that, in fact, 11 the NAC -- or NAC voted to extend FlightLevel 12 leases on lots A, B, and C, notwithstanding its 13 knowledge of BEH's interest in lots A, B and C? 14 A. Could you ask that again? 15 Q. Sure. We talked earlier about some 16 correspondence in which Mr. Donovan of BEH had 17 written to the NAC and requested the opportunity 18 to negotiate leases for lots A, B, and C; right? 19 A. I said I didn't remember it, but okay. 20 Q. But we looked at that correspondence; 21 correct? 22 A. Yes. 23 Q. You acknowledged that, in fact, you had 24 no reason to doubt that the NAC had received that</p>	<p>1 Q. Okay. Do you recall any discussion, 2 whatsoever, regarding the fact that -- when you 3 were voting to extend to leases to FlightLevel 4 for lots A, B, and C that BEH had expressed an 5 interest in becoming a lessee for those parcels? 6 A. No, I don't remember that. 7 Q. Do you remember discussing, at the 8 April 2014 meeting, the fact that FlightLevel had 9 been a -- 10 MR. FEE: Strike that. 11 BY MR. FEE: 12 Q. Do you recall discussing at the 13 April 2014 letter your opinion regarding 14 preferential treatment to be given to FlightLevel 15 as a result of its investment in the airport? 16 MR. HARTZELL: Objection. 17 A. No. 18 BY MR. FEE: 19 Q. Do you recall, at any time, expressing in 20 a Norwood Airport Commission meeting, the notion 21 that FlightLevel should be given preferential 22 treatment in leasing due to the fact that it had 23 a large investment in the airport? 24 MR. SIMMS: Objection.</p>

<p style="text-align: right;">Page 274</p> <p>1 A. No.</p> <p>2 MR. SIMMS: Just let me note my</p> <p>3 objection.</p> <p>4 THE WITNESS: Sorry.</p> <p>5 MR. SIMMS: I think this entire line of</p> <p>6 inquiry is outside the scope of the pleadings in</p> <p>7 this case.</p> <p>8 MR. FEE: I beg to differ.</p> <p>9 MR. SIMMS: Okay.</p> <p>10 (Exhibit 347, Email dated 5-3-14, marked for</p> <p>11 identification.)</p> <p>12 BY MR. FEE:</p> <p>13 Q. 347 appears to be an email from</p> <p>14 Mr. Maguire -- from Mr. Donovan to Mr. Maguire.</p> <p>15 Have you ever seen this before?</p> <p>16 (Witness viewing Exhibit 347.)</p> <p>17 A. I don't remember.</p> <p>18 Q. It appears to be dated May 3, 2014. And</p> <p>19 in the initial email, Mr. Donovan says to</p> <p>20 Mr. Maguire, number 1, "Has the lease for lots A,</p> <p>21 B, and C been re-leased to FlightLevel?"</p> <p>22 Do you see that?</p> <p>23 A. So under number 1?</p> <p>24 Q. Yes.</p>	<p style="text-align: right;">Page 276</p> <p>1 BY MR. FEE:</p> <p>2 Q. 348 appears to be the meeting minutes</p> <p>3 from the January 14, 2015 meeting. On the second</p> <p>4 page, under "Correspondence," the second note,</p> <p>5 says, "Standard ground lease, short-term, lots A,</p> <p>6 B, C. All commission members signed the lease."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Does that refresh your recollection as to</p> <p>10 when FlightLevel and the NAC executed leases for</p> <p>11 the A, B, C lots?</p> <p>12 A. I don't remember it.</p> <p>13 Q. Do you have any reason to doubt the</p> <p>14 accuracy of the information contained in</p> <p>15 Exhibit 348?</p> <p>16 A. No.</p> <p>17 Q. We talked at your last deposition about</p> <p>18 various lease offers that were made by the NAC to</p> <p>19 BEH. Do you recall that?</p> <p>20 A. In general terms.</p> <p>21 Q. As I recall, your testimony was that</p> <p>22 there were several different offers that were</p> <p>23 made; correct?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 275</p> <p>1 A. Yes, okay.</p> <p>2 Q. Is it fair to say that Mr. Donovan is</p> <p>3 asking Mr. Maguire whether or not the A, B, C</p> <p>4 lots were leased to FlightLevel? Correct?</p> <p>5 A. Yes.</p> <p>6 Q. Down below, Mr. Maguire says, "No."</p> <p>7 Do you see that?</p> <p>8 A. I don't. The font is quite a bit</p> <p>9 smaller.</p> <p>10 Q. Yes.</p> <p>11 A. "Chris, Regarding your questions: 1,</p> <p>12 No."</p> <p>13 So I assume he is answering number 1, no.</p> <p>14 Q. Do you know why Mr. Maguire told</p> <p>15 Mr. Donovan in May of 2014 that lots A, B, and C</p> <p>16 had not been re-leased to FlightLevel?</p> <p>17 A. I don't know.</p> <p>18 Q. Do you know when the leases --the A, B, C</p> <p>19 lot leases were ultimately signed with</p> <p>20 FlightLevel?</p> <p>21 A. No.</p> <p>22 (Exhibit 348, Norwood Airport Commission</p> <p>23 meeting minutes dated 1-14-15, marked for</p> <p>24 identification.)</p>	<p style="text-align: right;">Page 277</p> <p>1 Q. And your testimony was that for -- your</p> <p>2 recollection was that all of them were rejected</p> <p>3 by BEH; is that right?</p> <p>4 A. I don't remember my testimony, exactly,</p> <p>5 but we have never come to an agreement, totally.</p> <p>6 Q. Okay. And is that because the offers</p> <p>7 were rejected by BEH or because they were</p> <p>8 withdrawn by the NAC?</p> <p>9 A. I don't specifically remember.</p> <p>10 (Exhibit 349, Letter dated 3-17-14, marked</p> <p>11 for identification.)</p> <p>12 BY MR. FEE:</p> <p>13 Q. 349 is a letter to Mr. Donovan from</p> <p>14 Mr. Maguire dated March 17, 2014. It appears to</p> <p>15 be an offer of a lease for 6,889 square feet on</p> <p>16 the west ramp.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And attached to the letter is a draft</p> <p>20 lease and attached to the draft lease is a</p> <p>21 schematic showing the area proposed to be leased.</p> <p>22 Do you see that?</p> <p>23 A. I don't see the schematic.</p> <p>24 Q. It is on the last page.</p>

