

NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION
BROOKLYN-QUEENS AQUIFER FEASIBILITY STUDY

CITIZENS ADVISORY COMMITTEE MEETING: April 8, 2002

MINUTES

The second meeting of the Brooklyn-Queens Aquifer (BQA) Feasibility Study Citizens Advisory Committee (CAC) was held on Monday, April 8, 2002 at York College. (Attendance list attached.) This meeting was scheduled to provide an update on the BQA study and to discuss operational guidelines for the CAC. An update was also provided on the separate issue of the Drought Emergency Plan.

Old Business

Following welcomes and a round of introductions, Helen Neuhaus, Helen Neuhaus & Associates Inc. (HNA), asked for comments or corrections to the Minutes of the February 28th CAC meeting, which were adopted without any changes. Ms. Neuhaus then facilitated a discussion of responses to issues and concerns raised at that meeting. These included the following:

- Roman Kensy, New York City Department of Environmental Protection (DEP), explained that custodial locks (which deter unauthorized opening of hydrants by requiring use of a special wrench) will be installed on new fire hydrants, but cannot be installed on the older “Chapman”-type hydrants.
- In response to Linda Hazel’s question regarding water analysis of wells 48, 48A and 54, Mr. Kensy distributed an information sheet that showed that the levels of nitrate, methyl tert-butyl ether (MTBE) and perchloroethylene (PERC) in wells 48 and 48A fall within acceptable limits. (See attached handout.) Mr. Kensy explained that wells 48 and 48A were full-time wells that were closed due to contamination. He added that they have recently been re-sampled, but will not be turned on, pending analysis of samples. In a follow-up comment, Ms. Hazel noted that the contaminants were only about 2 points below the acceptable level. In a response to a further question from Manuel Caughman, Mr. Kensy indicated that the state level for MTBE is 50 parts per million and that no federal maximum contaminant levels have been established.
- In response to a request for information about DEP’s intra-departmental relationships, Mr. Kensy distributed a narrative description of functions and relationships. (See attached copy.)
- Nicole Brown, Malcolm Pirnie, Inc., (MPI) described the process by which Granulated Activated Carbon (GAC) filtration systems operate. She explained that GAC filtration involves no moving parts. The water goes into a steel vessel that contains GAC. The contaminants (VOCs, pesticides, etc.) adhere to pelletized carbon, while the water flows through the filter bed and comes out clean. Ms. Brown added that, to ensure maximum filtration, water at wells to be re-opened for the drought emergency will be filtered through two beds of carbon, a primary bed and a backup.

In response to a question about GAC, Ms. Brown explained that GAC is the best available technology for removing VOCs in such a short timeframe. She added that although GAC is not currently being used at any New York City facility, the technology is being used in Nassau and Suffolk Counties and is proposed for 12 wells that will be reactivated in connection with the Drought Emergency Plan.

The project team explained that the Station 6 Pilot Plant is currently testing membrane filtration systems, which remove manganese and iron. Bill Yulinsky, DEP, elaborated by saying that membrane filtration would be used in conjunction with an “air stripping” process to remove VOCs. This process uses a tall (approximately 35’) tower packed with “wiffle balls.” Water is pumped to the top of the tower and sprayed downward as air is blown upward from the bottom of the tower at a high rate, thereby creating a fine mist. This process creates a large surface area, which allows the chemicals to be “stripped” out of the water. Air stripping is in place at Station 48 and throughout the United States.

At the end of a brief discussion of filtration systems being used at other locations in the Greater New York area (including Freeport, L.I.), Ms. Brown offered to identify sites that might be suitable for a CAC visit.

- It was explained that the constant digging in the vicinity of a well in Cambria Heights is related to sidewalk installation and is expected to be completed soon.

Project Update - Station 6 Modifications

Don Cohen, MPI, reported that work at Station 6 is continuing. He noted that all treatment equipment (including membrane filters) is in place; the initial aerator is operational; the equipment is being tested; and the building is being prepped for painting.

Mr. Cohen explained that the pilot project will pump about 100 gallons per minute for testing purposes. He emphasized that this water will not go into the drinking water supply but will be discharged into the sewer. In response to a question from Councilman Leroy Comrie, Ms. Brown indicated that all phases of the process are being tested, in order to establish baseline data. She added that seven different, but related, technologies are being examined to determine which combinations are most effective. Ms. Brown also reiterated that PERC and other contaminants will be removed through air stripping.

