

February 25, 1988

Adam Mantzaris
Assistant Town Attorney
Town of Wallingford
350 Center St.
Wallingford, CT 06492

Dear Mr. Mantzaris:

This letter is in response to your request for information for the Town Council on the issue of the ground water contamination in Wallingford's Oak Street wells. It has long been my belief, and also the off-the-record opinion of the Department of Environmental Protection officials, that the Meriden landfill is the cause of the contamination of the Oak St. municipal wells. The evidence upon which this conclusion is based is largely circumstantial and would probably be insufficient to bring a successful cause of action against the Town of Meriden.

The Meriden landfill is located on a Meriden-owned parcel in Wallingford. In addition to storing raw garbage, the landfill area has historically served both as a disposal site for municipal sludge and waste oils. This was a common practice among municipalities before we knew of the environmental dangers of this action. Unfortunately, the following three wellfields are located near the landfill: the Evansville wellfield (1600 feet north of the landfill); the now-abandoned Saw Mill well (450 feet south of the landfill; Wallingford's Oak St. wellfield (1500 feet south of the landfill). The unfortunate proximity of the wells to the landfill was the subject of my educational tour for New England legislators in 1981.

In April 1981, Geraghty and Miller Inc. produced the report, Hydrogeological Investigation of Groundwater Contamination at the Oak Street Wellfield Wallingford, Connecticut. The report which I brought to your attention, was designed "to identify the nature, extent, and direction of contamination affecting water quality in production wells #2 and #3".

Monitor wells installed in the wellfield detected low levels of the following volatile organic chemicals:

- 1,1 dichloroethylene
- 1,1 dichloroethane
- t-1,2 dichloroethane
- chloroform
- 1,2 dichloroethane
- 1,1,1 trichloroethane
- 1,1,2 trichloroethylene
- methylene chloride
- bromodichloromethane
- bromodichloromethane
- chlorodibromoethane
- bromoform
- 1,1,2,2 tetrachloroethylene

Production well 3 displayed the highest concentration of 1,1,1 trichloroethane (TCA) at 22.4 ppb. The Quinnipiac River itself had sample concentrations of 8.5 ppb TCA. The total organics in the Saw Mill well were up to 22.7 ppb in a 1979 sample.

The report concluded that the entire valley aquifer system may be contaminated with volatile organic compounds. However, the analysis of the testing results did not detect a distinct plume originating from any of the suspected sources. The report concluded that the low levels of organic contamination may have been caused by a combination of many sources. This conclusion was based on the fact that contamination found in the Oak Street well is not consistent with a single source, but probably instead reflects the fact that contamination was arriving from different directions. The report went on to state "[i]t may be possible to locate sources through an expanded drilling and testing program, however there can be no a priori assurance that a definite source (or sources) can be identified and/or that tort liability can be demonstrated".

Subsequent to the report by Geraghty and Miller, Inc., a two-phase report was prepared by Fuss and O'Neil. Phase One determined the hydrogeology of the area and the impact of the contamination on the Quinnipiac River. Again this report concluded that the landfill was likely to have been the source of

contamination. The report cited industrial wastes and waste oils disposed of in and around the Meriden landfill. Groundwater flow to the south is enhanced by the pumping of the Oak St. wells. Phase Two was basically concerned with determining measures that could be taken to mitigate the contamination problem. The report recommended that an interceptor well be sited in the vicinity of the former Saw Mill well area. The contaminated groundwater would then be removed, thus preventing the spread of contamination. The following options were then proposed:

1. Establish a new well which would be treated and used as a source of drinking water (rejected due to high cost and adverse public reaction).
2. Treat (by air stripping) the water pumped from the interceptor well and then discharge in to Quinnipiac River (rejected because of high cost).
3. Discharge the untreated water from the interceptor well directly into the Quinnipiac.

The study also recommended a continuing groundwater monitoring program to determine the effectiveness of the interceptor well. There has been additional water monitoring data that has been taken over the years. DEP has this data, I also have the results from 1986 and 1987. Interestingly some high levels of contamination were found in 1986 but not in 1987.

From these two reports it appears that even though the landfill is the most likely source of the contamination, there is not enough data upon which the town could make a conclusive causative link between the groundwater contamination and the landfill. An additional investigative study would most likely have to be performed before there would be enough evidence upon which a legal action could be based.

Finally, I would like to briefly discuss some of the possible legal action that could be taken by the Town of Wallingford.

Of the several common law tort actions that could be used to recover the costs associated with the town's response action, a nuisance action would have the highest probability of being successful. This is the most commonly invoked common law cause of action for pollution release cases. See Groundwater Pollution I, 35 U. Kan. L. Rev. 75, 184 (1986). Nuisance has traditionally been classified either as a public or a private nuisance. A public nuisance is a substantial and unreasonable interference with a right common to the general public. See Restatement (Second) Torts, § 821(B)(1). The contamination of a public ground water source could be considered a public nuisance. See New York v Shore Realty Corp., 759 F. 2d 1032, (2d Cir. 1985) (allowed a common law cause of action for public against a hazardous waste disposal site). Therefore the Town of Wallingford may be able to have a cause of action under the public nuisance doctrine.

An alternative route of litigation could be through the use of the federal "Superfund" statute. See Comprehensive Environmental Response Conservation and Liability Act (CERCLA), 42 USC § 9601 (1986). Courts have almost unanimously agreed that a private cause of action against a responsible party is allowed under Section 9607(a)(4)(B) of CERCLA. See Cross, The Dimensions of a Private Right of Action Under Superfund, 19 Conn. L. Rev. 193, 207-214 (1987). See N.Y. v Shore Realty, 759 F. 2d 1032 (2d Cir. 1985).