<p style="text-align: right;">Page 278</p> <p>1 (Pause.)</p> <p>2 A. It is not here.</p> <p>3 Q. Try that one.</p> <p>4 (Handing document to the witness.)</p> <p>5 BY MR. FEE:</p> <p>6 Q. Do you see the schematic?</p> <p>7 A. Yes.</p> <p>8 Q. Any reason to doubt that this offer was</p> <p>9 made by Mr. Maguire, at the direction of the NAC,</p> <p>10 in or about March of 2014?</p> <p>11 A. No.</p> <p>12 Q. Any discussion, that you can recall</p> <p>13 amongst the commissioners or the airport manager,</p> <p>14 regarding the amount of space that was offered in</p> <p>15 March of 2014?</p> <p>16 A. In general terms, I remember the -- I</p> <p>17 believe it was Mr. Ryan, possibly Russ -- looking</p> <p>18 at types of aircraft that can possibly be waiting</p> <p>19 to be fueled and how they would be lined up or</p> <p>20 whatever. That is, I think, how the space was</p> <p>21 determined.</p> <p>22 Q. So there was a discussion amongst the</p> <p>23 commissioners regarding the amount of space?</p> <p>24 A. I think Mr. Ryan developed it and then</p>	<p style="text-align: right;">Page 280</p> <p>1 BY MR. FEE:</p> <p>2 Q. Do you know?</p> <p>3 A. I just don't remember. I am not saying</p> <p>4 that that is not what is happening.</p> <p>5 Q. Well, on the first page of the letter,</p> <p>6 second paragraph, it says, "Use of the leased</p> <p>7 premises shall be conditioned on BEH holding all</p> <p>8 necessary permits, licenses, certificates, and</p> <p>9 approvals as applicable to operate as a fixed</p> <p>10 based operator at the Norwood Airport."</p> <p>11 Do you see that?</p> <p>12 A. Yes, I do.</p> <p>13 Q. And then it references section Roman</p> <p>14 numeral IV. Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Is that referring to the rules and</p> <p>17 regulations or the minimum standards of the</p> <p>18 Norwood Airport?</p> <p>19 A. I am not sure. Is it referring to the</p> <p>20 lease, maybe?</p> <p>21 Q. I am asking you if you know what it</p> <p>22 refers to.</p> <p>23 A. Do you want me to read it?</p> <p>24 Q. Do you know what the "(Section IV)" in</p>
<p style="text-align: right;">Page 279</p> <p>1 let us know that that is how he came up with that</p> <p>2 space.</p> <p>3 Q. Did he tell you how many planes could be</p> <p>4 fueled at any given time?</p> <p>5 A. I don't recall.</p> <p>6 Q. Did he tell you anything else about the</p> <p>7 reasons behind the -- or the rationale behind</p> <p>8 offering 6,889 square feet of space?</p> <p>9 A. Anything in addition to what I just said,</p> <p>10 no.</p> <p>11 Q. It was the airport commission's</p> <p>12 understanding, at this time, that Mr. Donovan and</p> <p>13 BEH were seeking to become a full-scale,</p> <p>14 full-service FBO; correct?</p> <p>15 A. I don't remember what they -- they had</p> <p>16 applied -- they had listed FBO on a commercial</p> <p>17 application.</p> <p>18 Q. Prior to this offer being made?</p> <p>19 A. I don't remember. I don't remember.</p> <p>20 Q. Why else would the NAC offer space to</p> <p>21 BEH, if it wasn't in connection with an FBO</p> <p>22 application?</p> <p>23 MR. SIMMS: Objection.</p> <p>24 Go ahead.</p>	<p style="text-align: right;">Page 281</p> <p>1 the second paragraph on the first page refers to?</p> <p>2 A. Right now I don't.</p> <p>3 Q. Okay. So what happened with that lease</p> <p>4 offer? Do you know?</p> <p>5 A. Never materialized.</p> <p>6 Q. How come?</p> <p>7 A. I don't know.</p> <p>8 Q. Do you know if BEH accepted the offer?</p> <p>9 A. I don't remember.</p> <p>10 (Exhibit 350, Letter dated 5-13-14, marked</p> <p>11 for identification.)</p> <p>12 BY MR. FEE:</p> <p>13 Q. 350 is a letter from Mr. Fox, attorney</p> <p>14 for BEH, to Mr. Moss dated May 13, 2014. The re</p> <p>15 line says, "acceptance of lease proposal." Do</p> <p>16 you see that?</p> <p>17 A. I am sorry. Again?</p> <p>18 Q. The re line at the top of the</p> <p>19 page -- right above "Mr. Ross," "Dear Mr. Moss,"</p> <p>20 it says, "Re: Acceptance of lease proposal."</p> <p>21 Do you see that?</p> <p>22 A. That terminology, I always say, "reason."</p> <p>23 I don't know why. "Acceptance of lease proposal.</p> <p>24 Standard preservation of evidence notice." I see</p>

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<p>1 that.</p> <p>2 Q. Then it says in the first paragraph,</p> <p>3 "Please consider this letter as BEH's formal</p> <p>4 acceptance of the Norwood Airport Commission's</p> <p>5 offer of March 17, 2014, to lease 6,889 square</p> <p>6 feet of land on the West Apron."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. Does that refresh your recollection as to</p> <p>10 whether or not BEH accepted the first lease offer</p> <p>11 proffered by the NAC?</p> <p>12 A. I don't remember it. I know it was never</p> <p>13 finalized.</p> <p>14 Q. But you don't know why?</p> <p>15 A. I don't.</p> <p>16 (Exhibit 351, Norwood Airport Commission</p> <p>17 meeting minutes dated 5-14-14, marked for</p> <p>18 identification.)</p> <p>19 BY MR. FEE:</p> <p>20 Q. 351 are the May 14, 2014 regular business</p> <p>21 meeting minutes. On page 2, third paragraph,</p> <p>22 "Commissioner Sheehan re-read the April 9, 2014</p> <p>23 regular meeting minutes that stated BEH refused</p> <p>24 the offering at the April meeting. The</p>	<p>1 A. I don't remember.</p> <p>2 Q. But if it said it in the executive</p> <p>3 session minutes, that would be correct, would it</p> <p>4 not, that the offer was withdrawn?</p> <p>5 A. So would it be the executive session</p> <p>6 minutes of the April meeting, or?</p> <p>7 Q. Let me just clarify. I am asking you</p> <p>8 about the May 14, 2014 meeting.</p> <p>9 A. Okay.</p> <p>10 Q. And in the May 14, 2014 meeting,</p> <p>11 Mr. Sheehan says: I have re-read the regular</p> <p>12 minutes from April 9th. I believe that BEH</p> <p>13 refused the offer at the meeting. We need to</p> <p>14 discuss it in executive session.</p> <p>15 And my question to you is, assuming that</p> <p>16 there was a following executive session on</p> <p>17 May 14th, do you recall what happened?</p> <p>18 A. No.</p> <p>19 Q. And my follow-up question to that was,</p> <p>20 isn't it true that the commission voted in</p> <p>21 executive session on May 14th to withdraw the</p> <p>22 lease offer of 6,889 square feet on the West</p> <p>23 Apron?</p> <p>24 A. You asked me if remember, and I said, no.</p>
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<p>1 commission now needs to re-address this issue in</p> <p>2 executive session."</p> <p>3 Do you see that?</p> <p>4 A. I do.</p> <p>5 Q. Do you recall what happened in the</p> <p>6 executive session on May 14, 2014?</p> <p>7 A. On April 9th?</p> <p>8 Q. May 14, 2014.</p> <p>9 A. I am sorry, Mike. I am missing your</p> <p>10 point.</p> <p>11 Q. It is okay. I am reading the minutes</p> <p>12 from the May 14, 2014 meeting. On the second</p> <p>13 page, third paragraph, it says,</p> <p>14 Commissioner Sheehan said that -- he makes some</p> <p>15 statements about the regular meeting minutes from</p> <p>16 April 9th and then says that the matter should be</p> <p>17 taken up in executive session. Right? Is that a</p> <p>18 fair characterization of the third paragraph?</p> <p>19 A. That is what it says.</p> <p>20 Q. And my question to you is, what happened</p> <p>21 in executive session?</p> <p>22 A. I don't remember.</p> <p>23 Q. In fact, the commission voted to withdraw</p> <p>24 the first lease offer; is that right?</p>	<p>1 Then you are asking me something that</p> <p>2 specifically happened?</p> <p>3 Q. Yes.</p> <p>4 A. I don't remember.</p> <p>5 Q. I am asking you, is it true? Do you</p> <p>6 know?</p> <p>7 A. I don't remember.</p> <p>8 Q. But if it was in the executive meeting</p> <p>9 minutes of the May 14th meeting, you would agree</p> <p>10 that, in fact, that action had occurred; correct?</p> <p>11 A. Yes.</p> <p>12 (Exhibit 352, Norwood Airport Commission</p> <p>13 meeting minutes dated 6-11-14, marked for</p> <p>14 identification.)</p> <p>15 BY MR. FEE:</p> <p>16 Q. This is next meeting, June 11, 2014. And</p> <p>17 Exhibit 352 reflects the approved regular</p> <p>18 business meeting minutes for that meeting. And I</p> <p>19 am directing your attention to bottom of the</p> <p>20 page.</p> <p>21 A. Page 1?</p> <p>22 Q. Page 1.</p> <p>23 And it states in the second sentence, at</p> <p>24 the bottom of the page, in the paragraph</p>

