

SPECIAL TOWN COUNCIL MEETING

Wednesday, September 27, 1989

7 P.M.

Discussion of the Municipal Solid Waste Delivery and Disposal Contract between the Town and CRRA and Possible Council Recommendations Regarding Changes to Said Contract.

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SEPTEMBER 27, 1989

7:00 p.m.

(TAPE RECORDER MALFUNCTIONED FIRST 5 MINUTES OF THE MEETING)

A special meeting of the Wallingford Town Council was held in Council Chambers and called to order at 7:10 p.m. by Chairman Albert Killen. Answering present to the roll called by Town Clerk Kathryn J. Wall were Council Members Bradley, Doherty, Holmes, Papale, Solinsky, Zandri and Killen. Also present were Adam Mantzaris, Town Attorney and Tom Myers, Comptroller. Council Member Adams was absent.

The Pledge of Allegiance was given to the flag.

Motion was made by Mrs. Papale to Discuss the Municipal Solid Waste Delivery and Disposal Contract between the Town and CRRA and Possible Council Recommendations Regarding Changes to Said Contract. Seconded by Mr. Solinsky.

Mr. Doherty asked a question regarding the letters of credit.

Bob Wright replied there are two letters of credit which total \$9 million which are coming due in 1992. The larger letter of credit underwriting is \$41 million and is set to expire in 1996. At that time we will go and get another letter of credit. The reason it's doubtful the Industrial Bank of Japan (IBJ) would renew is that, the way the deal is presently structured, they take an unusual, and in our experience, an unprecedented risk. That risk is that if the plant should be closed because of a federal change of law, the EPA says Wallingford has to shut it's doors. Then IBJ is in the position of having to pay off all those bonds. No other project in Connecticut has that favorable a letter of credit underwriting it's bonds. To my knowledge I don't know of any other project in the country that does. So for the first 7 years of this project your risk is being underwritten very substantially and unusually by a AAA letter of credit.

Mr. Doherty asked is there any bond risk involved in this to the Town?

Mr. Wright replied these are not Town revenue or general obligation bonds. They were a CRRA issuance. The affect they would have on the Town though is I believe a disclosure of the obligation to pay tip fees to this project which is something that is required to be reported by both Moody's and Standard & Poors. It is not, however, reported as a bond obligation.

Mr. Doherty stated you're quoted in the Hartford Courant last week as saying the contract is \$1.4 million more per year than the Vicon deal. Could you explain that \$1.4 million?

Mr. Wright replied Vicon didn't have any money so they didn't have any money to lose. They bid the project overly aggressively and they went under. Subsequently, we went out to a national search for replacement operators. We received a wide range of bids from people who were actually in the business. We

had a group of bids that were around \$3.6 million and we had one that was \$400,000 lower than that. Despite a lack of significant experience operating plants, we pursued the cheaper option for about a month and a half until it became very apparent that the savings were actually a lose. There were all kinds of take backs. Once we got a sense we weren't being played entirely fair with, we moved to take the bidder that we perceived to be the industry leader. That bidder was Ogden Martin who had a very successful experience operating the Bristol plant. I recommend that sometime you take a tour of that plant. Ogden really does an outstanding job of operating it. We consider ourselves very lucky to finalize a contract with them.

Mr. Doherty asked where would the \$1.4 million come from?

(Mr. Parisi arrived at 7:20 p.m.)

Mr. Wright replied that will come from the tip fees. That's the main reason the tip fees rose and rose significantly. It's to cover a real bid as opposed to a bid from a company that went bankrupt.

Mr. Doherty asked what seems to be the reaction of the other towns?

Mr. Wright replied we have met with Hamden and Cheshire. My impression is if we don't get unanimous approval in Cheshire, it will be very close to unanimous.

Phil Hamel replied Hamden had a meeting of the Committee of the Whole and they recommended unanimously for Council action to approve the contract.

Mr. Doherty asked did they suggest any changes?

Mr. Wright replied none. But before we came to the Councils we had the Town Attorneys review the contracts and there were a number of changes as a result of that.

Mr. Doherty asked did our Town Attorney have a chance to review this?

Adam Mantzaris replied yes and one change that comes to my mind that I recommended was that CRRA take over enforcement of the routes to the plant and levy a fine if they were violated. There were a couple of proposals I made but I can't think of the second one right now.

Mr. Doherty asked has anyone looked into the constitutionality of the routes as to whether we can legally force trucks to take specific roads.

Attorney Mantzaris replied it's being done through the contracts with each Town. Each Town contract with CRRA has the provision that requires the haulers to abide by the routes set forth in the other Towns. We think it's enforceable by way of contract.

Mr. Doherty asked has there been any experience so far with CRRA in terms of enforcement of these particular routes? Is there any history on this subject since the plant has opened?

Mr. Hamel replied in the initial draft of CRRA regulations regarding the use of the plant, where they establish the fines of \$1,000, \$3,000 and \$5,000, there was an attempt to define routes. That was done before the Town Council adopted routes for Wallingford. The language in those regulations, as they are currently written, is not clear enough to be enforceable so that language will be amended. CRRA has a full time enforcement officer at the plant and once the regulations are clarified, the enforcement officer can and will enforce the traffic.

Mr. Doherty asked how are the CRRA regulations changed?

Mr. Wright replied when I say so. Essentially it's not a very difficult process. You'll note in the contract it states we will undertake this sort of enforcement at the direction of the Policy Board. We brought it up at the last Policy Board meeting and the towns at the meeting were unanimous in wanting us to hire an additional employee to essentially solve this problem for Wallingford. It is a burden on the Town and I think the other towns recognize this. The outline of the proposal we're going to make is that we're going to amend the terms and conditions under which the haulers use our plant and we're investigating hiring a second enforcement officer. So we'll have one person at the plant whose job is primarily to sort through the trash and make sure it is coming from just the member towns and we're also looking at hiring someone who will police various routes. He'll go on different routes where we've had trouble in the past and identify trucks that are using the wrong routes. He will then radio in to the facility so that we can fine them when they show up. I think there was some concern expressed at the last meeting that the other towns would never step up to the bar and pay to help you out. The direction we had at the last Policy Board meeting was unanimous. They wanted to go forward and do that. We specifically stated it would probably mean hiring another employee and everyone is going to have to pay for that. They were unanimous in supporting that. They wanted to help Wallingford out in that regard.

Mr. Doherty asked in terms of the Wallingford landfill, who has the enforcement responsibility there, such as outside haulers coming in from New Haven and dumping garbage at the Wallingford landfill?

Mr. Wright replied that's a CRRA responsibility. The enforcement officer we have at the plant now is a former Hartford policeman and he's also bigger than I am. He has been on a stakeout two different evenings because we had reports that trash was being smuggled into the landfill in the wee hours of the morning. I know that sounds a little farfetched, but when you consider the rates being paid in New Haven to dump garbage it makes a lot of sense. If you can pay off a gatekeeper at a landfill, it makes very good economic sense although not ethical or legal. We haven't seen anyone doing illegal dumping yet, but we expect that occasionally we will deploy enforcement people in that manner.

Mr. Doherty asked if he's at the plant most of the time, how can he be checking both places?

Mr. Wright replied he can't. The best we can do, unless you want to hire somebody full time to just sit at the plant, is to have spot checks. If we were to catch our operator letting people in illegally, he would be risking

forfeiting a very substantial contract which is very important to his company. We trust our operator, but we are watching him. We're just not watching him on a 24 hour basis.

Mr. Doherty asked what reason might there be for garbage trucks at our landfill?

Mr. Hamel replied if there is more refuse coming into the plant than the plant can handle, as has been the case over the past couple of months because of downtime on individual units at the plant for final inspection and repair, Wallingford refuse is diverted to the Wallingford landfill. In addition to that, there is a large transfer trailer set up at the trash plant and that trailer is loaded and the waste hauled to Bridgeport.

Mr. Doherty asked is the Wallingford landfill going to be taking bulky waste from these five towns?

Mr. Hamel replied yes. That will take place right after the plant is officially accepted.

Mr. Doherty stated so we're getting the ash going to what used to be our landfill and now we're getting the bulky waste from all five towns once the plant is accepted. Is there anything else that we're going to get? Or have we got it all?

Mr. Hamel replied for some time, as far as I know, except for the waste that's diverted to Bridgeport when necessary, everything will be going to be Wallingford facility or the landfill. CRRRA has been looking at some other arrangements for bulky wastes and recyclables. But at the moment the only landfill that's available for this system is Wallingford's.

Mr. Wright replied the Wallingford landfill doesn't have a substantial remaining life. If you were to take it back and dump there, you'd have several years of capacity and under our operation it will have several years of capacity. At that point we're going to have to find a different landfill. Many of you probably heard about the ash landfill siting legislation that was passed by the General Assembly. That means a larger, regional landfill will be developed and none of the proposed sites are in Wallingford. So at that point, say in 3-5 years, that burden will be transferred from Wallingford to another town. One of the primary sites being viewed was in North Haven. So it is likely that within the first 5 years of the project one of the other project participants is going to have an ash landfill that will be serving not only this facility but perhaps other facilities in the State as well.