CERCLA is not completely clear on what constitutes recoverable costs. Under 9607 (a)(4)(B), "any other necessary costs or response incurred by any other persons consistent with the NCP" is considered recoverable. Since the term "response cost" is not defined in CERCLA, and "response" is only defined as "remove, removal, remedy and remedial action," some courts have looked to the definition of "removal action" to help define "response costs". See CERCLA § 9601 (23). The courts reasoned that since all response costs are recoverable, any action that is consistent with the definition of removal action should also be recoverable. See, e.g., Wickland Oil Terminals v Asarco, Inc., 792 F. 2d. 886 (9th Cir. 1986). Thus, the following is a brief list of recoverable costs as determined from the allowable removal actions under § 101(23).

1. Actions necessary to monitor, assess and evaluate the release (should include all studies and reports and may also include legal costs).
2. Disposal of removed materials.
3. Other actions necessary to prevent, minimize, or mitigate damage to the public health or welfare (this would probably include the costs incurred in operating the treatment wells).
4. Alternate water supplies could include all the water that had to be purchased to replace the lost pumping capacities.

See U.S. v Northeastern Pharm. and Chem. Co., 579 F. Supp 823 (1984) (allowed attorney's fees, expenses for monitoring and evaluating the release of contamination, and cost incurred in mitigating the damage). However, some courts require that there will be no recovery of costs unless at least some portion of the cleanup has begun. See Cadillac Fairview/California, Inc. v Dow Chemical Co., 21 E.R.C. 1108, 1118 (1984); but see City of New York v Exxon Corp., 633 F. Supp 609 (D.C.S.N.Y. 1986) (allowed recovery of over one million dollars for such expenses as: 1) collection and analysis of groundwater samples; 2) hydrogeology studies; and 3) air quality monitoring; all these expenses were incurred before any cleanup had begun).

The major advantage of a CERCLA action over a common law nuisance action is that the burden of proof for causation is much less in CERCLA claims than in traditional tort claims. The courts have interpreted § 9607(a) of CERCLA as to not require a specific showing of causation. See New York v Shore Realty Corp., 759 F. 2d 1032 (2d Cir 1985).

In closing, I'd like to leave you with one final thought. Since the Wallingford landfill may be a polluter equivalent to the Meriden landfill, this litigation strategy may eventually be used by other towns or private parties against the Town of Wallingford. I hope this information can be of some help to you. If I can be of any further assistance, please feel free to call.

