





He said that Clark & Sullivan's proposal did not meet the needs of the System. He understood that the agreement provided for weekly accountings to UNR representatives, adding that UNR said that never occurred, which created difficulties, hard feelings, and suspicion. He took issue with paragraph 5 of the compromise proposal, which stated that the university would release and waive any challenge to those expenses the university had identified as "contractor errors". Regent Hill said that Clark & Sullivan's failure to provide accountings, as required by the settlement agreement, was a cause of real concern to the Board. Mr. Magrath stated that the concept of weekly accountings was governed by the settlement agreement, which stated that the parties agreed to have weekly meetings to include UCCSN representatives and that UCCSN would be provided with all budgets of the Academy improvements, but would not be involved in funding approval and release of funds for Academy improvements. He said that the written agreement did not require weekly accountings, but rather weekly meetings, which did occur. He explained that budgets were created when the project began. \$1.4 million was set aside for firewater treatment. Accountings did not arise until the hiring of subcontractors began. He related that Clark & Sullivan had opened their books for review, adding that Ms. Denise Baclawski met weekly with them. He stated that weekly accountings were not part of the agreement, adding that Clark & Sullivan was not trying to hide anything and the System had their budgets. He reported that cost overruns were first noted in November. He referenced a December 7, 2001 memo from Mark Ghan documenting that cost overruns had been realized with the firewater treatment. Regent Hill said that he respectfully disagreed with Mr. Magrath's interpretation of "budgets" and "accounting".

Regent Alden stated that he understood from legal counsel that at the settlement agreement reached in Elko there were independent engineers representing Clark & Sullivan and UNR. Those engineers reviewed all of the components to repair the Academy and agreed there was sufficient funding left to cover the costs. General Counsel Ray replied that was essentially correct. He clarified there were consulting experts from both sides who developed an outline of what needed to be done. The consulting experts felt it could be done for that amount. Regent Alden stated that both parties signed a legal agreement that the cost of getting the Academy operational would be covered by the \$4.6 million held in trust and would not exceed that. General Counsel Ray stated that the final agreement provided that if the amount held in trust was not sufficient to complete the project, the university would need to fund any further work. Regent Alden agreed that "budgets" and "accounting" were synonymous. He asked how quickly Clark & Sullivan provided an accounting after it was requested. Ms. Baclawski, Executive Director of the Fire Science Academy, replied that she received an accounting of the original project in October 2000. She requested an accounting November 1st and received it January 15th. Regent Alden noted that it took 75 days for Clark & Sullivan to respond to her request. Mr. Magrath felt the information was provided in a timely manner. He observed that the contract stated that the parties identified specific areas of the Academy where improvements were necessary. Estimates of the budgeted costs necessary to complete the project were included with the agreement. He related that 45 days were spent negotiating the terms of the agreement. By that time costs had increased and the scope of the project had changed. A pilot study was conducted to determine whether or not the water cleaning system would work. He related that the project could have stayed within budget if UCCSN had not changed the water cleaning system. He noted that they still did not have a final design. Regent Alden stated that 75 days was not considered timely. He then referred to the Clark & Sullivan Budget Update document, noting that the majority of changes were due to the DAF system. Mr. Magrath agreed, .ted mCCSN