Mr. Doherty stated we certainly would go along with the idea of the other towns carrying some of the load too.

Mr. Wright stated I don't think it's our intention to continue, in all cases, bearing bulk waste. A great portion of this waste stream is big stumps or concrete or asphalt and those are materials that can be reused. We are already chipping substantial amounts of wood up in our Waterbury bulky waste landfill and we're recycling it. So it is our intention to start recycling bulk waste to the greatest extent possible and thereby reduce this burden.

Mr. Parisi asked who is operating the landfill right now?

Mr. Wright replied we've hired a group called Landfill Compaction Associates. They are required to enforce whatever we would like them to enforce.

Mr. Parisi asked then why wouldn't they be able to divert the trucks that shouldn't be dumping there?

Mr. Wright replied they're required to. Not only do we require them contractually to do so, but we check on them.

Mr. Parisi stated well not recently, but I've seen trucks as from away as Windsor down there. And that's what creates problems in people's minds. I just have to see one Windsor truck or Glastonbury truck and that's not good.

Mr. Hamel stated we do have a company from the Windsor area, Tobacco Valley Sanitation, and they have a large account in Wallingford and also have a permit in Wallingford. So there are companies that have permits in Wallingford from all over the region.

Mr. Parisi asked could I have a list of the companies? This way if I see someone down there I'll know if they're authorized or not.

Mr. Hamel replied yes.

Mr. Zandri stated in the last paragraph on Page 1-10, at the first meeting we had I expressed a concern about the responsibility for the tonnage. I feel this responsibility belongs with the State and not the towns. I recommend the amount be reduced from 125,000 to 65,000. I also recommend that Wallingford's tonnage requirement of 23,750 tons per year be reduced to 12,000.

Mr. Hamel stated at the last meeting the Council asked that we get some determination of the amount of tonnage of acceptable solid waste. This information comes from CRRRA's billing department. What was reported by haulers to have been generated in Wallingford from September 1988 through August 1989 (a 12 month period) was 66,017 tons. Of that, 16,000 tons were bulky waste (about 25%) and 49,000 was acceptable solid waste.

Mr. Wright stated I can understand the concern and I think it's a legitimate concern. You do have recycling coming in the State, it's mandated, and CRRRA supports it. I think a lot of the towns have the concern that when recycling comes that they may have shortfalls in their commitments that they're going to have to make up. I think that's a bigger concern in other projects than in this one. As Phil just noted, the waste generation in this Town is very considerable. Moreover, the way these contracts are set up is as follows. You have a certain amount of debt similar to a mortgage payment and you have a certain amount of tons of garbage that are guaranteed to come into the building. You take the total amount of the mortgage debt, the estimated amount of revenue you're going to make from electricity and you subtract the amount you're going to make from your total debt, the sum of which is the remaining portion of the debt. That remaining portion is divided by the number of guaranteed tons so if you have \$1 million remaining in debt and you have a guarantee of 25,000, your charge per ton will be \$40. If you drop the guaranteed number of tons down to

10,000, your tip fee rises from \$40 to \$100. The ideal situation is you estimate and guarantee your actual number of tons. This way you don't have a surplus or a deficit. I suppose we could reduce the amount of tonnage that Wallingford has guaranteed, but in order to keep the tipping fees at a reasonable level we would have to bring in someone else who would guarantee that amount. The adverse side effect is you are already producing more garbage than your guarantee and if you bring in somebody else, then somebody's waste will be bypassed and the cost for the overall system costs will go up and your tip fees as well. You're in the fortunate position here of having a relatively low tip fee. The alternative to processing the garbage at the Wallingford plant has been for us to send it to the Bridgeport facility which is more expensive. You have to pay the transportation cost and also the higher tip fee. As a matter of fact, you're lucky the backup is Bridgeport. If you weren't in a CRRA project, the backup would likely be one of the commercial landfills which are located a much greater distance away, one of which is New Milford where the tip fee is \$65 per ton. It would probably cost you another \$20 per ton just to ship your garbage out there. The objective we try to incorporate into the contracts is to guarantee a reasonable number that can support a reasonable tip fee.

Mr. Zandri stated 20 years is a long time to commit this amount of tonnage. Not only are you committing the tonnage, but if the tonnage is not there you're going to commit the dollars to make up for it. So we have a mandate to recycle by State and then the State turns around and says we have to pay for the tonnage if we don't meet the guaranteed tonnage at the facility. That's why I feel the State should take the burden of responsibility on the tonnage to make this particular project work.

Mr. Bradley stated I was handed an article on Township, New Jersey that has an incinerator like us. I think they came on line 1 year prior to us and one of the concerns that did happen is they have a \$1.5 million deficit due to the recycling program down there. I don't know if this was based on miscalculations on their part or not, but it is a real life situation and can happen here.

Mr. Wright stated again I think these are very legitimate concerns. The situation you're facing here is you have an excess of waste rather than too little waste. Last year you produced 49,000 tons of waste and your commitment is 24,000 tons. You'd have to recycle more than 50% and I don't know of any town in the country, even ones that have been recycling for 20 years, that have hit that mark. If the Town doesn't meet it's minimum commitment and some other town in the system is above it's commitment, that's credited and you won't get hit with a penalty. If you should have a 10,000 ton shortfall among the towns, CRRA has an obligation to attempt to bring in other waste to make up that shortfall. There's a lot of towns in this State that don't have solutions. Whether this is going to be the situation over the next 20 years, I don't know. But if you want to take a look right now on whether this appears to be reasonable, I think it looks very reasonable.

Mrs. Papale stated a few Council people had a chance to go up to Rhode Island yesterday and we went through their recycling plant. I was really amazed at what was coming in on the trucks. There's tons and tons of materials that are there to be recycled and the plant hasn't been there that long. The risk is not only to Wallingford but to the other 4 towns also. These 4 towns will be doing recycling also and I'm a little leery of all of us meeting the tonnage further on down the line. Twenty years is a long time to ask for this.

Mr. Wright stated it's a very good facility and the goal for that facility is to get 25%. If you're producing 49,000 tons and your commitment is 24,000 and you recycled a full 25%, you'd still be sending 36,000 tons to the facility which is substantially over your commitment. Even if you make the assumption that over the 20 year life you're going to be recycling 75%, it's CRRRA obligation to attempt to get waste from other towns, and not just the towns in the project. There are towns that don't have a long term solution. If all the towns combined are only delivering 100,000 rather than 125,000, the tip fees will go up. That would be the most logical solution.

Mr. Killen asked what will the affect be on the contract if the other towns try to reduce their tonnage commitments?

Mr. Wright replied the tip fee will go up.

Mr. Zandri asked why would the tipping fee go up? The cost per ton should be based on the amount that can be run through there, not on the amount that any one town commits.

Mr. Wright stated we guarantee the debt. We have to pay the debt. If Wallingford is only willing to say we'll bring 10,000 and they're currently scheduled to bring 24,000, we're going to go get a commitment to get 14,000 from somebody else and if we did that we could hold your tip fee solid. That wouldn't be a problem. Unfortunately what you would create then is a situation where you would have significant bypass. We're already getting more tonnage than the plant can regularly process so you're already bypassing some waste to Bridgeport. If you bring in 14,000 more tons, you're going to have 14,000 more tons of bypass. Since it costs us more to bypass the waste than to process it at Wallingford, that too will drive up your overall tip fee. If you reduce the number of tons run through the plant, that will raise your tip fee. And if you bring in more tons than the plant can handle, that also will drive up your tip fee, although less dramatically. We'd like to achieve a situation where you have reasonable, achievable guarantees to bring in an amount of waste and not undercommit you so that we don't end up with a terrible excess.

Mr. Zandri asked if you were to bring another town into the project, would this have to be approved by the Policy Board?

Mr. Hamel replied I would have to research it, but my recollection is that if there is not an adequate commitment, because of the requirement to service the debt, CRRRA would be obligated to go out and get the rest of it. I don't believe it would require Police Board approval.

Mr. Parisi asked so if we go over it costs us more and if we go above it costs us more?

Mr. Hamel replied there is a range. After we hit 125,000 and up to about 135,000 tons per year, the costs would drop marginally today. Over the years they would drop more because there would be a better economic return on the excess waste in terms of the energy payments. Once you go above 140,000 and you have to ship waste out to Bridgeport, that costs substantially more than processing it here.



Mr. Parisi stated I'm more concerned about going above because that's where the real costs will be.

Mr. Hamel stated the question is how much of the excess can be handled with recycling.

Mr. Parisi stated that's where I consider this very unfair and shortsighted. It's extremely difficult for anyone to project 20 years.

Mr. Wright stated it's difficult to project in any municipal decision. You're fortunate, and I know there are others who would argue it, that this plant is expandable. If you were in a situation where you're consistently running over and it became an economic burden that you wanted to get rid of, you can expand the size of this plant. In fact you can do so today.

Mr. Parisi stated I don't think anyone should have to commit for 20 years. There should be a review provision somewhere along the way. I can't in good conscience commit the Town to a 20 year program on anything.

Mr. Wright stated it's just like a capital project. The bonds have to get paid. If you want to amortize the debt over 10 years, you can do that but it will cost you more than a 20 year debt.