Sincerely,

Mary Mushinsky

Mary Mushinsky
State Representative
85th District

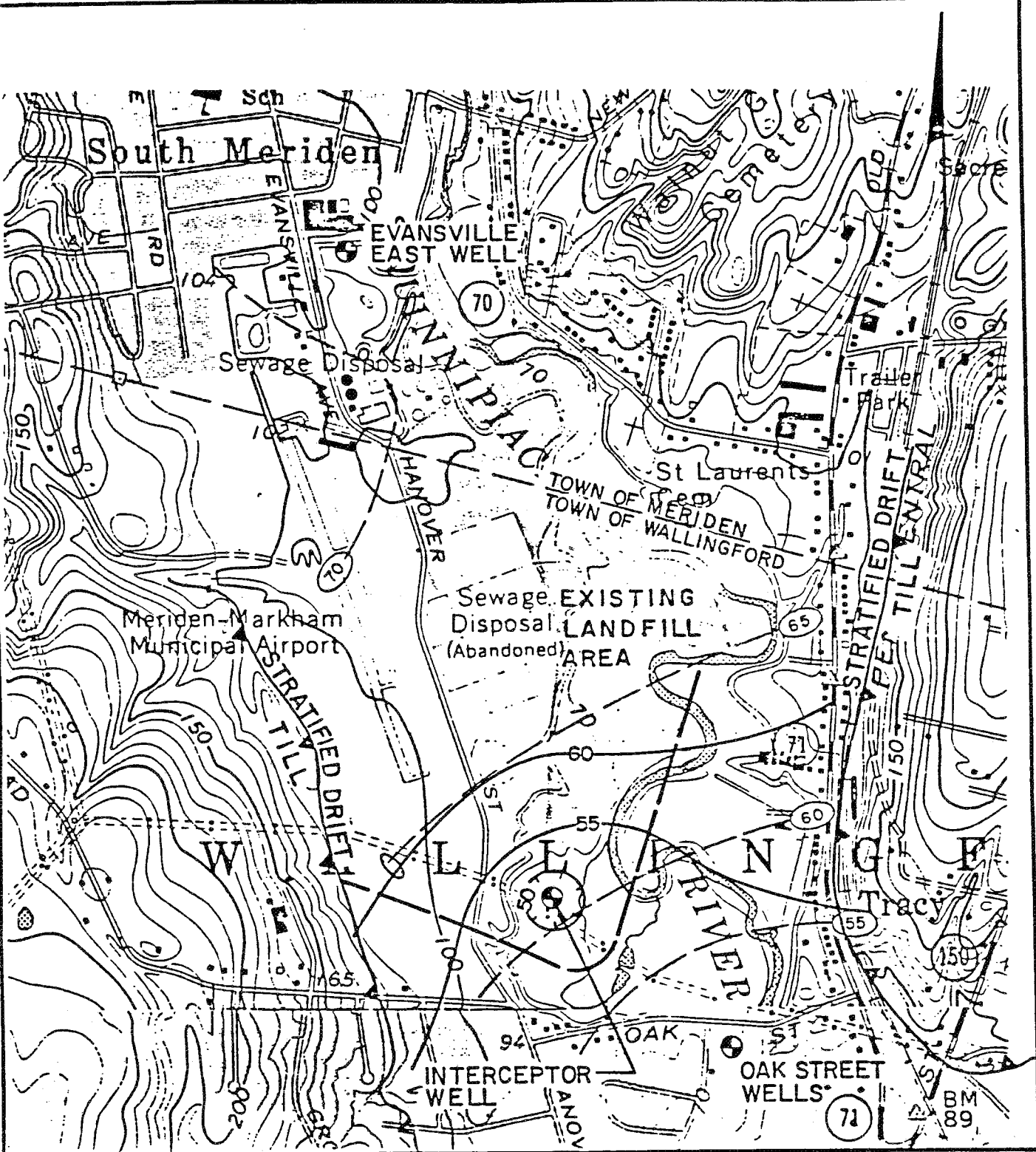
Peter Sexton
Legal Intern

Attachments: Map of area
Cover sheets of reports

cc: Town Council

Geraghty & Miller, Inc. (April, 1981
6800 Jericho Turnpike hydrogeologic
Syosset, New York 11791 investigation)

Fuss & O'Neill, Inc. (April, 1982 and
210 Main Street August, 1983
Manchester, Connecticut hydrogeologic
investigation)



LEGEND

- 60 — GROUNDWATER CONTOUR UNDER PUMPING CONDITIONS
- (60) GROUNDWATER CONTOUR UNDER NON-PUMPING CONDITIONS

FUSS & O'NEILL
MANCHESTER, CONNECTICUT

**PIEZOMETRIC SURFACE
FOR 150 GPM INTERCEPTOR WELL
MERIDEN LANDFILL**

PROJ. NO 80-227 DATE: AUG. 1983 SCALE: 1" = 1000'

PLATE NO. 1

Attorney Mantzaris felt it would indicate that maybe it was drawing off contaminants coming from the landfill and later on, it progressed to Wallingford's well but he did not find enough in any of the available reports to feel he could sustain an injunction procedure to have Meriden clean up its landfill or stop contamination from any damages as is available under the present statutes without more precise information, meaning that Attorney Mantzaris could prove with greater evidence that contamination of our wells was probably being caused, or is one of the causes of contamination of those wells. The hydrogeological study Whitman and Howard refers to is \$125,000 and without that study, Attorney Mantzaris is not sure we have enough yet to go to court.

Attorney Mantzaris found a 1985 case in which a citizen got an injunction against a landfill in Litchfield and money damages and he spoke with the attorney who handled that case and his name is E. Edward Stevens, originally from Wallingford, and he was on the first championship basketball team at Lyman Hall in 1928. Attorney Stevens got \$72,000 for his client and got Litchfield to put in a new water system for his client and he closed down their landfill which DEP is also trying to do and he used our own state statutes.

Mr. Killen referred to paragraph #4 and felt that would be the purpose of determining whether or not something like that was happening, when the well was closed because it was already polluted and Wallingford started getting more and more pollution and it would seem that the pollution was coming from the Meriden Landfill. Attorney Mantzaris said there is good circumstantial evidence that it is probably coming from the landfill. Mr. Killen does not understand why the Water Division does not follow this up. Attorney Mantzaris said there is a plan in process for the Sawmill Well to be operated as an interceptor well, to draw off water and dump it into the Quinnipiac River or some other system, part of Meriden's application for an expansion, as Attorney Mantzaris understands it but DEP has not yet approved that to be put into operation. If that were to happen and the TCE dropped, it would be further circumstantial evidence that the pollution is in fact coming from the landfill.

Mr. Killen referred to Mary Mushinsky's February 25, 1988 letter (pages 25, 26, 27 and 28 of minutes) which refers that there were three alternatives and two were apparently rejected but there is no remark about #3 Discharge the untreated water from the interceptor well directly into the Quinnipiac. Attorney Mantzaris said nothing has happened to that application yet; DEP still has it. The well is not running but the plan is to make the Sawmill Well an interceptor well to draw off contaminants.

Mayor Dickinson said the town has inquired of the state over a year ago regarding the Sawmill Well and why they are not permitting it as part of the whole application--it goes around and around in circles. At this point, it is a pending application.

Mr. Killen interjected that it was 11:00 p.m. and he asked the Council's pleasure and Mr. Parisi moved to waive Rule IV to continue the meeting, seconded by Mr. Zandri.

VOTE: Councilman Doherty voted no; all other Council Members voted aye; motion duly carried and the meeting continued.

Mr. Holmes suggested that this item be expedited in consideration of the people who have been waiting for their items to be heard.

Mr. Zandri asked how the Council should proceed from here and Mr. Killen reminded him that the study which could be done by Whitman and Howard will cost \$125,000 and Mr. Zandri asked if he should make a motion to have Ray Smith go out to bid for this. Mr. Killen did not feel that Ray Smith had the money on hand for this.