<p style="text-align: right;">Page 286</p> <p>1 entitled, "BEH lease/FBO interest," "On a motion 2 by Mr. Sheehan and seconded by 3 Mr. K. Shaughnessy" -- 4 That is you; right? 5 A. It is. 6 Q. -- "the commission voted 6 to 2, by 7 verbal acknowledgement, to table the discussion." 8 Do you see that? 9 A. I do. 10 Q. Does that comport with your recollection 11 as to the actions taken by the NAC on 12 June 11, 2014? 13 A. I don't remember the meeting, but I have 14 no reason to doubt it. 15 Q. At the time, the commission voted to 16 table any discussion regarding BEH's FBO 17 application; correct? 18 A. I can't be sure of what exactly was 19 tabled -- if there was a vote tabled or a 20 discussion tabled. I am not sure. 21 Q. You are not sure what was tabled? 22 A. I am not sure the specifics of what was 23 tabled. 24 Q. Well, the title of the paragraph says,</p>	<p style="text-align: right;">Page 288</p> <p>1 A. Yes. 2 Q. And that discussion by Mr. Sheehan, what 3 followed was a motion by Mr. Sheehan, which you 4 seconded, and the commission voted to table the 5 discussion. 6 So my question to you is, is it fair to 7 infer from these meeting minutes that on 8 June 11th, the commission voted to table any 9 further discussion of BEH's lease or FBO 10 interest? 11 MR. HARTZELL: Objection. 12 MR. SIMMS: Same objection as my prior 13 objection. 14 A. What I infer -- I couldn't positively say 15 that that is what I would infer from that. I 16 don't know. 17 BY MR. FEE: 18 Q. Well, what do you believe you voted on 19 June 11, 2014? 20 A. I don't remember. 21 Q. Is there any other memorialization of 22 what occurred at the June 11th meeting, other 23 than these minutes? 24 A. I don't know.</p>
<p style="text-align: right;">Page 287</p> <p>1 "BEH lease/FBO interest." 2 Correct. 3 A. Yes. 4 Q. So is it fair to say that the commission 5 voted 6 to 2 to table any discussion of BEH's 6 lease or FBO interest? 7 A. I am not sure. It could have 8 voted -- there could have been a vote that we 9 tabled, in which you could have voted yes, no, or 10 we don't want to vote on it now. So in other 11 words, the motion could have been something like, 12 approve FBO and, in my mind, I would have voted 13 to table something just because I don't want to 14 vote no on it yet. Does that make sense? 15 Q. No, I am not really following you, but I 16 can ask another question and try again. 17 I am trying to understand what the vote 18 taken on June 11, 2014 entailed. The notes or 19 the minutes indicate that you were discussing the 20 BEH lease/FBO interest, and Mr. Sheehan requested 21 a motion to table the matter based on a complaint 22 letter received by the commission, but not yet 23 read and discussed. 24 Did I read that correctly?</p>	<p style="text-align: right;">Page 289</p> <p>1 Q. Do you know if meetings were recorded on 2 June 11, 2014? 3 A. Specifically this meeting, I don't know. 4 Q. Well, let me direct your attention to the 5 last sentence of that section, where it says, 6 "There was additional discussion between NAC, 7 Mr. Donovan, and Mr. Fox regarding the West Apron 8 lease, and all were reminded that issue had been 9 tabled." 10 Based on that language, would you agree 11 with me that on June 11, 2014, the NAC voted at 12 least to table discussion regarding the West 13 Apron lease? 14 A. Yes. 15 Q. But you are not prepared to testify that 16 the FBO discussion was tabled on June 11, 2014; 17 is that fair to say? 18 A. That is fair to say. 19 Q. Further up on the page, there is a vote 20 with a -- sorry -- a notation that says, "West 21 Apron master planning/scope." Do you see that? 22 A. Yes. 23 Q. It says, "DeBois & King will prepare up 24 to three configurations for the layout of the</p>

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<p>1 West Apron and hangar placement and loss of 2 tie-downs, potential revenue by the construction 3 of additional hangars and will try to maximize 4 available space." 5 Do you see that? 6 A. Yes. 7 Q. Is it your understanding that the NAC was 8 considering further study regarding the West 9 Apron, in or about June of 2014? 10 A. I don't remember it. 11 Q. Do you know if any further study was 12 undertaken, subsequent to June of 2014, regarding 13 feasibility of various activities on the West 14 Apron? 15 A. I don't remember. 16 Q. Do you know if, prior to June of 2014, 17 the NAC had undertaken feasibility studies 18 regarding the West Apron? 19 A. There is a vague recollection of a 20 drawing of the West Apron with potential layout, 21 but it would have been before I was even there. 22 (Exhibit 353, Norwood Memorial Airport 23 Hangar Development Feasibility Study dated 24 April 2008, marked for identification.)</p>	<p>1 Q. You testified that you thought there was 2 a second offer of lease after the initial 3 6,889 square feet offer was withdrawn' correct? 4 A. There has been several different square 5 footage verbiage in different lease negotiations. 6 Q. Yes. But there was a subsequent offer to 7 the offer of 6,889 square feet; correct? 8 A. Yes. 9 (Exhibit 354, Letter dated 2-12-15, Bates 10 number BEH0008088 through 8105, marked for 11 identification.) 12 BY MR. FEE: 13 Q. 354 is a letter dated February 12, 2015, 14 from Mr. Moss to Mr. McCulloch. And it appears 15 to -- sorry. 16 There is language in the second paragraph 17 on the first page that says, "At its February 11, 18 2015 meeting, the Norwood Airport Commission 19 voted to conditionally offer a lease for a 20 portion of the West Apron, designated as 21 so-called parcel A, to BEH." 22 Do you see that? 23 A. I do. 24 Q. And similar to the first lease offer,</p>
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<p>1 BY MR. FEE: 2 Q. 353 is a document dated 2008 entitled, 3 "Norwood Memorial Airport Hangar Development 4 Feasibility Study." 5 And it appears to be missing some pages. 6 But I am just wondering if this -- looking at 7 this document refreshes your recollection as to 8 whether or not there had been prior studies 9 performed regarding feasibility analysis for the 10 West Apron? 11 A. So it doesn't really refresh my memory, 12 but it goes along with what I said, that the 13 vague recollection -- I think this is right 14 around when I probably would have started on the 15 airport commission. 16 Q. I am wondering, if, at any time between 17 2008 and 2014 -- I am using that timeline to 18 frame what we discussed as Exhibit 352's vote to 19 table discussion regarding the West Apron lease 20 for BEH. I am wondering if, before June of 2014 21 and your initial time on the commission, do you 22 recall, at any time, discussing the West Apron 23 feasibility? 24 A. I don't remember.</p>	<p>1 this contains a proposed lease with a schematic 2 drawing showing the proposed lease area, as well 3 as a tab B. Do you see that? 4 A. Yes. 5 Q. Is this the second lease offer? 6 A. I believe it is. 7 Q. And just for the record, the schematic 8 seems to establish that the lease area is on the 9 west -- sorry. Hang on a second. 10 A. It is roughly the same area as before. 11 Q. Yes. But according to the lease, it is 12 11,686 square feet. I am looking on the first 13 page of the lease. 14 A. I agree. I am looking at the area. 15 Q. Does that make your recollection firmer, 16 that this was the second lease offer made by 17 the NAC to BEH? 18 A. No, I don't remember it. You know, in 19 vague terms, I remember, but I don't know. I 20 assume it is the second, because it is bigger 21 than the first. 22 Q. Okay. Now, Mr. Moss's letter requested 23 information that is detailed on tab B. Do you 24 see that?</p>