Mr. Parisi stated you want us to commit to 20 years on something that's going to cost us money. If it's lower it's not too much of a problem, because you can help us achieve the goals if we have to. But if we're over and you have to by-pass the waste, then we have a problem--not you.

Mr. Wright stated the plant was designed to accommodate the waste the towns, not CRRA, Vicon or IJB, projected they would have. The natural concern of the towns was they didn't want to overcommit. I think a lot of the towns were very conservative in their projections. Additionally, you've had growth in these towns. There was foresight in the contract both upside and downside. If these towns produce too much, the plant is expandable. If the towns produce too little, CRRA is obliged to try to find other towns to help out. So there are fail-safes on both ends of it.

Mr. Parisi asked how long would it take to expand the facility?

Mr. Wright stated the Council has two concerns, not having enough and having too much. Either possibility could happen. You have to make a call in life. We've tried to provide backups. If you were to expand, it would take a couple of years. CRRA doesn't have it's head in the sand. When we figured out what your tip fee would be this year we figured you'd have to be by-passing some waste. This \$45 per ton includes bypassing some waste to Bridgeport. By 1991 we're all required to recycle. Economically it's a good law for this project because it will reduce some of the burden that you observe today. The wise course is see how recycling works. If it is as effective as we hope it will be, this plant could very well serve these communities nicely as is. If it isn't as successful, maybe we'll consider expanding the plant and serving the towns better that way.

Mr. Killen stated it seems to me that in seeking a guarantee from these people we're seeking from them something we haven't been able to provide for ourselves. Mainly that we're building a new water treatment plant, a new sewer plant and last night we had the first stages of the projection of building a new electric plant. If you total the three plants, it will cost almost as much as this one plant we're talking about here where the cost is being spread over 5 communities. Nobody in the PUC has a magic wand that can project that these things will do what they say they will. They're doing the same thing CRRA is saying. This is the way we see it and this is the way we hope it will work out. If we're going to look for iron-clad guarantees, we might as well just close the book right now because they won't be forthcoming.

Mr. Holmes stated there's some people in the audience who would like to speak.

Mr. Killen replied not right now till we've decided on what we're going to do here. How would you like to handle each of these items. We can go back to page one where certain suggestions were made or we can pick up here. Somewhere along the line we're going to have to bring certain things to a vote otherwise we're wasting our time.

Mr. Parisi asked after we vote to change something, what will be the procedure? Will it be discussed and you'll get back to us?

Mr. Wright replied the 125,000 tons is the basis for this deal, not only in this contract but in our loan agreements, bond agreements and it runs throughout all the contracts. To the extent that we were to vote to reduce this, I'm not sure whether we could make that change. We'll search in good faith to see if we can do it and to search for another town to make up that commitment. But unless you hit recycling like nobody's ever hit it, it looks right now like you're going to be okay. If you do reduce this minimum commitment and we do have to find another town to make it up, even if we're able to do that, tip fees are going up. We're already in a bypass situation and you're going to be requiring us to bring in even more garbage so the tip fees will go up.

Mr. Parisi asked how long has the plant been operating?

Mr. Wright replied it began operating in December and that was the startup period or tinkering period. We actually hit full load operation very consistently March 1. We've had a good six months of steady flow operations.

Mr. Parisi asked how much trash has been handled from Wallingford for the six month period?

Mr. Hamel replied for that six month period we had 11,817 tons at the plant and 13,848 tons at the landfill. The landfill tonnage was what couldn't be handled at the plant.

Mr. Wright stated the short answer is that in the first six months you met your annual commitment of 23,750.

Mr. Holmes asked how long has the tip fee been in the \$40 range?

Mr. Wright replied from March 1 to June 30 it was \$41 and from July 1 to this point and through this fiscal year it will be at \$45.

Mr. Holmes asked at this time there is an absence of host community benefits, correct?

Mr. Wright replied it's not an absence, it's less than the Town of Wallingford wants and we've supported an increase.

Mr. Holmes stated since July 1 at \$45 per ton Wallingford is not realizing what we want to see as far as benefits. At \$800,000 per year you're looking at \$67,000 per month. Since July 1 to the effect of this contract and the host community benefits, there seems to me to be an excess of funds generated at this plant because Wallingford is not receiving benefits.

Mr. Wright stated there's been an allocation of the current existing contract benefits which has been more than offset by the free dumping which hasn't been paid for. The short answer is yes.

Mr. Holmes asked who has that profit?

Mr. Wright replied the profit has gone to paying Fluor to operate the facility. We were charging you a normal tip fee and Fluor is much more expensive than our eventual operator Ogden. The figure you cited was \$67,000 per month and Fluor charges approximately \$150,000 more per month than Ogden. So we've been running a deficit which we've been financing out of CRRA funds.

Mr. Holmes asked when is everyone hopeful that these contracts will be executed?

Mr. Wright replied our fingers are crossed for October 18.

Mr. Holmes stated so if we make changes, logic suggests you have to go back to the other communities and rework the contracts with them and also rework the contracts with Ogden Martin and your financial backers. What are the chances of any recommendations the Council makes being put into the contract?

Mr. Wright replied it depends on the recommendation. Some are much easier to implement than others. At the last meeting it was suggested that CRRA commit to making good faith efforts to maintain a lower cost for the administrative fee. My counsel has suggested to me that he thinks he can do it and is working on language. That's the sort of change where we can go back to the other towns and I don't think they'll object. So that's the sort of thing that can go through quickly. The suggestion on the floor regarding reducing the tonnage to the facility is much more difficult. It requires not only the approval of the other towns but also the approval of Ogden, IBJ and the bond holders. Rather than getting all of them to say okay we'll go with fewer tons, what we would try to do, and I don't know if we lawfully could, would be to find somebody else to come in with a guarantee and again it will exacerbate your bypass problem. The town of East Lyme is ballyhooed nationwide as a model recycler. They've been doing it for years and the First Selectman says if you think you're going to get above 30% recycling, you're dreaming. I'd like to see all of these towns recycling more, but you could recycle all the way up to 50% and still meet your minimum commitment. If you try to change this minimum commitment and you don't want to approve this contract unless the commitment is changed, again CRRA will try in good faith to accommodate you but there aren't any guarantees.

Mr. Holmes stated my concern is the fact we have more than we can handle and I think we're going to have more than we can handle for quite a long time.

Mr. Wright stated I do too.

Mr. Holmes stated the other concern which was brought up, and will continue to be brought up, is the Federal Change of Law Risk which falls upon the municipalities. I am very doubtful if that's ever going to be changed in this contract.

Mr. Wright replied for the first 7 years the lion's share of that burden falls on IBJ. And yes that is another tough one to change. But it is a better deal than anybody else I know of.

Bruce Stone, Ogden, stated we have negotiated 18-19 service agreements for projects that are either under construction or in operation. I am not aware of any project that has this 7 year agreement. The Force Majeure Risk or Change of Law Risk is very typically one that is assumed by a community. It is a risk that, from a corporate perspective, is inappropriate for a corporation to take.

Mr. Holmes stated I don't agree with that. If my company is emitting particles into the air and the federal government says you can't emit those anymore, we don't go to the town and say you have to raise your tax rate so we can cover our emissions. That's what you're asking us to do.

Mr. Stone replied I'm saying I will operate a facility for you that will meet the requirements of existing law. In the future if somethings changes that is outside my control, I am not the appropriate party to be responsible without cap for any risk in the future.

Mr. Holmes stated let's say 10 years from now after IBJ no longer bears the burden, there is a drastic change in the law which will require a \$10 million pollution control device. That \$10 million would be a cost that the municipalities would bear with no responsibility on your part.

Mr. Stone replied presumably it would find it's way into the service fee. What do you mean by no responsibility?

Mr. Holmes stated the cost would just be divided between the towns. So all you people would be doing is making money with no responsibilities.

Mr. Stone stated the exposure for Ogden Martin is the bonds if we fail to operate in the manner we've guaranteed that we will. And in this particular case we're operating a facility that doesn't have the technology that we traditionally use and market around the United States. We are guaranteeing performance of the technology and that we will operate up to specific standards. If we don't, we run a significant risk. We run the risk of paying off bonds and we run the risk of losing whatever equity we have in the transaction. That's significant.

Mr. Holmes asked are you saying the plant is substandard to your specifications?

Mr. Stone replied at this point we're looking for certain fixes and corrections to be made to the plant. What I said is it is not a plant that uses the technology that we market in the United States. We have agreed to step into a situation, and of course as a corporation we're looking to make some profit, but also we think we're doing some public good here in a situation where you had a vendor that couldn't perform in the way he had promised.

Mr. Wright stated the statement was made that when private companies suffer a big change of loss they have to belly up to the bar and take that loss. But I suggest to you that if a company's costs go up substantially and they can't pass that cost along to their product, they go bankrupt. Every time nuclear regulations are changed Northeast Utilities makes the appropriate changes to their plants and the costs are passed on through the electric rates. The only thing really unusual about this contract is that in 1984 when these contracts were first entered into, particularly the Wallingford town officials beat up Vicon so badly that Vicon took a risk that private companies don't take. And when the deal got cut up, IBJ swallowed something they didn't want to. That's the unique facet to this agreement. It's not unique that this risk is taken by communities, that's what's happened to every community across the country. The unique part of this is you have a uniquely good deal for the first 7 years.