Mayor Dickinson thought that in order for anything to move regarding the Meriden Landfill, most probably someone is going to have to fund this type of study; if it be CRRRA that spreads it over more people in the Town of Wallingford, it would be the City of Meriden, another party, but when we know at this stage there has to be development of a lot more information because of pending

issues with the state, Mayor Dickinson cannot recommend that we go ahead and fund this on our own right now. Mr. Zandri commented that we are talking about spending in excess of \$2 million on our wells, not knowing the cause of the pollution. Mayor Dickinson added that the purpose is to clear up our water and well treatment will have to occur regardless of whether we can pin the blame on anyone. The Mayor added that we can go into this \$150,000 study and end up still not able to prove sufficiently to a court that we will get damages back; they might order the operator of the landfill, operator of business, to take certain measures, to put in another interceptor well, stop dumping, whatever but that doesn't necessarily mean the Town of Wallingford will ever get money to cover our costs for the treatment of the wells. The remedies do not necessarily guarantee recovery of monetary damages. Mr. Zandri referred to ongoing costs to operate the filtering plants on a yearly basis that could possibly be recouped if it can be proved where the contaminants are coming from. Mayor Dickinson stated that just in mitigating or in defending against a claim that they should bear the cost for ongoing operation, we will have to treat the wells for the manganese regardless and manganese is a naturally occurring element and right there, you are out whatever costs are associated with manganese--it's not a black and white or $1 + 1 = 2$ kind of thing and it's a very long, drawn out process and the Mayor can't see that we have enough information that shows enough recovery at this point for us to undertake this kind of expenditure when it's very likely the study will have to be done--why immediately jump into to it and just have the Town of Wallingford fund it? Mr. Zandri asked who would do this study and Mayor Dickinson felt that very likely, in this continuing pursuit of the use of the Meriden Landfill, any applicant is going to have to develop sufficient information to illustrate that the landfill or its continued operation is causing problems for the water supply. We have a Whitman and Howard report that suggests that we need that information and we also have a report that indicates that we need operational time on the Sawmill Well. The Mayor asked if the Sawmill Well operates and suddenly, there isn't the TCE--this poses an open question as to whether you get recovery of money for our treatment of the water for TCE; at that point there isn't the pollutant; can you then prove that the prior pollutant was as the result of the Meriden Landfill? Mayor Dickinson felt that the Sawmill Well operation is the very first step.

Mayor Dickinson could not say it was in the interest of the town right now to start a war with Meriden over this and this is what we are talking about when we really must work together on this issue as well as others.

Mr. Bradley has a problem with this because DEP is charged with overseeing the landfills to protect ground water and they have publicly admitted that they are a year behind and haven't looked at landfills and we should put pressure on them to do that. Mr. Bradley felt that if we are going to spend \$2 million there and not protect our investment, then he does not know why we don't take that money and shut down the wells and look at developing an alternate reservoir. If we are going to look at a plan, Mr. Bradley felt it should be down town-wide for additional ground-water resources. Mr. Bradley said God knows what is sitting in that landfill and there may be other organics that can't be treated or handled with the \$2 million spent and we should develop an insurance policy that establishes a starting point on what we have and where the pollutants are coming from. Mayor Dickinson asked how that would tell you whatever else might be in the landfill and might at some time in the future begin to leach out--it won't tell you what might be but hopefully will tell you what is contributing the flows in that aquifer but it won't tell you what new chemicals or pollutants will enter that aquifer. Mr. Bradley agreed but felt that as things do come up, we will have some sort of determination of where those pollutants are coming from. Mayor Dickinson doesn't disagree that an understanding of the aquifers is in our interest but he does not see where it is necessarily something the town has to immediately fund on its own when, most probably, more information will be developed as the result of the operation of the Sawmill Well which has to operate at some point in the near future, and with the very strong likelihood that if there's any pursuit of the issue of the use of the expansion of the area of the Meriden Landfill, that study on the aquifers will have to be accomplished because the town will insist upon it.

Mr. Holmes said we keep throwing stones at the Meriden Landfill but don't forget Wallingford has their own landfill and as sure as we are sitting here, another town will begin throwing stones at us and we may be faced with enormous costs associated with that. Mr. Bradley agreed that is true, and rightfully so.

Mr. Killen explained that Mary Mushinsky called his wife earlier this evening and she was ill and that is the reason she isn't here and she wanted it understood that the figures she has given have to do with the chemicals that were treated and have nothing to do with the manganese whatsoever.

ITEM 12. Discussion and possible action regarding asbestos removal. Mr. Thomas Chicoski, Chairman of Asbestos Removal and Handicapped Access Building Committee, Suzanne Wright, Vice Chairman and Thomas MacQueen, Project Engineer from Applied Thermodynamics Associates, Inc., the consulting engineering firm contracted with for professional services for asbestos inspection and preparation and supervision of plan were present.

Mr. Chicoski said his committee wished to obtain Council approval for the asbestos removal project scheduled for the summer recess period of 1988. This project will also need Council approved funding, as an amendment to Ordinance #344, agenda item #13. Public bids were opened and reviewed by the committee and consulting engineer. Mr. Chicoski explained the scope of the work and the breakdown of the bids and written recommendations from the consulting engineer. The committee agreed with the recommendations for a project cost for 5 schools including the pipe tunnels for a total of \$997,057 and the breakdown was shown on the summary sheet. This project would include 65% of the total work that should be done within the school system; the remaining work would be scheduled for the summer of 1989.

Mr. Chicoski commented that the industrial hygienists would be needed from 6/27/88 to 8/15/88, the period during which the abatement project would be taken, covered in the lump sum fee; air sampling adds into the cost and there is a contingency if the project goes beyond a standard 40 hour work week, there must be additional hours for those man hours for the industrial hygienist to be there. Mr. Parisi asked if there was a cap on the cost and Mr. Chicoski said they figured on the maximum contingency and going over is a remote chance. Mr. Killen asked if a motion was necessary or if the committee was empowered to go ahead and Mr. Chicoski said as long as the Council agreed with the scope and is willing to fund the project. Mr. Killen felt that by setting the public hearing (Item 13), that would be encompassing this report. Mr. Killen asked if there were any questions.