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<p>1 A. Yes.</p> <p>2 Q. Now, are these financial documents that</p> <p>3 were being requested from BEH?</p> <p>4 A. Sorry?</p> <p>5 Q. Does tab B contain a list of financial</p> <p>6 documents that were being requested from BEH?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And was this something that</p> <p>9 Mr. Moss came up with, or was this the subject of</p> <p>10 a NAC vote?</p> <p>11 A. I don't remember.</p> <p>12 Q. Tab B refers to a guarantor. Is that</p> <p>13 something that Mr. Moss came up with, or was that</p> <p>14 the subject of an NAC vote?</p> <p>15 A. I remember discussion, but I don't</p> <p>16 remember if there was any vote for the NAC.</p> <p>17 Q. I think I asked you this before. But the</p> <p>18 minimum standards don't contain any reference to</p> <p>19 guarantors with respect to requirements for</p> <p>20 an FBO; right?</p> <p>21 A. I don't believe so.</p> <p>22 Q. And the minimum standards don't contain</p> <p>23 any discussion regarding a personal guarantee or</p> <p>24 credit report or Dunn & Bradstreet credit report</p>	<p>1 from either the airport -- sorry -- the</p> <p>2 commission chairman or the airport manager would</p> <p>3 be binding on the commission; in the absence of a</p> <p>4 vote, I am wondering whether you consider the</p> <p>5 information that is contained in Exhibit 353 to</p> <p>6 be an authorized communication from the NAC?</p> <p>7 A. This is our counsel. So yes.</p> <p>8 Q. So you would consider, at all times,</p> <p>9 communications from counsel -- from town counsel</p> <p>10 to be binding on the NAC?</p> <p>11 MR. SIMMS: Objection.</p> <p>12 MR. HARTZELL: Objection.</p> <p>13 MR. SIMMS: Go ahead.</p> <p>14 A. I am not sure.</p> <p>15 BY MR. FEE:</p> <p>16 Q. But at least with respect to 354, you</p> <p>17 believe that this was an authorized communication</p> <p>18 from the NAC that was binding on the NAC?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know what happened with respect to</p> <p>21 the lease offer that is described in Exhibit 354?</p> <p>22 A. I don't think it was ever finalized.</p> <p>23 Q. Do you know why?</p> <p>24 A. Just, I don't know.</p>
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<p>1 or any of that?</p> <p>2 A. The minimum standard to become an FBO the</p> <p>3 minimum standard for leases?</p> <p>4 Q. To become an FBO?</p> <p>5 A. No, I don't think so.</p> <p>6 Q. And you don't recall whether Mr. Moss</p> <p>7 came up with these or if the commission voted</p> <p>8 them?</p> <p>9 A. Myself, I mean, I asked for the financial</p> <p>10 statements. That was pretty much from the</p> <p>11 beginning. I don't remember a specific vote on</p> <p>12 these things.</p> <p>13 Q. I am just, again, trying to understand</p> <p>14 whether, based on your prior testimony, whether</p> <p>15 you believe Mr. Moss was authorized to convey the</p> <p>16 information that is contained in Exhibit 354 and</p> <p>17 that it was binding on the commission?</p> <p>18 MR. HARTZELL: Objection.</p> <p>19 MR. SIMMS: Objection to the form.</p> <p>20 You can answer.</p> <p>21 A. What is the question, again?</p> <p>22 BY MR. FEE:</p> <p>23 Q. Based on our prior discussion regarding</p> <p>24 your uncertainty as to whether or not a letter</p>	<p>1 Q. Okay.</p> <p>2 (Exhibit 355, Letter dated 2-12-15, marked</p> <p>3 for identification.)</p> <p>4 BY MR. FEE:</p> <p>5 Q. 355 is a letter from BEH's lawyers to</p> <p>6 Mr. Ryan, you, Mr. Maguire, Mr. Moss, dated</p> <p>7 February 12, 2015. Have you ever seen this</p> <p>8 before?</p> <p>9 (Witness viewing Exhibit 355.)</p> <p>10 A. I believe I have.</p> <p>11 Q. Do you have any doubt that you received</p> <p>12 it in or about February of 2015?</p> <p>13 A. I don't have any doubt that I received it</p> <p>14 sometime after February 12th.</p> <p>15 Q. Do you know what, if anything, you did to</p> <p>16 respond to it?</p> <p>17 A. I don't remember.</p> <p>18 Q. You have no recollection, whatsoever, of</p> <p>19 what you did to respond to Exhibit 355?</p> <p>20 A. I don't remember.</p> <p>21 (Exhibit 356, Letter dated 2-23-15, marked</p> <p>22 for identification.)</p> <p>23 BY MR. FEE:</p> <p>24 Q. 356 appears to be another letter from</p>

<p style="text-align: right;">Page 298</p> <p>1 Mr. McCulloch to Mr. Moss, dated 2 February 23, 2015. Have you ever seen this 3 before? 4 (Witness viewing Exhibit 356.) 5 A. I don't specifically recall it, but I am 6 sure I have. 7 Q. In the second page, second paragraph, it 8 says, "By this letter, BEH accepts the NAC offer 9 to lease the portion of the West Apron identified 10 as parcel A in your letter, for the purpose of 11 conducting commercial FBO business at the 12 airport." 13 Do you see that? 14 A. I do. 15 Q. So is it fair to say that -- do you have 16 any doubt that the NAC received this letter? 17 A. No. 18 Q. So is it fair to say that in or about 19 February 23rd of 2015, BEH communicated its 20 acceptance of the lease proposal that was made by 21 town counsel, that has been previously marked as 22 Exhibit 354? 23 A. Can you repeat that, Mike? 24 Q. Is it your understanding that as of</p>	<p style="text-align: right;">Page 300</p> <p>1 Exhibit 356, that BEH communicated its 2 willingness to accept the lease offer that was 3 made on February 12th? 4 A. I think what they were 5 communicating -- in my opinion, what they were 6 communicating is their acceptance of the amount 7 of square footage and then we will continue on 8 the lease -- you know, negotiations or finalizing 9 the lease would continue. 10 Q. Okay. 11 A. I don't think this would be, like, the 12 lease is done, because they -- 13 Q. No, no. I am just asking, I think my 14 question was, do you believe that, by this 15 letter, BEH communicated its willingness to 16 accept the lease offer? 17 A. I don't even know which lease offer it 18 was. 19 Q. Okay. It is referring to -- Exhibit 356 20 is in response -- it is to Mr. Moss, and it is 21 responding to his letter of February 12, 2015; 22 right? 23 A. Okay. 24 Q. And in the letter of February 12, 2015,</p>
<p style="text-align: right;">Page 299</p> <p>1 February 23, 2015, BEH communicated its 2 acceptance of the lease proposal previously made 3 by town counsel on February 12, 2015, in the 4 document that has been marked as Exhibit 354? 5 A. There was never any acceptance of a 6 lease. So this -- I think what they are doing 7 here is offering whatever the amount of space was 8 that was being offered, that they would 9 now -- that that would be continued lease 10 negotiations, which I don't think ever were 11 finalized. 12 Q. Not sure I understand your answer. 13 I read to you the second paragraph, where 14 it says, "By this letter, BEH accepts the NAC 15 offer to lease the portion of the West Apron 16 identified as parcel A." 17 Do you see that? 18 A. I do. 19 Q. Do you believe that is, in any way, 20 equivocal or offering to negotiate further? 21 A. I don't think we ever finalized it, so I 22 don't think that they ever accepted it. 23 Q. My question is, do you believe, by 24 reading this letter that has been marked as</p>	<p style="text-align: right;">Page 301</p> <p>1 we talked about earlier, as Exhibit 354, which 2 contains a lease offer for approximately 3 11,000 square feet of space. 4 A. Okay. I knew it was one or the other but 5 I wasn't sure which one. 6 Q. I just want to make sure I understand 7 your testimony. 8 A. Okay. 9 Q. So my question to you is, is it your 10 belief that by this letter dated February 23rd, 11 BEH communicated its willingness to accept the 12 lease proposal that was made on February 12th? 13 A. I think the willingness to 14 continue -- that they accepted that they would be 15 able to operate with that amount of space, and 16 then we will continue the lease. The reason I am 17 saying that is because I know it was never 18 finalized. 19 Q. I understand and my question is whether 20 or not you believe that BEH communicated its 21 acceptance of the lease term. And I have asked 22 you that several times, by referring to the 23 second paragraph. If you believe that BEH did 24 anything other than accept the lease term, then</p>