Mr. Holmes asked explain how the tip fee is derived?

Mr. Hamel replied basically all system costs are commuted or estimated and then all system revenues are estimated and subtracted from system costs. The amount left is the amount which is not covered. That amount is divided by the total number of tons coming into the system and that's how you get your tip fee.

Mr. Holmes asked has anyone reviewed the cost figures that Ogden Martin has provided of their estimated costs?

Mr. Hamel replied yes.

Mr. Holmes asked are you satisfied with those?

Mr. Hamel replied given that CRRA got about 6 proposals from companies and all except 1 was at about the same level in a competitive proposal situation, and given there was a number of reviews and a great deal of negotiation over the costs that were represented in the \$3.6 million, I'm comfortable that that is a fair number.

Mr. Wright replied CRRA had its consulting engineer go over every aspect of this proposal and sought considerable additional information and we're satisfied.

Mr. Bradley what would be outside of your control under Change of Law?

Mr. Stone replied it could be the imposition of regulatory requirements which are more stringent than those presently in effect. That is the one that typically vendors and municipalities are particularly concerned about. There is the possibility that the DEP may come out with guidelines that are more stringent and require a capital project for the facility that is \$5 million or \$10 million.

Mr. Bradley stated that seems to be your biggest concern and to have that concern you must be basing that on something other than there may be other regulations coming.

Mr. Stone replied you mean is there something specific that I'm worried about. There's no specific requirement that that is geared to protect against. It's a general provision to protect against what could happen in the future that is outside the company's control.

Mr. Doherty asked is there anything happening in Europe in terms of their governments pushing forward new environmental regulations with all the plants over there?

Mr. Stone replied there's nothing specifically that I'm aware of.

Drew Lehman, Ogden, stated it's my understanding that in many cases the technology that's evolving here in the states is at the forefront and I wouldn't feel necessarily that the technology we have is in any way deficient relative to what's ongoing in Europe. Some of the European technologies are different and have a different approach. For example the wet scrubber system. People in the United States don't like a very visible plume coming out of the chimney whereas in Europe they don't mind. But I wouldn't say there's anything in particular in European technology that outshines our technology.

Mr. Doherty asked how about in the other states? Are any states requiring changes now that the federal government might pick up on?

Mr. Lehman replied what's basically done through the Clean Air Act and the PSD permitting process is that when you're issued a permit for your facility that permit has a life span be it 5 years or life of a facility. It's an inherently fair system in that once the government issues you a final operating permit that permit allows you to operate within specified parameters. When that permit is revisited sometimes there are reopeners. Most typically the only time you're going to have that permit changed is when there is an increase in the technology standard where the federal EPA or the state decides that a new technology has come along that simply must be implemented. And that could incur a substantial capital cost. We were issued a construction permit for the Wallingford facility that set forth certain limits. The operating permit was consistent with that to the large extent. There were changes but nothing which affected the design or operation of the air pollution control devices.

(Mayor Dickinson arrived at 7:50 p.m.)

Mr. Doherty asked how long is the operating permit good for?

Mr. Lehman replied we haven't got a final operating permit right now. We're operating under a temporary permit. The Bristol facility was initially issued a one year permit contingent upon a number of different items which are outstanding. Our final permit was issued without an expiration date, but that permit can be called in by the Connecticut DEP. I don't know what the DEP will do in Wallingford.

Mr. Killen asked do you care to go back to the recommendations that were made last meeting or continue exploring at this point?

Mr. Bradley replied I would recommend we go back and do some housecleaning and bring it forward up to this point.

Mrs. Papale stated I agree.

Theodore Platt, North Airline Road, asked would it be possible for a member of the audience to ask a question?

Mr. Killen replied not at this particular time. If we get to the point where we're going to vote on a specific item, then after the Council has addressed it I will open it to the audience. We're trying to get our act together here.

Vincent Avallone, 1 Ashford Court, stated that is inconsistent with what the Council voted on last week. The Council voted the public could have input during the discussions.

Mr. Killen replied I don't believe it was voted on.

Mrs. Papale stated we just decided among ourselves.

Mr. Holmes stated I thought it was just the discretion of the Chairman when he allowed the presentation, but I'm not quite sure.

Mr. Solinsky stated we didn't vote.

Mr. Bradley stated we didn't take a specific vote but we did agree to a consensus that the public would have input as we went along through the contract at the end of each item.

Mr. Avallone asked how was that consensus arrived at? How do you know what that consensus was?

Mr. Killen stated there was no opposition to the fact that the public would be allowed input. What we're trying to do is get to a point where we want public input into it. This Council is going to have to make the decision and if we have to listen to the public all night long on issues that have nothing to do with the votes we're going to take then we're getting nowhere. We will want your input when we make a specific recommendation for a change. If I had my way I'd say fine you can talk all night long, but that won't get this thing accomplished.

Mr. Avallone stated the purpose in having us comment after each section was that it was so confusing and so lengthy that if you wait till every thing is discussed and we're not allowed to talk then everyone would lose the flavor of it.

Mr. Killen stated we have the same problem up here that you have.

Mr. Avallone stated then the Council should only be discussing one issue at a time.

Mr. Killen stated the important issues are going to be the ones whereby this Council votes a particular change. At that point you will be allowed input, but to take this whole contract and allow everyone out there to comment on it anyway they want, we'll be here to hell freezes over.

Mr. Solinsky stated at the last meeting Vinny asked if a few people could ask a few questions. It wasn't my understanding that they would be able to comment throughout the whole discussion on the contract.

Ron Gregory, 59 Hill Avenue, stated I thought the consensus was that the public could have input.

Mr. Killen stated even if it was a consensus, it it not a hard and fast rule. There was a consensus and we tried to accommodate you. What's happening now is what goes wrong when we try to accommodate you.

Ron Gregory replied you haven't attempted to accommodate anyone in the public. What I'm here to say is someone on that Council make a motion to let the people talk and take a vote on it. Let's hear who wants to cut off the people. The people have input and suggestions. You're up to Section 4 and you had so few comments it was unbelievable. There's important things in this contract that the people know because they've studied the contract. If we're willing to raise questions and make suggestions, since you obviously are not prepared to do so, then I think you should listen. We were criticized before--where were we 4 years ago. Well we're here again. I'd like to see a vote as to who wants to shut us off. This is very important. Bert it looks like you want to railroad everything through on this contract.

Mr. Killen stated one thing is very evident here. I thought enough about it to run again this time. If you think it's important enough, then you run again and you sit up here and run the meeting. In the interim I'm running the meeting and trying to get some important things done. Things that may seem important to you may not seem important to me and vice versa. When we get to a vote if I want input from the audience or my Council people tell me you have to have input from the audience, you'll have it.

Mr. Gregory stated you've heard a lot of garbage tonight with nobody up there challenging what they're hearing. It's absolutely pathetic. If there's no motion up there to let the people talk, then it's a sad day for the taxpayers and people of Wallingford. It's another repeat of 4 years ago and all of you can sit there and take responsibility.

Mr. Killen stated for the first time since I've been here I'm losing my temper and I apologize. But we're trying to accomplish something on your behalf and we're asking you to cooperate with us. We have to make the votes and I'm getting told that you people will talk when you want and about what you want.

Motion was made by Mr. Doherty to take up these particular recommendations and we vote on each one of them separately and after we have thoroughly discussed each one of the recommendations that the public be allowed to comment on each before the vote. Seconded by Mrs. Papale.

Mrs. Papale stated that's what Bert had in mind.



Mr. Holmes asked is it necessary to take a vote on each recommendation? I don't think it takes an official vote from the Council to try to incorporate these changes. I think the changes that are brought up should be investigated by CRRRA and it is their responsibility to try to get those changes made.

Mr. Killen stated this Council has to take a stand and let them know what we're comfortable with and what we want changed.

Mr. Holmes stated in my opinion there's only going to be some very minor changes that will be permitted by the major parties.

Mr. Zandri stated that remains to be seen.

Mr. Killen stated I'll defer to the other table. What do you want from us Bob?

Mr. Wright replied we're here to make you comfortable enough with the contract that you can vote in favor of it and we can consummate a deal with Ogden. If the Council decides that it is not comfortable with this contract, you're under no obligation to go forward. If a suggestion is made, it would make sense for the Council to take a vote. If the Council wants us to consider a change, we'll do so and give you our response. If our response is yes, I hope you'll be happy and if our response is no, you'll have a choice.

Mr. Avallone stated I'd like to see an amendment to the motion that after you've gone through this contract that the public has the opportunity to raise it's own issues if they haven't been discussed previously.

Motion amended by Mr. Doherty to read "and at the end of the contract discussion all members of the public will have a chance to raise any issues that we have not raised as a Council." Seconded by Mr. Parisi.

Mr. Solinsky stated I would also suggest that if anyone does have any other issues or recommendations it might be helpful if they would give them to us in written form beforehand. That's another way to bring them to our attention.