Mr. Zandri asked if this were a contract job. Mr. Chicoski said this went out for two separate public bids, engineering specifications, one consisted of all of the asbestos abatement work and included removal of material and reinsulation, a firm, fixed public bid which included numerous drawings and specification packet which detailed everything that had to be done and how it had to be done. Mr. Chicoski again explained the contingency factor, the only variable. Mr. Parisi did not understand bidding with contingency and Mr. Chicoski said the bid package did not include a contingency and the consultant advised a 2% contingency for the reasons explained. Mr. Parisi felt that the contractor who is bidding the job should know their business. Mr. Chicoski said the industrial hygienist is the representative of the town who monitors the project and this person must be on site all of the time the contractor is doing the work and the contractor may work 2 or 3 shifts a day instead of just 1.

Mr. MacQueen explained that asbestos abatement is very different in that hazardous material is being dealt with which could be beyond the scope when the project was bid; if 30 cubic yards are pulled from a dirt tunnel and the dirt is still contaminated, 40 or more cubic yards may have to be removed to decontaminate to allow that area to be reoccupied and that might be considered a hidden condition under normal contract circumstances but under our contract, that is not a hidden condition by which they can be granted a change order--they are required to decontaminate that soil whatever it takes whereas the extra time it takes, it is almost impossible to say they must pick up the tab for any other industrial hygiene services for that and that is why the contingency is added.

Mr. MacQueen indicated that this isn't a schedule that can be extended beyond 8/15/88 because schools must open. Mr. Parisi believes a lot of this work is done by high school students. Mr. MacQueen said new regulations effective in December require that all personnel have a minimum 32 hour training course at Tufts University, etc. and it is getting more professional.

Mr. Bradley asked about the high range at Highland School. Mr. Chicowski said the range was discussed in depth by the committee and it might be that one contractor didn't look as closely at one school compared to others. Mr. MacQueen said the bidders try to look at all the schools in one day and they may forget the aspects of the project and in providing a number, they would rather up the number and if they miss, it's just a job they lose rather than lose money on it.

Mr. Bradley noted that the project manager is recommending Petco and he asked if Davis was the low bidder. Mr. Chicowski said the base bid price for all firms is for abatement procedure in the school building proper and boiler rooms and does not include the pipe tunnel work at Lyman Hall and Moses Y. Beach; there are alternate bids 1, 2, 3 and 4. #1 is for the removal work at Lyman Hall with reinsulation of only those piping areas that had asbestos material removed and not all of the pipes in the tunnel are currently insulated. #2 is for removal of all of the material and reinsulation of all pipes in there, an energy conservation benefit. #3 is for the removal of all the material in Moses Y. Beach and insulation of only those areas that were previously insulated. #4 is for the additional insulation of those pipe areas that were not insulated. Add both the base bid and alternate bid #2 and #4 and Petco had an option that if they did all of the work, a deduction of 10% could be taken from #2 and #4, a figure of \$936,379. Add the same figure to Davis \$555,210 and \$345,000 and \$59,600, you are roughly \$40,000 higher.

Mr. Zandri asked if the town's representative will follow up to be sure all work is complete. Mr. MacQueen said he will be responsible for all final inspection, abatement, removal and reinsulation work and he has considerable experience in this line of work and takes pride in doing a good job. The industrial hygienist will provide the air sampling and do the analysis to be sure the air quality meets the standards needed to reoccupy the building.

Mr. Musso asked what proof there is that the asbestos has killed anyone. He felt that this is another scheme by the do-gooders!

Mr. Killen asked if these companies understood that they were bidding on the entire project and the lowest bid could not be accepted from each of the schools and Mr. Chicowski said they did. Mr. MacQueen said that taking the lowest bids separately would total \$787,000 but there are certain aspects to be explained. The lowest base bid split between three contractors would mean three separate contracts and the time window is the entire time window and there is nothing we can do to make them shorten it and three schools could be shut down the entire summer whereas now, each school will take approximately two weeks to complete since all personnel must vacate the premises. Also, the industrial hygiene services would have to be on site full time and that lump sum figure could triple, along with samples, etc.

Mr. Killen asked if the work will be completed on time and if there is a penalty. Mr. MacQueen said there will be a 100% performance bond and damages of \$1,000 a day, easily enforceable. Mr. Killen asked what PCM's are and Mr. MacQueen said it is an optical microscope method of reading the amount of fibers in an air sample and this gives a more qualitative view of how the project is going and the contractor has the impetus to clean to a lot higher level. Mr. Killen asked about the price on air sampling and Mr. MacQueen said that is part of the contingency; the lump sum fee includes six samples a day of the PCM; the 100 additional were a contingency that was thrown in on the lump sum that we can easily expect to see in a project of this scope. Mr. Chicowski said air sampling is actually part and parcel with the TEM or PCM. Mr. Chicowski added that air sampling as written up in this tabulation is meant additional PCM samples and if you add \$16,975 as the lump sum fee,

... cost, take 65 estimated TEM samples at \$295 each and 100 additional PCM samples at \$20 each, the air sampling is the charge for PCM air sampling and analysis and that is where the \$36,150 comes from and after adding, Mr. MacQueen agreed the figure should have been \$38,150.