<p style="text-align: right;">Page 302</p> <p>1 please explain to me what your interpretation is</p> <p>2 of the second paragraph of the Exhibit 356.</p> <p>3 MR. SIMMS: Objection.</p> <p>4 You can answer.</p> <p>5 MR. HARTZELL: Objection.</p> <p>6 A. Could you ask it again?</p> <p>7 BY MR. FEE:</p> <p>8 Q. Sure. Do you believe that Exhibit 356</p> <p>9 communicates, in paragraph 2, BEH's acceptance of</p> <p>10 the NAC's offer of lease terms contained in</p> <p>11 Exhibit 354?</p> <p>12 MR. SIMMS: Objection.</p> <p>13 Go ahead.</p> <p>14 A. I am going to say, I don't know.</p> <p>15 BY MR. FEE:</p> <p>16 Q. Do you know what happened next?</p> <p>17 MR. SIMMS: In terms of the lease</p> <p>18 negotiations?</p> <p>19 MR. FEE: Yes, sorry.</p> <p>20 A. No.</p> <p>21 BY MR. FEE:</p> <p>22 Q. Do you know, ultimately, the airport</p> <p>23 commission voted rescind the lease offer?</p> <p>24 A. Which one?</p>	<p style="text-align: right;">Page 304</p> <p>1 That is you; right?</p> <p>2 A. Yes.</p> <p>3 Q. -- "the commission voted 5 to 2 to</p> <p>4 withdraw the lease offer of February 12th."</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. So is it fair to say that, by a vote on</p> <p>8 September 30, 2015, the commission voted to</p> <p>9 withdraw the lease offer that had been previously</p> <p>10 made on February 12th and has been marked as</p> <p>11 Exhibit 354?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recall the reason why the</p> <p>14 commission voted to withdraw the lease offer?</p> <p>15 A. No.</p> <p>16 Q. Do you recall any discussion at this</p> <p>17 meeting on September 30, 2015, regarding BEH's</p> <p>18 lease interest or FBO interest?</p> <p>19 A. No.</p> <p>20 Q. Are there any circumstances under which</p> <p>21 the airport commission would consider waiving</p> <p>22 minimum standards?</p> <p>23 MR. SIMMS: Objection.</p> <p>24 MR. HARTZELL: Objection.</p>
<p style="text-align: right;">Page 303</p> <p>1 Q. The one that we are talking about,</p> <p>2 Exhibit 354.</p> <p>3 A. I don't remember it.</p> <p>4 Q. Okay.</p> <p>5 (Exhibit 357, Norwood Airport Commission</p> <p>6 meeting minutes dated 9-30-15, marked for</p> <p>7 identification.)</p> <p>8 BY MR. FEE:</p> <p>9 Q. Exhibit 357 are the meeting minutes from</p> <p>10 the September 30, 2015 meeting. Under "Old</p> <p>11 Business," the first bullet point, "Boston</p> <p>12 Executive Helicopters's consideration of letter</p> <p>13 of credit/personal guarantee."</p> <p>14 Do you see that? I am on the first page.</p> <p>15 Do you see that?</p> <p>16 A. The first bullet?</p> <p>17 Q. The first bullet, "Boston Executive</p> <p>18 Helicopters's consideration of letter of</p> <p>19 credit/personal guaranty."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Skipping down to the first full sentence,</p> <p>23 it says, "On a motion by Mr. Sheehan and seconded</p> <p>24 by Mr. K. Shaughnessy" --</p>	<p style="text-align: right;">Page 305</p> <p>1 A. I am not sure.</p> <p>2 BY MR. FEE:</p> <p>3 Q. Do you recall, any time during your</p> <p>4 tenure as commissioner, waiving the requirements</p> <p>5 set forth in the minimum standards for financial</p> <p>6 documentation for any vendor at the airport?</p> <p>7 A. I don't remember any specific.</p> <p>8 Q. You testified earlier, not today, but in</p> <p>9 your prior deposition, that you thought the</p> <p>10 requirements for financial disclosure by BEH were</p> <p>11 necessary, because you wanted to know who were</p> <p>12 dealing with.</p> <p>13 Do you recall that testimony?</p> <p>14 A. Do you have a copy of that?</p> <p>15 Q. I do.</p> <p>16 A. Can I see it?</p> <p>17 Q. No, because I don't have time, right now.</p> <p>18 But I am asking you, do you recall that or not?</p> <p>19 A. I would like to see what I said. You</p> <p>20 brought it up. I can't see it?</p> <p>21 Q. I am just trying to --</p> <p>22 A. Mike, you are asking me to accept a</p> <p>23 paraphrase of what I said.</p> <p>24 Q. No, no, Kevin. I am asking you if you</p>