VOTE: Unanimous ayes; motion duly carried.

Page 1-5 (e)

Motion was made by Mr. Zandri to delete Page 1-5, Paragraph (e). Seconded by Mr. Bradley.

Mr. Solinsky asked do we have a responsibility to have this in the contract as far as State law is concerned?

Mayor Dickinson replied the State Statutes require every municipality to provide for the disposal of all waste generated within the borders of the municipality. We have to see that there is a means of disposal. There is not a requirement under State law that this be included in the contract, but we have an obligation to provide for the disposal of waste generated within the community.

Mrs. Papale asked is there a legal requirement for this in the contract?

Mr. Hamel replied I don't believe there is a legal requirement. There are two considerations. CRRA must produce enough waste to keep the plant going and pay off the bonds. The second one is CRRA has committed to take all the waste of the towns. That means they have to make provisions for taking that waste. If they're going to make provisions for allowing the Town to get out of the landfill business, then they need to have some assurance that the waste is going to be there and they need reasonable notice if it's going to go away.

Mr. Wright stated in addition to the extent that the Council is concerned about meeting it's minimum commitment, this is one of the means by which you attempt to do that. This helps the towns assure they meet their minimum commitment. You require people to deliver their waste to the facility and you're more apt to meet it.

Mr. Hamel stated there's also a practical side to that. Suppose you don't commit all of your waste. Which haulers do you direct to the facility and which do you not direct to the facility? You run into a whole question of enforcement and a whole question of consistency in terms of your operations.

Mr. Zandri stated if we go into recycling and hire an outside firm to do the recycling for us, and we have a certain amount of the trash going to the recycling plant, we would be violating this provision of the contract.

Mr. Hamel replied there is language in the contract that specifically excludes an obligation to commit any material which is segregated for recycling so there wouldn't be any conflict.

Mr. Zandri stated I don't see how we can commit a person's trash to this project. It belongs to them. And if 5 years down the road there's a cheaper process, who are we to obligate the residents to this particular project if they can dispose of their trash somewhere else at a cheaper price.

Mayor Dickinson stated you can only dispose of waste in a certain manner. A person cannot take the waste they generate and pile it in their backyard. We have an ordinance that prevents that. When a person puts the waste out to be picked up it is no longer their property. At the point they go to dispose of it it become municipal property and we have an obligation under Statute that all waste generated within the borders of the Town has a place of disposal. I suppose you can say that any individual can become our agent and if he can find someplace to deliver it then fine. But you take a real risk because the ultimate responsibility is with the Town.

Mr. Holmes asked what choice did they have before?

Mr. Zandri replied I took 20 tons of newspaper out of this Town and brought it to Fairfield. Would I be subject to arrest or fine for doing that? I also got paid for it.

Mr. Hamel stated under the terms of the contract that's recyclable material.

Mr. Holmes stated my point is before we had the trash plant the residents were obligated to take it to the landfill. Unless they snuck it in the backdoor of the Meriden landfill they had to bring their refuse to the Wallingford landfill. The Meriden landfill was attractive only because the price was so cheap.

Mr. Zandri stated what happens if 5 years from now they've developed something that's cheaper than this process and I decide to bring my trash to the place that was just built in Meriden. You mean we're going to stop the residents from doing that. There's been a lot of changes in disposal of waste in the last two years, I don't know what's going to happen 5 years from now.

Mr. Platt asked if there is a pro-longed breakdown of this plant or an explosion, who assumes the liability? This happened in Akron, Ohio where 3 workers were killed and 7 were injured and the plant required \$29 million worth of repairs and \$5 million in liability payments. It also cost the city \$729,000 to haul the trash away to another site. Do the taxpayers of Wallingford assume this responsibility?

Mr. Hamel replied there is a great deal of insurance carried on this plant such as business interruption, liability, etc. So my expectation would be that first payment would come from an insurance company minus any deductibles. The business interruption insurance would cover extraordinary costs because of an interruption of service at the plant. If all costs were not covered by insurance, there would be some increase to the municipalities. If the circumstances were caused by a fault of Ogden, then Ogden would bear the responsibility for it.

Mr. Stone replied if the breakdown was as a result of our failure to operate the plant properly or in a manner that was consistent with the guarantees including the capacity guarantee, we would be responsible to make the Town whole so that it paid no more than it would have had the plant operated as it was supposed to. That means in terms of making up lost energy revenues and the cost of alternate disposal.

Mr. Wright stated the explosion problem is usually a problem that is associated with a different technology, similar to the one in Hartford. The waste gets chopped up before it gets burned. In Hartford someone thought it was appropriate to dump a 50 gallon propane tank on to this chopper and we had an explosion that had the plant down for a day. We have a very different technology that isn't subject to the same sort of explosive type threat. But the problem or situation you're describing is one that would typically be covered by insurance.

Mr. Killen stated right now we're dealing with Page 1-5 and the public will be allowed to discuss certain specifics as you're bringing up later after we've gone through the contract.

Mr. Platt replied I apologize but I thought this did involve the waste generated in Town and I haven't gotten an answer as to what happens to this waste if there is a prolonged breakdown.

Mr. Wright replied CRRA would have to take your waste.

Mr. Gregory stated I support Mr. Zandri's concept and wonder if deleting the word "all" on Line 3 in Paragraph (e) and substituting the word "enough" would suffice. It would then require the Town to agree to commit "enough" of the acceptable solid waste up to the capacity of the minimum tonnage guarantee. Therefore we would not be obligated to commit all of our garbage but just the tonnage requirement. Would that satisfy your concern?

Mr. Zandri replied yes that would.

Motion was amended by Mr. Zandri to leave Page 1-5, Paragraph (e) in the contract and just change the word "all" on Line 3 to "enough". Seconded by Mr. Bradley.

Mr. Wright stated what you're saying is this Town will only guarantee that we'll give you 24,000 tons. Our obligation is to get rid of what you're guaranteeing. If you're guaranteeing 24,000 tons, we'll guarantee that we'll dispose of 24,000 tons. That's fine and we're willing to do that, but there are real difficult ramifications to that. I wouldn't want to do that if I were you.

Mr. Killen asked suppose we generate more regardless of the fact we're only guaranteeing you 24,000?

Mr. Wright replied you're guaranteeing us now 24,000, but if all that you're committing to the plant is 24,000 tons—that's a different matter. The obligation we have is to get rid of the stuff that you've committed to our plant. If you only commit to the plant 24,000 tons, then you may be putting yourself in the position where you have to find an alternate means of disposal for the remaining 25,000 tons. But we'll consider whatever you want.

Mayor Dickinson stated what Bob Wright is saying is that could change CRRA's position as far as their commitment to handle what is now all of our waste. If it can't go to the plant, it will go somewhere and they will arrange that. But Bob is saying they would reduce that commitment to just what we're guaranteeing them. Then we would have the responsibility of placing it elsewhere. It may not be in this section, but I assume they would look to change the other section.

Mr. Wright stated every year we have to figure out how much it's going to cost us to get rid of all your waste and the waste of the other four towns. So last year these towns produced X number of tons and for this coming year let's figure that we have to dispose of X number of tons. Now how are we going to do it. We estimate the plant can handle 80% of that and 20% will be sent somewhere else. If you're not committing to send us all your waste, we don't know how to make that estimate appropriately.

Mr. Killen asked how do you define "enough"? Enough to do what?

Mr. Wright replied I think what Mr. Gregory meant was enough to make your minimum commitment.

Mr. Killen stated well that will have to be part of the motion then because "enough" will not stand alone.

Mr. Zandri stated but if you read the rest of the paragraph it states minimum tonnage.

Mr. Killen replied but the thought ends with the comma. You could have a direct conflict between the second section of it and the first one.

Mr. Zandri stated I'll withdraw the amendment and stick with the original motion.

Bob Avery, 70 Masonic Avenue, asked what do you define as recyclable materials? Does that mean what the DEP determines to be recyclable materials?

Mr. Hamel replied there is a definition for recyclable materials and in Section 5.06 there is a broad exemption for recyclable materials. It states that any material that is segregated from the waste stream. So any material that someone determines is recyclable is exempt.

Mr. Wright stated that's correct. You can recycle whatever you'd like.

Mr. Platt stated I'm opposed to any flow guarantee because I think in the long run that could kill any hope of recycling. If you don't meet that guarantee, there will be additional costs to the Town. For that reason alone, we shouldn't try to project 7 years from now. You don't know what's going to happen with technology over the next few years. It is a rapidly changing industry. Locking the community into a set number at this time could be disastrous in the long run.

VOTE: Doherty, Holmes, Papale, Parisi, Solinsky and Killen voted no; Bradley and Zandri voted yes; motion did not pass.

Page 1-10, Paragraph (1)

Motion was made by Mr. Zandri to change the tonnage in Paragraph (1) from 125,000 tons to 65,000 tons. Seconded by Mr. Bradley.

Mr. Solinsky asked what is your interest in limiting the other towns' tonnage to the project?

Mr. Zandri replied because it all ties in. You can keep this commitment at 125,000 as long as Wallingford is only obligated to 12,000 tons. But if you reduce ours and leave this as is, you're forcing them into more.