Mr. Solinsky asked if there was a typographical error under Alternate #2 since one company bid \$686,000 and another bid \$70,325 and Mr. MacQueen interprets that as misreading the specifications and the bid was looking strictly for insulation on the uninsulated pipes and Alternates #2 and #4 were also included and that person would probably find it more advantageous to forfeit his bid bond than to take on that work at that price.

No vote was required on this agenda item.

ITEM 13. Mrs. Papale moved to set a public hearing at 7:45 p.m. on March 22, 1988 ON AN ORDINANCE AMENDING ORDINANCE #344 BY INCREASING THE APPROPRIATION THEREIN TO \$1,220,000 AND INCLUDING COSTS OF CONSTRUCTION, seconded by Mr. Bradley.

VOTE: Unanimous ayes; motion duly carried.

Mrs. Papale moved to place item 15 in this position, seconded by Mr. Bradley.

VOTE: Unanimous ayes; motion duly carried.

ITEM 15. Status report on the creation of a Wallingford Historical District. Mrs. Annis stated she was not present to speak on behalf of the Historic District but is here as a citizen and as President of the Wallingford Historical Society. Mr. Killen requested that Jeanne Holmes be present and he understands she is in South America. Mrs. Annis wonders if the lack of response to Mr. Killen's request shows the lack of any kind of action in getting this established since the Town Council originally gave them the go ahead in 1981 and nothing has passed since then. The Historical Society placed this in Mrs. Annis' lap to try to get something moving but due to lack of anything, she wonders if we shouldn't just disband this present commission and start with a new one. Mrs. Annis said the Davis House is being dismantled.

Mayor Dickinson wanted everyone aware that the commission did vote a plan in February but the plan did not coincide with the vote taken and changes were made at that meeting, creating two districts instead of one and the inventory does not reflect the changes and work has to be performed on the work product of the commission and Scott Heyl is now working on it to reduce the information to conform with the vote taken and he believed Choate School was taken out of the district. The inventory must reflect the boundaries of the district and there must be information in there about the powers of the commission since there were none that the Mayor knows of written up and made part of this package and that is necessary to convince people in the district to place their property in the hands of a commission, vital aspects, and certainly it has taken longer than is necessary. Scott Heyl hopefully in the near future will have a final product which should be voted on. The difficulty in setting up another commission would be for them to appraise themselves of all of the ramifications and then look to adopt the work product of this other commission. If the package can be put together fairly quickly, the existing commission could readopt it and go to Planning and Zoning and then to the Council ultimately for funding added Mayor Dickinson. Mrs. Annis asked if a time limit could be instituted. Mr. Killen said it was his intent to call in all the boards and commissions and find out where they stand and which ones we could do away with; there is no sense in carrying a group like this on for five or six years. Mrs. Annis would not want to see it disbanded since their work is very, very vital to Wallingford. Mr. Killen wants a status report or we will get someone who does provide it.

Mrs. Doherty would like to move to set a deadline of June 1. Mr. Killen does not know if this is realistic. Mayor Dickinson would hate to set a deadline without knowing what work has to be accomplished and Mr. Doherty asked that this information be presented at the next meeting to set a deadline. Mr. Parisi asked if anyone from the Historical Society was on the commission now and Mrs. Annis replied no and Mr. Parisi did not feel that this made any sense. Mr. Annis

is concerned about curtailing any type of renovations or new buildings within the proposed historic district until there is a guideline--he asked if the commission was really interested in creating a historic district or is it a ploy. Mr. Killen said that is the reason the Council wanted them present this evening. Mr. Bradley asked who established this commission and Mr. Killen felt it was the Council but he could be wrong. Mr. Bradley said there was no plan and he asked their function. Mayor Dickinson said a plan was voted and they have a map but most of the materials are deficient and not in a form that could be reproduced and mailed out to the property owners, along with all the property descriptions, type of architecture and it includes some properties that aren't in the district. Mr. Annis said that very plan was presented to the Historical Society 3½ years ago and at that time, it was indicated that a move with the state would occur within the next few months. Mr. Annis said a great deal of work was done.

ITEM 14. Mr. Doherty moved acceptance of contract agreement between the Town of Wallingford and Electric Division Clerical Workers, seconded by Mr. Bradley.

Mr. Seadale explained that he gave the Council a copy of the current agreement rather than an updated contract since it was a very simple contract and a summary sheet was also provided.

Mr. Seadale said it is a negotiated agreement, not one that derives out of fact finding. The last two agreements presented were fact finding reports and they resulted in 7 & 7. This calls for a 7 and 6½ and the only other monetary thing is an increase in longevity and there are about 4 people involved, about a \$200 cost the first year and there is a list of the overtime hours being provided to the employees at a more frequent schedule than was done previously and there is some modification in the promotion language but the procedures have not changed but under fairly strict guidelines, it could be grieved, a problem Mr. Seadale would rather not have but it was the only way to settle it. Mr. Seadale explained the longevity payments at about \$50 a head.

Mr. Bradley asked if it were possible to get these agreements a meeting beforehand. Mr. Seadale agreed to send the Council a copy of each agreement and Mr. Bradley would like the ones that are coming up and Mr. Seadale will do his best.

Mr. Musso is pleased to see that the increases are under 10%. Mr. Seadale said negotiations are not done in a vacuum and the next step is mediation and after that is fact finding and Wallingford is in the ballpark and negotiations are best because both parties feel that they got a fair deal.