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<p>1 remember testifying to that. If you don't, that 2 is fine. 3 A. Okay. Well, ask me again. 4 Q. Okay. Do you recall testifying earlier 5 regarding the financial information requirements 6 that you made upon BEH, that you asked for those 7 things because you wanted to know who you were 8 dealing with? 9 A. This would be today or the last? 10 Q. No, the last. 11 A. Yes. I mean, if you are asking me that 12 right now, I would say I would like to know who I 13 was dealing with, yes. 14 Q. As I recall your testimony, it was 15 something like you wanted to see how they would 16 evolve into an FBO; is that right? 17 A. So you are asking me why I wanted to see 18 the financial statements? 19 Q. Correct, correct. 20 A. And then that led to they would evolve 21 into a -- 22 Q. No. I am just paraphrasing my 23 understanding of your prior testimony regarding 24 the reason that you asked for financial</p>	<p>1 Q. Right. And so -- fair enough. So did 2 your thinking regarding the reasons for requiring 3 financial disclosure over and above the minimum 4 standards, evolve during your tenure as a 5 commissioner? 6 A. I have never -- I have always asked for 7 it. Since the very beginning, I have been asking 8 for financial statements. I don't know that I 9 have -- if I expressed it differently, that might 10 be. I think, in my mind, it has been pretty 11 clear that I have wanted to see the basic 12 financial statements of someone that wants to be 13 a fixed based operator. 14 Q. But you didn't make that request of 15 FlightLevel in 2008; right? 16 MR. HARTZELL: Objection. 17 MR. SIMMS: Objection. 18 A. I don't remember. I don't remember that. 19 I don't remember it, at all, to be honest with 20 you. 21 MR. SIMMS: You have answered the 22 question. 23 BY MR. FEE: 24 Q. So my question is, now, are there any</p>
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<p>1 information for BEH. Because, when I was reading 2 the transcript, the things that popped out to me 3 were you wanted to know who you were dealing with 4 and you wanted to see how they would evolve into 5 an FBO, by looking at their financial 6 documentation. 7 That is my recollection. If that is not 8 fair, just tell me that is not fair. 9 A. I definitely want to see the financial 10 statements and see what exactly they do on the 11 airport. I don't know that that would tell me, 12 but at least I would get an idea of the size of 13 their business and what they were actually doing 14 now, which would give me some idea of if they are 15 capable or if they have the -- I don't want to 16 say personnel, but I would think that whoever was 17 going to be an FBO on the airport and do these 18 things, has some experience. And one of the 19 things I would like to be able to look at is, you 20 know, their -- if I looked at their balance 21 sheet, I would get an idea of what they were 22 actually doing and how much business they are 23 doing and is that something that they are going 24 to carry over into the next step.</p>	<p>1 other circumstances under which the commission 2 would consider waiving these minimum requirements 3 or minimum standards regarding financial 4 disclosure? 5 MR. SIMMS: Objection. 6 Go ahead. 7 A. I don't know. 8 BY MR. FEE: 9 Q. Have you ever done it? 10 A. I don't remember. 11 MR. FEE: Off the record. 12 (Recess taken at 12:00 p.m.) 13 (Recess ended at 12:08 p.m.) 14 (Exhibit 358, Email dated 10-14-10, marked 15 for identification.) 16 BY MR. FEE: 17 Q. Mr. Shaughnessy, 358 is an email from 18 Mr. Donovan and Mr. Maguire dated 19 October 14, 2010. And I just want to drop down 20 to the second-to-last paragraph, where he states, 21 "I also plan on expanding my permit further in 22 the coming months, to pursue aircraft repair. I 23 will keep you posted on the situation. My desire 24 down the road is to become a full service FBO,</p>

<p style="text-align: right;">Page 310</p> <p>1 here in Norwood Airport."</p> <p>2 Do you see that?</p> <p>3 A. This paragraph here?</p> <p>4 Q. Yes. The second-to-last.</p> <p>5 A. Yes.</p> <p>6 Q. So my question is, does this refresh your</p> <p>7 recollection regarding Mr. Donovan and BEH's</p> <p>8 communication to the NAC regarding its desire to</p> <p>9 become a full service FBO in October of 2010?</p> <p>10 A. No.</p> <p>11 Q. Do you have any reason to doubt that this</p> <p>12 email was not forwarded or received by</p> <p>13 Mr. Maguire?</p> <p>14 A. No.</p> <p>15 (Exhibit 359, Email dated 7-30-14, marked</p> <p>16 for identification.)</p> <p>17 BY MR. FEE:</p> <p>18 Q. 359 is an email from Mr. Maguire to</p> <p>19 Mr. Donovan dated July 30, 2014, in which he</p> <p>20 states, "I have your fiscal year 2015 commercial</p> <p>21 permit application. However, your application</p> <p>22 indicates your interest in being an FBO. This,</p> <p>23 as you know, has been tabled by the airport</p> <p>24 commission for now."</p>	<p style="text-align: right;">Page 312</p> <p>1 Q. How would the recipient know whether or</p> <p>2 not Mr. Maguire was speaking on behalf of the</p> <p>3 commission or not?</p> <p>4 MR. SIMMS: Objection.</p> <p>5 MR. HARTZELL: Objection.</p> <p>6 MR. SIMMS: You can answer.</p> <p>7 A. I don't know what he thinks or how he</p> <p>8 would interpret.</p> <p>9 BY MR. FEE:</p> <p>10 Q. Well, this goes back to a theme that we</p> <p>11 have been discussing earlier, is that you seem to</p> <p>12 testify at certain points that communications</p> <p>13 from either the airport manager or the chairman</p> <p>14 are not necessarily binding on the commission,</p> <p>15 and I am wondering if this is one of those</p> <p>16 instances or not. You seem to have testified</p> <p>17 that you think it is not.</p> <p>18 A. If I read this all the way through, he is</p> <p>19 telling him to re-submit it so that it can be</p> <p>20 considered. I don't know why he would interpret</p> <p>21 that, or -- to me, it is either right or it is</p> <p>22 wrong, but he is telling him what to do in order</p> <p>23 for it to be back.</p> <p>24 Q. Right. But "to be back" means that you</p>
<p style="text-align: right;">Page 311</p> <p>1 Do you see that?</p> <p>2 (Witness viewing Exhibit 359.)</p> <p>3 A. I do.</p> <p>4 Q. Do you remember, when we were talking</p> <p>5 about the June 11, 2014 meeting minutes and you</p> <p>6 were having some difficulty testifying as to what</p> <p>7 exactly was tabled at that meeting?</p> <p>8 A. I do.</p> <p>9 Q. Does that refresh your recollection as to</p> <p>10 whether or not the vote at that meeting was to</p> <p>11 table consideration of BEH's FBO request?</p> <p>12 A. No.</p> <p>13 Q. Doesn't refresh your recollection, at</p> <p>14 all?</p> <p>15 A. No. This is someone else's opinion, but</p> <p>16 I don't specifically remember the meeting right</p> <p>17 now.</p> <p>18 Q. The opinion that is being expressed by</p> <p>19 the airport manager in his email of</p> <p>20 July 30, 2014, do you believe that that is</p> <p>21 binding on the commission?</p> <p>22 MR. SIMMS: Objection.</p> <p>23 A. No.</p> <p>24 BY MR. FEE:</p>	<p style="text-align: right;">Page 313</p> <p>1 are out. Right? So my question to you is, I am</p> <p>2 focusing --</p> <p>3 A. But it goes from meeting to meeting.</p> <p>4 Q. Let me finish.</p> <p>5 A. Okay.</p> <p>6 Q. I am focusing on the language in this</p> <p>7 document that says, "As you know, your FBO has</p> <p>8 been tabled."</p> <p>9 And my question to you is, does that</p> <p>10 refresh your recollection, at all, as to whether</p> <p>11 or not that was the result of the June 11, 2014</p> <p>12 vote?</p> <p>13 A. No.</p> <p>14 Q. Do you believe that -- as you read this</p> <p>15 now, does that change your testimony, at all, as</p> <p>16 to what was tabled on June 11th?</p> <p>17 A. No.</p> <p>18 (Exhibit 360, Norwood Airport Commission</p> <p>19 executive session meeting minutes dated</p> <p>20 3-12-14, marked for identification.)</p> <p>21 BY MR. FEE:</p> <p>22 Q. I couldn't find this one before. We were</p> <p>23 discussing the A, B, C leases and I asked you</p> <p>24 whether or not you knew whether the commission</p>