Mr. Solinsky asked if you wanted to change Wallingford's commitment to 12,000 tons I would think you would just subtract that 12,000 from the 125,000.

Mr. Zandri asked how does this paragraph tie us in as a community if that tonnage is left at 125,000 or reduced to 65,000?

Mr. Wright replied I'm not saying we would agree, but you can do several things. The way that could be accomplished would be to reduce the total amount to 113,000 like Mr. Solinsky suggested. Or you could drop everyone's tonnage which was the original suggestion. Or you could leave this at 125,000 and just drop Wallingford's tonnage. If we agreed to this last suggestion, and the other towns agreed, to leave it at 125,000 and just drop Wallingford's, either one of the other towns would up it's minimum commitment or the Authority would go out to get some other town to commit a certain amount of waste. And we discussed the ramifications of those options earlier.

Mr. Solinsky stated I think this paragraph is a statement saying the Authority has obtained commitment. It's not saying that we've committed in this paragraph.

Mr. Wright replied believe me if we haven't obtained those commitments we're going to change it. I hear what you're saying. What we would do is if we're going to leave this number as is we would have to go out and find somebody else. All you're saying is that this particular section just obligates us.

Mr. Solinsky replied yes.

Mr. Wright stated I think you're right. What will happen is if you reduce your specific commitment in another portion of the contract, then the Authority is either going to come back and want this changed or we're going to go out and get somebody else. If we can't get anybody else, that would just be a factor if we couldn't get a town in time. Eventually we could get somebody else. That wouldn't be a problem. Your point is very well taken. This just respects one of our obligations, not one of yours.

Mr. Solinsky stated if Geno is interested in limiting Wallingford's, we should go to Wallingford's number and work on that.

Mr. Myers asked is there any relationship between the 125,000 tonnage guarantee and any existing bond covenant on debt you've already issued?

Mr. Wright replied absolutely.

Mr. Myers stated the 125,000 tonnage guarantee is a covenant and was disclosed possibly in the debt issuance of CRRRA.

Mr. Wright stated it was disclosed. So we can't change it without changing the bond resolution and refinancing the entire project. We would have to get the bond holders affirmation of this change, which would be very difficult and probably couldn't be obtained within the time frame we're talking about, or we would have to go out and find somebody else to step up to that obligation so that we could hold 125,000 fast.

Mr. Zandri stated I'll withdrawn my motion on this.

Mr. Killen called for a 5 minute recess.

Mr. Wright stated at the break Mr. Myers asked me to make something clear and I think he had a good point. Earlier in the discussion we were talking about what happens after the 7th year when IBJ's letter of credit expires. The letter of credit isn't an obligation of the Town. So when that expires it doesn't mean that all of a sudden you have \$38 million more debt that you have to sign up to. The letter of credit provides a credit enhancement so you get a better interest rate on your bonds. It's not an additional obligation to the Town.

Mr. Bradley stated I did send a letter to Attorney Mantzaris and Mr. Myers and I think somewhere along the line, after they have done a thorough review, that input has to come back to this Council for consideration as we go through the contract.

Mr. Myers stated the bond attorney and I would be happy to meet with the Council or inform you in writing of any concerns we might have when we go through the contract. It's just going to take time. I asked the bond attorney to get back to me as soon as possible. I also sent a copy to our investment bankers at CBT.

Mr. Bradley stated whatever time it takes, fine. Does the Town Attorney have any other concerns, risks or liabilities that you see to the Town that you would be bringing to the Council coming off my correspondence?

Attorney Mantzaris replied as far as a complete review of the contract and possible pitfalls and recommendations, I'm not prepared to answer that tonight. I'll put something in writing and respond as per your letter.

Mr. Bradley stated I want everyone to understand that we're looking at a time factor here. As far as I'm concerned, I need this input from these people as part of my decision-making process.

Mr. Killen stated that should complete Section 1. Does the public have anything on Section 1? I know I caught you unaware so if you don't have anything right now, we can come back to it at the end of our discussions.

Page 2-17, Line 3

Motion was made by Mr. Zandri to insert 12,000 in the blank on Line 3. Seconded by Mr. Bradley.

Mr. Solinsky asked what is the figure that is presently in there?

Mr. Hamel replied 23,740 tons.

Mr. Parisi asked what impact would the 12,000 ton figure have on the contract?

Mr. Wright replied it would have a variety of impacts. First you have to understand that nobody wants to guarantee something that they don't have to. If CRRA decides that we're going to let Wallingford reduce their minimum commitment, I expect that other towns will ask to reduce theirs as well. I suspect if we did say yes, we would have to go out and get some other minimum commitments from other towns. Councilman Parisi was interested earlier in having too much waste in the system. This would guarantee an exacerbation of that problem. If you reduced your commitment by 12,000 tons, we would have to get a 12,000 ton commitment from somebody else. If we were lucky enough to take all 12,000 tons down to Bridgeport, and that would be your best option, you would be paying an average of \$20 per ton extra. That's a lot of money for this system to bear.

Mr. Bradley stated based on the 23,750 tons, and again we're looking at a period of over 20 years, I guess the best estimate right now is maybe 20-25% recycling. What can we anticipate 10 or 15 years down the road. Is it realistic to look at 40% or 50%?

Mr. Wright replied if you look at 50%, you currently are producing 49,000 tons and that's just your acceptable solid waste. Your commitment is less than half of that. If you recycle 50% you still make your minimum commitment. If your

population goes up, the ratio will become more dramatic. I don't have a crystal ball and I don't know how many people will be living here in 15 years or how much garbage they'll be producing.

Mr. Avallone stated if we don't have anything to be concerned about in making the minimum tonnage, what's your concern if we reduce it to 12,000 and that makes it more palatable to us?

Mr. Wright replied as Mr. Myers pointed out earlier, the bonds are predicated on having 125,000 tons guaranteed. The bond holders know that there's going to be 125,000 tons coming into this plant that will pay for the debt service. If we don't get the same commitments from these towns that we had before, we're going to have to get a commitment some place else. I'm not saying that can't be done, I'm saying it will cost you more.

Mr. Avallone asked when you guaranteed the bonds did you tell them Wallingford was going to do 23,750? How was that representation made?

Mr. Wright replied we didn't arrive at those figures. Those figures were provided to us by the towns.

Mr. Avallone stated I don't care how they were provided. How was it represented when the bonds were issued? Was it a total or was it broken down?

Mr. Wright stated I'll have Phil look through the actual offering statement and see if it's broken down by town.

Mr. Hamel replied I believe that in the technical exhibit through the offering statement it was broken down by town. There was a breakdown in population and waste production as well as anticipated waste production. I'm looking for it now and if I find it I'll show it to you.

Mr. Avallone stated if it's 125,000 and it doesn't matter what town produces a certain amount of tonnage, and if these other towns want to commit more, then let them commit more to make up the 125,000. This Council should be concerned with Wallingford's requirements. The bond issue where representations were made by CRRA to get these bonds is their problem. We shouldn't be here with a gun to our head saying that because this was done and that was done this is what we have to do right now and if you decide to change something in this contract that limits the liability of Wallingford, then it may throw this whole thing out of whack. The major concern that this Council has is to watch out for the interests of Wallingford. 12,000 tons seems to be a good compromise. Other than the bond issue, CRRA shouldn't be concerned because by their own admission they're telling us we don't have a darn thing to worry about in meeting the 23,750. So fine, reduce it to 12,000 and let them worry about squaring things away with the 125,000 representation made for the bond.

Mr. Wright stated if we tell the other towns that Wallingford want's them to come up with an additional commitment, I can guess their answer won't be favorable. The final option is we find another town and attempt to get the waste there, but it will cost the project a lot of money and everyone's tip fees will go up.



Mr. Platt stated it's against the interests of the people of Wallingford to guarantee either a minimum or maximum amount of trash to this plant in the long run, especially since we're talking about a long period of time. If we did bring in another town and Wallingford was receiving so much per ton, who would get that money?

Mr. Wright stated right now Wallingford is receiving \$1.50 per ton and we're in negotiations to increase that still further. If we added another town, they would also pay \$1.50 per ton to Wallingford.

Mr. Hamel replied but that is only for those tons that can be accepted at the plant. So wherever the plant reaches a maximum that limits the amount of money that Wallingford would get.

Mr. Wright stated if we were forced to divert to Bridgeport obviously that wouldn't apply.

Mr. Doherty asked is there a possibility that a clause might be inserted here that the minimum tonnage and maximum from all the five towns be subject to a review halfway through the contract, especially with the recycling effects that might change things quite a bit. Say at the end of 10 years these two figures, the minimum and maximum, might be up for review by all the towns and CRRA.

Mr. Wright stated if the towns minimum commitments are changed, we're required to go out and find other waste. If you want to say that at the end of 10 years we'll get together and ask the Authority to do so, I think you have the power to already do that. I don't know if it's specifically provided for, but you certainly could do that. If you're saying that if you want to at some time to ask us to go out and find additional tons, I don't think that would be . . .

Mr. Hamel stated so you're saying that 10 years into the contract CRRA and the municipalities sit down, review the minimum commitments on the part of each town and then attempt to take appropriate action whatever the case may be at that time.