Mayor Dickinson questioned the promotional language and Mr. Seadale said it would be promotional within this clerical unit and if there was a promotional opportunity and three people in the unit took the test and the most senior person was not picked, that most senior person who wanted the position could grieve it, a real sticky issue with the union and this was a compromise. Mayor Dickinson asked who the department heads are who are involved and Mr. Seadale said the department head is Walt Lee and Mr. Seadale didn't think there was any problem with this language with Walter and even if there were, he would strongly recommend it to be accepted because he did not think the union would accept something which did not address this very serious issue with the union. Mayor Dickinson asked about Ray Smith and Mr. Seadale said this affects him more than it does Ray Smith because he is the one who will have to handle the grievances. Mayor Dickinson felt that this affects his choice of people on a list and Mr. Seadale recommended that the Mayor read it carefully. Mr. Killen asked how this differs from other promotions. Mr. Seadale said that on many contracts, you can grieve promotions; on this contract prior to this promotion was not grievable; under very limited circumstances, it is now grievable. Mayor Dickinson wanted assurance that the department management was aware and Mr. Seadale said they were because this was an issue at the very beginning of negotiations.

Councilman Holmes left the meeting at 12:08 a.m.

Mr. Musso felt that it was about time to buck these unions and let them know that they have pushed far enough. Mr. Killen agreed.

Mrs. Papale moved to consider the addenda items, seconded by Mr. Solinsky.

VOTE: Unanimous ayes; motion duly carried.

ADDENDA:

Mrs. Papale moved a transfer of \$5,384 to Pool Maintenance from:
\$ 770 from Maintenance of Equipment
\$ 36 from Printing
\$ 111 from State Meetings and Expenses
\$ 61 from Community Pool Telephone
\$1,250 from Utilities
\$ 90 from Swim Team Transportation
\$ 46 from I.D. Bracelets
\$ 800 from Flag Football
\$2,200 from Sheehan Pool Personnel, a total of \$5,384 as above, seconded by Mr. Parisi.

Mr. Zandri does not understand the situation and Mr. Shepardson said two transformers at the pool burned out and caused the main breaker in the filter system along with another breaker to burn up and then a motor burned out and another was in bad condition, all occurring from the backlash of the transformer burning up. Mr. Zandri asked if the work had been completed and went out to bid and Mr. Shepardson said it was completed but did not go out to bid because it was piecemeal because the pool was still in process but each piece of the work did not exceed the \$2,000 figure but the total bill came to \$2,884. The transformers burned up again in January and the Electric Division feels there is a short and the Electric Division does not feel they can get involved in this project and they would rather have someone else do it.

Mr. Killen said part of the \$2,884 was billed in January and Mr. Shepardson said the material had come in and was put on the work order and the work was not actually done until February 8. Mr. Parisi asked if anyone authorized this to be done and Mr. Shepardson said he just did it because the pool was in operation and if he had to wait for a total cost, he would have to close the pool down. Mr. Parisi could understand the pressure he may or may not have been under but he cannot honestly understand Mr. Shepardson not consulting anyone. Mr. Shepardson did not know it would come to over \$2,000 and Mr. Parisi felt that that would be all the more reason to check with someone in a municipality and he would personally caution anyone not to do that. Mr. Parisi felt that Mr. Shepardson was fortunate it came out to \$2,884--what if it came out to \$50,000?

Mr. Killen reminded Mr. Shepardson that under the Charter, if it is over \$2,000, unless the Council waives the bid, you must go out to bid.

Mr. Bradley agreed with Geno--we have an Electric Division in town and run a generating plant--does it make sense to get them involved in taking on a task like this? Mr. Shepardson could write and ask them and send their response to the Council.

VOTE: Councilman Zandri voted no; all other Council Members voted aye; motion duly carried.

Mrs. Papale moved a transfer of \$500 from Part-Time Help (Secretary and Planner) to Office Supplies, requested by Donald W. Roe, seconded by Mr. Parisi.

VOTE: Unanimous ayes; motion duly carried.

ITEM 18. Mrs. Papale moved approval of the following merit increases:
Louis Genovese, Building Department effective 3/25/88 - \$326.00
Paul Nadeau, Electric Division, effective 4/6/88 - \$1,968.00
James Kirkland, Water & Sewer, effective 3/1/88 - \$1,786.00
Glenn S. Klocko, Comptroller's Office, effective 2/19/88 - \$686.00
April Cervero, Comptroller's Office, effective 3/2/88 - \$342.00
seconded by Mr. Parisi.

Mr. Solinsky noted that the Comptroller's signature was missing from Mr. Klocko's form and Mr. Myers signed it at the meeting.

VOTE: Unanimous ayes; motion duly carried.

ITEM 19. Mrs. Papale moved a transfer of \$460 from Computerized Indexing to Copier Rental, Town Clerk's Office, seconded by Mr. Parisi.

Mr. Bradley asked if some \$12,000 was moved at the last meeting into computer indexing. Miss Wall said that was moved into computer indexing and microfilming since she was very, very low on funds when she started. Based on the number of deeds done in the past two years, she did not know what to expect and Mr. Myers was able to come up with a funding reserve grant to apply to these accounts. Since then, since the number of deeds have decreased since January and February of 1987, Miss Wall can use some of those accounts to service the copier rental account. Mr. Bradley said we are dealing with two line items, one office supplies and one copier rental, and Mr. Bradley asked if copier paper would come out of supplies rather than copier rental and Miss Wall said it never has in the Town Clerk's Office. Mr. Myers said each office is a little different; some are purchased out of the copier rental account and some from the office supply account.

VOTE: Unanimous ayes; motion duly carried.

Mrs. Papale moved to waive Rule V to consider a transfer of \$4,214 for the Comptroller's Office, seconded by Mr. Parisi.