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<p>1 had voted to extend the A, B, C leases for 2 FlightLevel. 3 I am showing you executive session 4 minutes dated March 12, 2014. Does this document 5 refresh your recollection as to when the NAC 6 voted to extend FlightLevel's A, B, C leases? 7 A. I don't remember it, but I see the date 8 on it. 9 Q. Okay. Well, it says, "On a motion by 10 Mr. Shaughnessy" -- 11 Is that you? 12 A. Yes. 13 Q. -- "seconded by Mr. Odstrchel, the 14 commission voted 3 to 0 to extend the leases on 15 A, B, C." 16 Is that right? 17 A. Lot 5. I don't see any A, B, C here. 18 Q. It is the bottom line. 19 A. BEH, yes. 20 Q. Okay. So any doubt that that vote 21 occurred? 22 A. No. 23 Q. And do you know why that vote was taken 24 in executive session?</p>	<p>1 Mr. Shaughnessy" -- 2 Is that you? 3 A. Yes. 4 Q. -- "commission voted by roll call to 5 approve BEH for an FBO license at Norwood Airport 6 with the following conditions." Then it lists 7 four conditions and, at the end, describes a 8 lease for lots A and B on the West Apron, 9 totalling 23,572 square feet. 10 Do you see that? 11 A. Yes. 12 Q. Is this the so-called third lease offer? 13 A. I believe it is. 14 Q. Do you recall what happened with respect 15 to the so-called third lease offer? 16 A. I believe it is still potentially there 17 and could possibly be finalized. 18 Q. Okay. Do you think it is still open? 19 A. I have no reason to believe it is not 20 negotiable or still a viable option. 21 Q. Okay. 22 (Exhibit 362, Letter dated 7-17-16, marked 23 for identification.) 24 BY MR. FEE:</p>
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<p>1 A. I don't remember. 2 Q. Do you have any training in open meeting 3 law? 4 A. Some. 5 Q. Do you know what, if any, reason was 6 given for addressing this issue in executive, as 7 opposed to open, session? 8 A. I don't remember. 9 Q. Do you recall if any reason was given? 10 A. I don't remember. 11 (Exhibit 361, Norwood Airport Commission 12 meeting minutes dated 6-15-16, marked for 13 identification.) 14 BY MR. FEE: 15 Q. We talked about the first lease offer and 16 the second lease offer. Now, I would like to 17 talk to you about the third lease offer. 18 I am showing you a document that has been 19 marked as Exhibit 361. It appears to be regular 20 business meeting minutes of June 15, 2016. 21 Drawing your attention to the third page. 22 Drawing your attention to the third page. 23 Down the bottom, last paragraph. It 24 says, "On a motion by Mr. Ryan and seconded by</p>	<p>1 Q. 362 is a letter from Mr. Moss, town 2 counsel, to the FAA dated June 17, 2016. Have 3 you ever seen this before? 4 (Witness viewing Exhibit 362.) 5 A. I don't specifically remember it, but I 6 am -- if it was part of our package, I would have 7 received it. 8 Q. But you have no specific recollection of 9 any -- 10 MR. FEE: Strike that. 11 BY MR. FEE: 12 Q. Do you have any specific recollection of 13 any discussion in any Norwood Airport Commission 14 meetings, regarding Mr. Moss's letter to the FAA 15 dated June 17, 2016? 16 A. I don't remember. 17 Q. On the second page, Mr. Moss describes 18 the lease offer that was taken -- or the lease 19 vote -- 20 MR. FEE: Strike that. 21 BY MR. FEE: 22 Q. The vote that was taken to offer a lease 23 to BEH on June 15, 2016. Do you see that on 24 page 2?</p>

<p style="text-align: right;">Page 318</p> <p>1 A. Where is it, Mike?</p> <p>2 Q. On the top.</p> <p>3 A. This, under 1?</p> <p>4 Q. Yes.</p> <p>5 A. Okay.</p> <p>6 Q. Do you see that?</p> <p>7 A. I do. I read the paragraph.</p> <p>8 Q. One of the conditions that he describes</p> <p>9 is that all legal matters be resolved between the</p> <p>10 BEH and the NAC. Do you see that, the last</p> <p>11 condition?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recall any discussions at any NAC</p> <p>14 meetings regarding inclusion of that condition as</p> <p>15 a -- or that requirement as a condition of</p> <p>16 leasing additional space or any space to BEH?</p> <p>17 A. I recall -- what I recall is Counsel</p> <p>18 advising us to take that out.</p> <p>19 MR. FEE: Hold on. I don't want to hear</p> <p>20 anything.</p> <p>21 MR. HARTZELL: I don't think you want to</p> <p>22 say what your counsel advised you.</p> <p>23 MR. FEE: Yes, I don't want to hear</p> <p>24 anything about what your counsel told you.</p>	<p style="text-align: right;">Page 320</p> <p>1 Q. 363 is a letter dated July 8, 2016, from</p> <p>2 Eric Loeffler, who is BEH's attorney, to John</p> <p>3 Davis, who is acting as attorney for the Town.</p> <p>4 And at the bottom of page 1, after</p> <p>5 describing the vote that we have just talked</p> <p>6 about in Exhibit 362 and 361, Mr. Loeffler states</p> <p>7 as follows: "So that BEH is able to fully</p> <p>8 comprehend the NAC's expectations, we are</p> <p>9 requesting clarification of some of these</p> <p>10 conditions. We would request that clarification</p> <p>11 be provided as soon as feasible. We also note</p> <p>12 that none of these conditions appear to have been</p> <p>13 ever imposed upon any other operator at the</p> <p>14 airport. We detailed BEH's specific questions</p> <p>15 below."</p> <p>16 Did I read that correctly?</p> <p>17 A. Yes.</p> <p>18 Q. And he goes on to ask questions about the</p> <p>19 letter of credit, the fueling plan, the ramp</p> <p>20 space, and the insurance requirements.</p> <p>21 Do you see that?</p> <p>22 A. I see headlines that say letter of</p> <p>23 credit, fuel tank, ramp space, insurance</p> <p>24 requirements.</p>
<p style="text-align: right;">Page 319</p> <p>1 THE WITNESS: Okay. Sorry.</p> <p>2 BY MR. FEE:</p> <p>3 Q. Sorry for interrupting you.</p> <p>4 But my question is, other than</p> <p>5 discussions with your counsel, was there any</p> <p>6 discussion at any NAC meeting regarding the</p> <p>7 requirement that all legal matters between the</p> <p>8 parties be resolved?</p> <p>9 A. I just remember that we removed it</p> <p>10 several months after this.</p> <p>11 Q. I understand that. But I am focusing,</p> <p>12 now, on the fact that it was made a condition of</p> <p>13 a lease offer that was voted on June 15, 2016,</p> <p>14 and recounted to the FAA by Mr. Moss on</p> <p>15 June 17th.</p> <p>16 And I am just wondering if you recall any</p> <p>17 discussions as to why that particular</p> <p>18 requirement, that all legal matters between the</p> <p>19 matter parties be resolved, was contained in the</p> <p>20 lease offer.</p> <p>21 A. I don't remember.</p> <p>22 (Exhibit 363, Letter dated 7-8-16, marked</p> <p>23 for identification.)</p> <p>24 BY MR. FEE:</p>	<p style="text-align: right;">Page 321</p> <p>1 Q. Right. So was it your understanding that</p> <p>2 by this letter, BEH's attorneys were asking for</p> <p>3 additional information from the NAC regarding the</p> <p>4 June 12th -- sorry -- June 15th lease offer?</p> <p>5 MR. SIMMS: Can you read that back,</p> <p>6 please.</p> <p>7 (The pending question was then read</p> <p>8 back.)</p> <p>9 BY MR. FEE:</p> <p>10 Q. I was referring to Exhibit 363.</p> <p>11 A. Yes, it says that -- you just read the</p> <p>12 paragraph that they were requesting clarification</p> <p>13 on something.</p> <p>14 Q. Do you know what, if anything, the NAC</p> <p>15 did to respond to this July 8th request for</p> <p>16 clarification?</p> <p>17 A. I don't remember.</p> <p>18 (Exhibit 364, Norwood Airport Commission</p> <p>19 meeting minutes dated 10-19-16, marked for</p> <p>20 identification.)</p> <p>21 BY MR. FEE:</p> <p>22 Q. 364 are the minutes of the meeting that</p> <p>23 occurred on October 19, 2016. I want to draw</p> <p>24 your attention to the third page, bullet at the</p>