Mr. Doherty replied right.

Mr. Wright stated on behalf of CRRA, sure.

Mr. Doherty asked can we have that written into the contract?

Mr. Wright stated we could take a look at this in 10 years and if you want us to go try and find other waste, we'll commit to go and try and find it.

Mr. Doherty stated I'd just like to build in a specific review time, that's what I'm looking for.

Mr. Killen asked are you looking for a review of the entire contract or just the tonnage?

Mr. Doherty replied no I'm looking for a review of these two figures that we seem to be having a lot of problems with tonight.

Mr. Wright stated there are specific provisions in the contract respecting your minimum commitments and I will tell my lawyer not only to look at this but that I would like something like that written in. I don't know off the top of my head if my bond counsel is going to jump off a building when I do that, but it makes sense to me and I'll ask them to investigate that possibly and report back to you.

Mayor Dickinson stated we have a letter from Ron Grosser who is the bond counsel for the CRRRA project. In this letter it states, and it all depends upon which side of this you want to emphasize, "As a point of discussion we noted that absent on long term solid waste disposal service arrangement, a municipality's credit position could potentially be weaker since it would not have fixed it's costs of an essential public service in an area where resources are limited and disposal costs are spiraling." Now you can look at it in the one sense that the Town is obligating to place it's waste in a given manner for a period of time. On the other hand, there's a fair representation that the credit community would see it as a plus that we have planned to deal with it since so many are agonizing over what they will do. Could something happen at some point in the future and there could be something better? Well I suppose that might be. But it may not be and that's the decision we have to make. We don't have a crystal ball, but I don't think you can look at it just one way that entering into a long term contract is a negative. Those that deal with financing view that type of commitment as a positive because it reflects the planning and some ability to approximate costs for a very necessary public service.

Mr. Bradley asked could we have a copy of that for our information?

Mayor Dickinson replied certainly.

VOTE: Doherty, Holmes, Papale, Parisi, Solinsky and Killen voted no; Bradley and Zandri voted yes; motion did not pass.

Motion was made by Mr. Doherty to include in the contract that at the end of a 10 year period a mandatory review of the tonnage requirements in the contract be held between CRRRA and the five towns involved. Seconded by Mr. Bradley.

Mr. Avallone asked what does that mean? What impact could that possibly have? Sit down and review it - thank you. Is that what you intend? What could satisfy what you just said is that everyone sits down and they look at it and review it and that's it.

Mr. Wright stated we'll commit to reviewing it in good faith and if you'd like us to try and reduce your commitment by getting some other town to commit, we will commit in good faith to try and get some other town to take your obligation. That's what I'm intending to ask my lawyer to look at. That sounds reasonable to me.

Mr. Avallone asked in the next 4-5 years do you have any idea how many towns in Connecticut will be involved in a resource recovery facility?

Mr. Wright replied your guess is as good as mine.

not ask for the written consent of the Authority and then include another clause that relates to review to increase the tonnage requirement if you wanted to. But there is in the contract that right to do that subject to the bond authority and everything else.

Mr. Wright stated that section may bear discussion at a later time. I think the Councilman's suggestion was slightly different. It's one matter if Wallingford has another town to take part of their commitment. We would take a look at their bond rating, make sure it's adequate and then we could approve that. The suggestion on the floor is that even if you don't have an alternative community you tell CRRA we want to reduce our commitment by 4,000 so go out and find a substitute community. And we in good faith try and find such a substitute. Mr. Gregory brings up a good point, but it's a slightly different one than I think is on the floor.

Mr. Gregory stated but it is substitution for the municipality and I would think if you're going to make an amendment, it probably should be amended on Page 5-4 rather than on the minimum tonnage requirement.

Mr. Wright stated we would have additional concerns about that suggestion and it may bear discussion later in the contract. If the Council wants to discuss 5-4 at this time we can.

Mr. Killen stated we'll stick with the motion.

VOTE: Unanimous ayes; motion duly carried.

Motion was made by Mr. Solinsky that we adjourn the meeting at 11:00 p.m. Seconded by Mr. Parisi.

VOTE: Zandri voted no; all other ayes; motion duly carried.

Mr. Killen asked does anyone on the Council have anything else on Section 2? How about the audience?

Mr. Gregory stated Section 2 is the guts of this whole contract and nobody made a motion to make any more changes. I can't believe it. CRRA chose Vicon which went bankrupt and it's no fault of Wallingford's that that happened. Wallingford was purchasing a service. They're not insuring a trash plant and they're not buying a trash plant if it's destroyed or there's some federal change of law. The Council should be very cognizant of this factor because that's what they're expecting you to do. Insure it in Section 2 and buy it under other provisions in the contract if certain things happen. My comments relate to the risk provisions and change of law provisions in Section 2 and I'd like to say if these risks are not acceptable to Ogden or IBJ, why in the world would the Town of Wallingford want to assume them. Just because every other town in the State has assumed them doesn't mean that Wallingford has to assume it. I think it's about time the Town started standing up for their taxpayers because that's who's going to foot the bill on this. I believe there is going to be a change of law and I think CRRA, IBJ and Ogden know that. I think they're worried and they want to make sure they don't foot the bill. They sold you a trash plant that was a service. Now through no fault of your own, because

Mr. Avallone asked a majority? My point is if it is a majority this Council should be aware that it might seem very easy now to say well if we don't meet our commitment there's a lot of towns out there now looking for places to get rid of their garbage. Let's be aware that with the facilities being built and on line, I think a large number of cities and towns are going to be committed to projects of their own and be concerned with meeting minimum tonnage requirements.

Mr. Wright stated that's a fair comment. There are a lot of towns trying to get into these projects. There's also a lot of concern by towns that the DEP will not permit enough of these projects to serve all the towns. Whether that will come to pass we don't know. The advantage this project would have over other potential projects, in going out to seek waste from another town and the sort of commitments we've been discussing, is this is an inexpensive plant. It's already less expensive than a couple of other plants. Odgen Martin said at one of our very first meetings that he believed that over the life of this contract this would be the most economic project in the State. Whether his prediction proves true I don't know. I do think you would have a marketing advantage in seeking additional waste, but whether the additional waste would be available is another crystal ball type question.

Mr. Killen stated as I understand it if this particular motion passes, you're going to consult with your attorney but you're going to have the verbiage much more strict than what Dave put here so it isn't going to be as Vinny said "just a review" but there will be alternatives available to us.

Mr. Wright replied it will be my request to my attorney that if we can lawfully do it without violating our bond indentures etc., that we commit to in good faith sitting down and discussing with you and the other towns whether you want to reduce, or for that matter increase, your commitments. If you ask us to decrease your commitment, we will commit in good faith to seek other waste to displace your commitment. For that matter, if it's lawful, we can even go out of state but that's obviously an unfavorable alternative.

Mr. Doherty stated what I'm looking for in this motion is a mandatory sit down on this particular issue. It's obviously causing problems here tonight as we go over this contract. I want language in the contract that forces both parties to sit down on this issue halfway through the contract. Whether that's too long a time to wait and whether it should be every 5 years or every 4 years is a question open to debate. But I want it at least one time where everybody is forced to sit down and face this issue again.

Mr. Zandri stated you can sit down 5 years from now, 10 years from now or 15 years from now, if you leave this contract the way it is you're still committed to the minimum tonnage you just agreed upon.

Mr. Gregory stated on Page 5-4, Section 5-04 it says "With the prior written consent of the Authority and subject to the terms of the bond resolution, the municipality may assign the whole or any part of it's rights and obligations under this agreement to another municipality . . ." So it seems to me that we have the right now, if CRRA agreed, if we wanted to assign part of our minimum tonnage retirement to another municipality. If you wanted to change it so that it was mandatory, you might want to take out the first part of Section 5-04 and

of their own choosing of a person that went bankrupt and because of new financing, they are coming back and making demands on you when they should be apologetic and making concessions to you. You're sitting there accepting this like this is what we have to do. It bothers me.

There's so much in Section 2. First of all was this facility accepted already? On Page 2-2 actual acceptance date is defined to mean the date in which the facility was accepted. Shouldn't that be is?

Mr. Hamel replied this contract becomes effective when the Service Contract is executed between CRRA and Ogden. One of the conditions of the closing and the breaking of escrow is that the plant has passed acceptance. I questioned the same thing when I looked at that and that's what the lawyers who drafted it told me. I generally agree it has not been accepted, but that's what they wanted to put in here.

Mr. Solinsky asked didn't you explain once that after the tests are taken it takes awhile for them to be approved and then the acceptance date is a previous date?

Mr. Hamel replied right. It could well be that the plant has in fact passed acceptance, but the problem is we don't know that for a fact yet.