VOTE: Unanimous ayes; motion duly carried.

Mrs. Papale moved a transfer of \$4,214 from Contingency Reserve for Emergency to Professional Service, Comptroller's Office, seconded by Mr. Parisi.

Mr. Myers apologized for the request and explained the nature of the transfer and, as he mentioned in his letter, if either of these employees come back and the funds are unexpended, he will transfer them back into Contingency because he does not want the money for any other purpose other than to have people process vendor payments.

VOTE: Mr. Killen voted no; all other Council Members voted aye; motion duly carried.

ITEM 20. Mrs. Papale moved an amendment to the Town Council Rules of Meeting Procedure to allow for the adoption of "Consent Calendars" at all meetings for a trial period of one year, seconded by Mr. Adams.

Mr. Doherty felt that this has been discussed and tonight is an excellent example at 12:35 a.m. and some items would move quicker with a Consent Calendar and he would like to try it just for one year. Mr. Killen commented that more time was spent on items which did not require a vote than the items which required a vote. Mr. Killen felt it can be corrected at the table and he can shut off debate but he is reluctant to do so.

Mrs. Papale asked what from this evening's agenda could be placed on a Consent Calendar and Mr. Doherty indicated item 18, 19, 5 and Mrs. Papale felt these items only take 5 or 10 minutes. Mr. Doherty said it may not work out but it is worth trying. Mrs. Papale asked if someone wanted to speak on an item, could they? Mr. Doherty replied they could and Mr. Zandri felt that you could get rid of 6 or 7 items if you have this option.

Mr. Parisi had a suggestion from Steve Holmes who left because he wasn't feeling well. Mr. Holmes suggested starting the meeting an hour earlier and dealing with all the department head transfers and there would still be the opportunity for questions.

Attorney Mantzaris felt that transfers to a certain figure could be placed on a Consent Agenda with no discussion and if the Charter is revised, there would probably be some interest in increasing the \$200 transfer allowed with the Mayor's signature to a higher figure and this could be done experimentally with the Consent Calendar. Mr. Parisi felt the Council has enough trouble keeping track of things and while Mr. Killen is far more generous with the discussion time than Mr. Parisi was as Council Chairman, we do have a responsibility and do, in essence, determine the time to get out of a meeting by questions, etc. Mr. Parisi feels that the concept is excellent but he can't believe questions

go for eliminating public input. Mr. Parisi would like to see some of the items limited. Mr. Killen suggested that Mr. Doherty work out some wording because it is very loosely worded.

VOTE: Unanimous ayes; motion duly carried.

Mrs. Papale moved to omit Rule IV pertaining to 11:00 p.m. adjournment, seconded by Mr. Zandri.

VOTE: Councilman Doherty voted no; Councilman Solinsky passed; all other Council Members voted aye; motion duly carried.

ITEM 21. Mrs. Papale moved to note for the record the financial statements of the Town of Wallingford for the period ended February 29, 1988, seconded by Mr. Adams.

VOTE: Unanimous ayes; motion duly carried.

ITEM 22. Mrs. Papale moved to note for the record the financial report for the Electric, Water & Sewer Divisions for the month ended January 31, 1988, seconded by Mr. Parisi.

VOTE: Unanimous ayes; motion duly carried.

ITEM 23. Mrs. Papale moved acceptance of the Town Council Meeting Minutes of February 23, 1988, seconded by Mr. Parisi. (Amended below)

Mr. Myers presented a correction to the minutes on page 11, second paragraph, last figure should be \$446,297.00 rather than \$46,297.

Mrs. Papale moved acceptance of the Town Council Meeting Minutes of February 23, 1988, as amended, seconded by Mr. Parisi.

VOTE: Unanimous ayes; motion duly carried.

ITEM 24. Mrs. Papale moved to remove from the table the subject of disposition of property of Eastern Land Trust on MacKenzie Avenue, seconded by Mr. Parisi.

Mayor Dickinson said this item was tabled at the last meeting pending a report; the major departments indicated that they had no interest in the property and it becomes a question of what you want to do with it. Mayor Dickinson suggested that the Council not try to make a decision on it right now. Mr. Bradley asked how we would go about disposing of it and Mayor Dickinson said it would be advertised and bids requested, done through the Purchasing Department. Mr. Musso felt the property should be sold and then taxes could be collected on it. Mr. Zandri asked how long the town would hold a piece of property like this without a purpose for it. It was decided to table the item.

Mrs. Papale moved to table the subject of disposition of property of Eastern Land Trust on MacKenzie Avenue, seconded by Mr. Parisi.

VOTE: Unanimous ayes; motion duly carried.

ITEM 25. Mrs. Papale moved that the meeting go into Executive Session for the purpose of discussion regarding offer to purchase American Legion Property, (Section 1-18A(e)(4)), seconded by Mr. Parisi.

VOTE: Unanimous ayes; motion duly carried and the meeting moved into Executive Session at 12:53 a.m.

Mrs. Papale moved that the meeting come out of Executive Session, seconded by Mr. Bradley.

VOTE: Unanimous ayes; motion duly carried and the meeting moved out of Executive Session at 1:15 a.m.

A motion to adjourn was duly made, seconded and carried and the meeting adjourned at 1:16 a.m.

Meeting recorded by:
Susan M. Baron, Council Secretary

Meeting transcribed by:
Susan M. Baron and Delores B. Fetta

Approved: Albert E. Killen
Albert E. Killen, Chairman

March 22, 1988
Date

Kathryn J. Wall
Kathryn J. Wall, Town Clerk

March 22, 1988
Date