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<p>1 top. Third page, bullet at the top, it says, 2 "Letter from Henshaw, July 8, 2016, to 3 John Davis." It appears to be referencing 4 Exhibit 363. 5 It says, "Discussion surrounding the 6 letter from Henshaw dated July 8, 2016. There 7 are two FBOs licensed. One has agreed to provide 8 information requested by the NAC and the other 9 has decided they don't want to provide the 10 information. The letter is disingenuous. 11 Mr. Shaughnessy would like check the Town 12 insurance requirements for FlightLevel and BEH." 13 Did I read that correctly? 14 A. You did. 15 Q. Do you recall the discussion surrounding 16 this matter? 17 A. I am sorry, I don't. 18 Q. The next item says, "On a motion by 19 Mr. Sheehan and seconded by Mr. Odstrechel, the 20 commission voted 5 to 0 to file the letter dated 21 July 8, 2016." 22 What does that mean? 23 A. Just that. It is taken on. We keep it. 24 Q. Keep it. File it in the circular file,</p>	<p>1 Do you see that, the top of the second 2 page? 3 (Witness viewing Exhibit 365.) 4 A. Yes. 5 Q. Do you recall any discussion regarding 6 the decision to strike that provision from the 7 July -- sorry -- from the June 15th lease offer? 8 A. In meetings? 9 Q. Yes. 10 A. I don't. 11 Q. Do you recall any discussion out of 12 meetings? 13 A. Just with Counsel. 14 Q. Okay. I will take that back. 15 MR. FEE: You can mark these as -- off 16 the record. 17 (Exhibit 366, Letter dated 11-10-16, marked 18 for identification.) 19 (Exhibit 367, Letter dated 11-29-16, marked 20 for identification.) 21 (Exhibit 368, Letter dated 12-12-16, marked 22 for identification.) 23 (Exhibit 369, Letter dated 2-1-17, marked 24 for identification.)</p>
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<p>1 or? 2 A. I am sorry. What? 3 Q. What does it mean, to file something? 4 A. It is sometimes when we get 5 correspondence or letters, it is basically 6 telling the manager to keep it. We have accepted 7 it, we now -- it is on the record that we have 8 it. 9 Q. Right. But there is no direction to the 10 manager to respond to it; correct? 11 A. I don't remember if there was. It 12 doesn't say it here. 13 Q. Do you recall who used the term, 14 "disingenuous," to describe Exhibit 363? 15 A. I don't think it was me. I don't 16 remember who. 17 (Exhibit 365, Letter dated 11-1-16, marked 18 for identification.) 19 BY MR. FEE: 20 Q. 365 is a letter dated November 1, 2016 21 from Mr. Maguire to BEH. At the top of page 2, 22 he says that the NAC voted to strike the 23 condition that there be resolution of all legal 24 matters between the NAC and BEH.</p>	<p>1 BY MR. FEE: 2 Q. 366 is a letter dated November 10, 2016, 3 from town counsel, Brandon Moss, to the FAA. Do 4 you know if you have ever seen this before? 5 (Witness viewing Exhibit 366.) 6 A. I don't remember it. 7 Q. Do you know if -- do you believe that 8 town counsel was authorized to make this 9 communication to the FAA on November 10, 2016? 10 A. I believe he was town counsel 11 for -- specifically for the airport commission at 12 this time. 13 Q. Do you believe he was authorized to make 14 this communication that has been marked as 15 Exhibit 366? 16 A. Yes. 17 Q. 367 a letter dated November 29, 2016, 18 from BEH's attorney, Tim McCulloch, to the FAA. 19 Have you ever seen this before? 20 (Witness viewing Exhibit 367.) 21 A. I don't remember it. 22 Q. Was it the practice of the commission to 23 review correspondence between attorneys regarding 24 the FAA part 13 and part 16 complaints?</p>

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1 A. I would read whatever was in my package
2 from -- you know, before the meetings.
3 Q. My question was a little different.
4 Was it the practice of the commission to
5 review the correspondence between lawyers and the
6 FAA regarding BEH's part 13 and part 16
7 complaints?
8 A. I don't remember. I read whatever is in
9 my package that we get before the meetings.
10 Q. So you are not sure --
11 A. Not sure.
12 Q. -- whether you reviewed correspondence
13 between attorneys and the FAA regarding the
14 part 13 and part 16 complaints?
15 A. I certainly reviewed some of them, but I
16 don't know about all of them.
17 Q. And you don't recall, at all, reviewing
18 Exhibit 367; is that fair to say?
19 A. I don't remember it.
20 Q. Okay. Exhibit 368 is a letter dated
21 December 12th to Mr. Maguire from Mr. McCulloch.
22 Have you ever seen this before?
23 (Witness viewing Exhibit 368.)
24 A. I don't specifically remember it.

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1 Q. Do you have any doubt that Mr. Maguire
2 received it?
3 MR. SIMMS: Objection.
4 Go ahead.
5 A. No.
6 BY MR. FEE:
7 Q. 369 is a letter dated February 1, 2017,
8 from town counsel to Mr. McCulloch. Have you
9 ever seen this before?
10 MR. SIMMS: This is 369?
11 BY MR. FEE:
12 Q. February 1st.
13 A. Sorry, Mike?
14 Q. Have you ever seen this letter before?
15 (Witness viewing Exhibit 369.)
16 A. I don't specifically recall.
17 Q. Do you believe that town counsel was
18 authorized to send this communication to
19 Mr. McCulloch?
20 A. Yes, he was -- I believe he was town
21 counsel at the time of the letter.
22 Q. Did the commission ever take a vote to
23 approve or disapprove of BEH's business plan?
24 A. I don't remember.

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1 Q. Did the NAC ever take a vote to approve
2 or disapprove the submission of financial
3 information from BEH, that was given to a third
4 party?
5 A. Yes, I believe he accepted the -- we
6 talked about this.
7 Q. Yes. I am just wondering if there was a
8 vote.
9 A. It was accepted, so I assume. I don't
10 really know, but I know it was accepted. We
11 voted to accept the accounting firm from
12 Colorado. I think we voted.
13 Q. You think you voted, but you are not
14 sure?
15 A. I am not sure, no.
16 MR. FEE: I have no further questions.
17 MR. HARTZELL: Nothing from me.
18 MR. SIMMS: No questions.
19 MR. FEE: Thank you for your time. I
20 appreciate it.
21 (Whereupon, at 12:32 p.m., the deposition
22 was adjourned.)
23
24

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1 ATTACH TO DEPOSITION OF: KEVIN J. SHAUGHNESSY
2 CASE: BOSTON EXECUTIVE HELICOPTERS, LLC vs.
3 FRANCIS T. MAGUIRE, ET AL.
4
5 DATE TAKEN: 05/30/2018
6
7 ERRATA SHEET
8
9
10
11
12
13
14
15 I have read the foregoing transcript of
16 my deposition and except for any corrections or
17 changes noted above, I hereby subscribe to the
18 transcript as an accurate record of the statements
19 made by me.
20 Executed this ____ day of
21 _____, 20__.
22
23
24 KEVIN J. SHAUGHNESSY

1 CERTIFICATE
2 Commonwealth of Massachusetts
3 Suffolk, ss.
4

5 I, Megan M. Castro, Registered
6 Professional Reporter and Notary Public in and for
7 the Commonwealth of Massachusetts, do hereby
8 certify:

9 That KEVIN J. SHAUGHNESSY, the witness
10 whose deposition is hereinbefore set forth, was
11 duly sworn by me and that such deposition is a
12 true record of the testimony given by the said
13 witness.

14 IN WITNESS WHEREOF, I have hereunto set
15 my hand on June 12, 2018.
16
17

18 Megan M. Castro
19 Registered Professional Reporter
20 Certified Shorthand Reporter No. 152614
21

22 My Commission expires:

23 July 31, 2020
24

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