Mr. Gregory stated so why not say is or was accepted. Since it's so ambiguous why do you say that it's a past tense. That's not a crucial issue, it just seems a little peculiar. CRRA should be concerned about that maybe more than us because anything that's real ambiguous means we can challenge it later. On Page 2-6, Change of Law, they're deleting everything. Later on they're defining Federal Change of Law and State Change of Law and quite frankly I don't like the change at all and that's one of the major risks that the Council is being asked to take. I would delete all the new language for Federal Change of Law and all the new language for State Change of Law and leave the contract the way it was. If you don't do that, you're assuming all the risk that I predict we will be facing an assumption of before 10 years is up in this contract. On Page 2-11 Effective Date means the date of execution and delivery of the Service Contract. From the Town's standpoint, wouldn't it be nice to know when you're going to have a contract effective. Hasn't this dragged on for long enough. The plant's in operation for 6 months, the contract's going to start running after the effective date which means after the acceptance and after they deliver their Service Contract. If you're in a negotiating position, why don't you say look we fooled around with you for 4 years already. We want a contract that we can count on on or before January 1, 1990 or forget it we'll start fresh again. Effective Date means something that's no date certain. You should at least give them a time certain. On Page 2-12 I already told you I would delete all the definition under Federal Change of Law. On Page 2-14, Force Majeure is the section which defines basically what acts of god are, etc. for which the Town will be somewhat responsible later on. It also extends to utilities being cut off to the plant and whatever else. Maybe this is customary, but I don't think the town should be an insurance company for an act of god or utilities being cut off. I think the first contract was terrible and I think this one is even worse.

Mr. Gregory stated on Page 2-15, Section (ii) I would certainly delete the utility clause. And again we did not buy a trash plant we bought a service and someone else should be the insurer. On Page 2-19, Outstanding Indebtedness is defined to be all kinds of things. Maybe Tom Myers when he goes over it with his bond counsel will figure out what it means. But later on we're responsible for certain outstanding indebtedness when certain things happen and they've added a whole half a page here as to what we're now going to be responsible for. On Page 2-21 I think all the section dealing with Recyclable Materials and Recycling Act are too vague. The definition of recyclable materials can change in 20 years and I know that's what they're trying to write in here. But if I were entering into a contract, I would not only make the date certain when it began but I'd like to know the terms we're dealing with. This is a definition that doesn't define anything. It can be changed forever during the life of the contract. On Page 2-23, State Change of Law, I would delete it completely. Again it's a risk. On Page 2-26 I'm not sure exactly what it means, but you people don't seem to have a problem with it. There are a lot of extra system costs added in the definition and nobody's asking questions about it. I don't know what it means. That's the end of Section 2 and I'd just like to say this is the guts. This is where Wallingford is going to get stuck. These are definitions yes, but later on these are the things we're going to assume the responsibility for when certain things happen. Again we're not an insurance company. We bought a service. We're not responsible for a bankruptcy—they are. They chose the person. They should be making concessions to you.

Mr. Platt stated I agree with Mr. Gregory wholeheartedly. I didn't study this contract in depth, but I would suggest the Council sit down with this section and seriously discuss it. I realize you people have put in an awful lot of time on this issue. I mentioned earlier the liabilities Akron, Ohio incurred as a result of a serious accident. In Saugus, Massachusetts it cost them \$11 million for repairs. In Florida it cost \$8 million for repairs. The Bath/Brunswick waste plant is now shut down because of constant repairs, etc. The tipping fees had exceeded \$60 and were approaching \$70 a ton. The community voted to shut it down. My question is at what point would the Council consider shutting the Wallingford plant down or dissolving itself of any operation of it? At what tipping fee would you people consider excessive? Or what about the possibility of stricter environmental regulations? I have it from a fairly reliable source that the EPA in Washington is going to be requiring in the near future, as part of President Bush's air pollution act, more stringent regulations for these waste to energy plants. The waste that is being burned in American incinerators is much more hazardous, toxic and corrosive than the European waste. In Europe they are required to recycle a lot more stringently than we are here. And they have constant monitoring of all emissions from the plant. We don't have that here in the United States. So I ask that you really look at this section and see what the final outcome will be on the taxpayers if there is a problem and what the Town's fiscal responsibility is going to be toward meeting that crisis when it occurs. Based on just some casual reading of literature, I find that breakdowns are a common occurrence and are very costly.

Mr. Lehman replied the State of Connecticut Department of Environmental Conservation requires continuous emission monitoring 24 hours a day, 365 days per year for carbon monoxide, opacity, carbon dioxide, etc. There are a host of items that are monitored year round and a lot of the operating parameters, particularly focusing on the performance of the air pollution control device and

the boiler temperature. I wouldn't want you to think these machines operate without continuous monitors and recording devices so that independent verification can be made by the State. That's part of their oversight function and that's how they monitor compliance with the permits and environmental regulations.

Mr. Platt stated the regulations are not nearly as stringent currently in the United States as they are in Europe regarding discharge of toxic compounds from the emissions of waste to energy plants. They may have constant monitoring now, but they don't nearly address the number of toxic compounds that are going to be released from our plant. I know from a good source. I've been in contact with professors at Yale University and I have a friend who's a policy writer at EPA in Washington.

Mr. Doherty stated in terms of Mr. Gregory's comments, on Page 2-15, Paragraph (ii), are we in any way going to get hit with a double whammy because the plant is in Wallingford and the utilities now are all Wallingford utilities such as the Electric Division, Water Division and Sewer Division. Are we in for a double whammy because we're providing all the utilities to this particular plant? Or is this particular cost failure of our utilities in some way going to be shared by all of the towns?

Mr. Hamel replied first of all I'm not sure this section is appropriate. This section refers to private utilities as opposed to publicly owned utilities. Those are under the State Change of Law definition. But in fact all of the towns would share in the cost. All the contracts are the same and all the towns would share in the cost of a Force Majeure or a Change of Law event if the Town of Wallingford had to.

Mr. Wright stated the short answer is all the towns would share the brunt of that.

Mr. Doherty asked are there any circumstances under this that we could be stuck because of the failure of our utilities to this plant?

Mayor Dickinson replied I'm not familiar with a circumstance and I'm not sure you would find it in the definitions. It would have to be a separate provision. The definition just indicates what a Force Majeure event is. I'm not aware of anything in the contract that would place the responsibility in the Town of Wallingford if our utility in some way caused a problem at the plant. Now if we acted deliberately . . .

Mr. Doherty stated I wasn't thinking deliberately. I was thinking of something out of our control. It's not another thing lumped on top of the host town?

Mr. Hamel replied no it is not.

Mr. Solinsky asked what is a private utility? I thought all utilities were public.

Mr. Hamel replied a private utility would be CL&P or Northeast Utilities as opposed to a company like Wallingford Electric Division which is publicly owned.



Mr. Bradley asked has anyone approached the State to assume any of the risk liability in Change of Law?

Mr. Hamel replied the State does take liability in two circumstances. One is if there is a State Change of Law which makes it so the plant cannot work within the bond cap. If that happens and the plant is shut down, then the State is obligated to pay the debt service. The other is in an Authority default that was not caused by a municipal default. In that case also all the towns are relieved of debt service. So to that extent the State is taking responsibility for it's own actions and for the actions of CRRRA.

Mr. Wright stated the State Change of Law is defined to outline the State's responsibility. That's another very unusual benefit. This State is unique in that.

Mr. Hamel stated when we talk about State Change of Law we're not talking about this specific definition. In another section it's defined as change of State law and it does eliminate public utilities in terms of Wallingford's Water & Sewer Division or Electric Division as being a State responsibility. But the State action where the State changes the law, the State will be responsible for that.

Kathleen Avery, 70 Masonic Avenue, asked has the Mayor sat down with the Council in small meetings to explain different parts of the contract to them? I know he's a lawyer and I don't think anyone on the Council is.

Mayor Dickinson replied no we haven't had the opportunity to sit down and it would probably be almost impossible. It couldn't be everyone because that would make it a meeting and if we tried to do it separately, there aren't enough evenings to sit down with everyone.

Mrs. Avery stated I go back to the beginning of all this and I remember hearing the phrase over and over from the Mayor, Phil Hamel and other people that the Town is getting out of the landfill business because of the liability. I look at this contract and I say why don't those Council people up there realize the incredible liability that we are accepting or being made to accept by these people. I'm so tired of hearing the phrase "in good faith". If there was good faith, CRRRA would explain these liabilities to the Council so that when they do agree or disagree they know exactly what they're getting into. When Phil Hamel first told us the numbers in tons of garbage that our Town generated, a year and a half later it was almost double that. Oops made a mistake. Well this thing should be gone over every year as far as tonnage goes. We moved two sawhorses from a school yard because of perspective liability and yet we're swallowing this hook, line and sinker. This is a big contract and there should be a heck of a lot of questions raised tonight and explained. And if the person who wants you to sign the contract isn't willing to explain in simple layman's terms so every single Councilperson can know exactly what they're getting into, then I wouldn't sign anything with them and I wouldn't sit at a meeting with them either.

#### NEXT MEETING

Mr. Killen stated we'll schedule the next meeting for Tuesday, October 3, at 7:00 p.m.



Motion to adjourn was made by Mr. Doherty, seconded by Mr. Solinsky.

VOTE: Unanimous ayes; motion duly carried.

Meeting adjourned at 11:05 p.m.

Meeting recorded and transcribed by:  
Katrina M. Manley, Council Secretary

Approved:

\_\_\_\_\_  
Albert E. Killen, Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kathryn J. Wall, Town Clerk

\_\_\_\_\_  
Date