In response to a question about the soil and plume clean-up at Station 24, Mr. Yulinsky said that he is working on the contract to get drillers on the site, which should happen within the next two months. He added that he could not provide any details on the New York State Department of Environmental Conservation’s (DEC) efforts to clean up the soil. In response to Irving Hicks’ question about the possibility of including DEC on the CAC, Len Myerson, DEC, introduced himself but explained that he is an expert on water issues, not soil clean-up. Ms. Neuhaus followed up by asking if Andrew English or Rich Gardineer of DEC, who are more familiar with the Station 24 clean-up and soil contamination issues, could attend the next meeting. In a related question about the safety of water from Station 6 prior to the clean-up of the contaminated plume, Mr. Cohen answered that DEP cannot and will not pump at Station 6 until the PERC plume in the groundwater at Station 24 is under control. Debora Hunte asked if the two stripping

towers would be capable of dealing with the plume if it reached Station 6 wells. Mr. Cohen responded that although the plan is “to never let it get that far,” any movement of the plume would be tracked, and the air stripping system would be able to handle it.

Mr. Caughman asked about the percentage of Station 6 water that people in the immediate vicinity will receive over the long term. Mr. Kensy replied that a 48” water main at Station 6 will pump about 7 million gallons a day (MGD), which will be blended with upstate water at a 1:3 or 1:4 mix throughout the area.

During a brief discussion of how the Station 6 facility will benefit the community, Kirk Dunbar asked about jobs and job training for local residents. Mr. Dunbar emphasized that the project is in a minority area and that employment is a concern. In response, Mr. Kensy explained that the plant will be built in accordance with procedures for a New York City capital construction project and operated by city workers. He and Mark Lanaghan, DEP, underscored that the agency will work with the community to incorporate specific amenities at the site. After noting that construction of the plant is several years away, Ms. Neuhaus expressed her hope that the CAC will stay involved in the process and play a central role in reviewing possible use of the facility as an environmental research or educational center, training site or other community resource.

Mr. Yulinsky invited CAC members to DEP’s ribbon-cutting ceremony at the site (108th Avenue, between 165th and 166th Streets) on April 24th at 11 a.m.

Operational Guidelines

Ms. Neuhaus facilitated a lengthy discussion of operational guidelines for the CAC. After asking members to review the suggested guidelines that were distributed, the group engaged in a section-by-section discussion of CAC Purpose/Functions, Membership, and Governance. Denise Woodin, HNA, recorded key points of the discussion on butcher block paper. Draft Operational Guidelines were developed following the meeting to reflect the consensus of the Committee. (Copy attached.) These will be placed on the agenda for further CAC discussion and approval at the May 2nd meeting. Related comments and CAC actions are summarized below.

Function/Purpose: Yvonne Reddick asked if the CAC will be limited to reviewing data and findings during the first phase of the project. In response, Ms. Neuhaus expressed her expectation that the CAC will play an ongoing role. Replying to Ms. Reddick’s follow-up question concerning the amount of input the CAC will have, Ms. Neuhaus emphasized that the project team is not coming to the community to sell a project, but to examine project issues in partnership with the public. In response to another question about the role of the CAC in decision-making, Mr. Lanaghan underscored that the CAC’s decisions will carry weight--with the Mayor, the Commissioner, and the City Council. He added that although ultimate decision-making must remain with the agency, the CAC’s input is definitely important. Canute Bernard noted that the whole point of the CAC is for the community to be involved “before the fact.” Councilman Comrie echoed these thoughts, while stating that the City Council has pledged not to approve reactivating the wells if the water doesn’t meet standards.

In response to a question about resources to help the CAC analyze data, Ms. Brown replied that the types of available resources will vary, depending on the stage of project development. Ms.

Neuhaus added that a Scientific Review Panel (SRP), composed of leading scientists with a range of expertise, will be formed to assist the CAC. The CAC will play a central role in screening SRP candidates.

Membership: Most Committee members felt that the composition and number of members on the CAC should remain open but that the Committee should not be much larger than its current size of 26 (27, with the addition of a DEC representative) in order to remain effective. One person expressed the view that CAC membership should not be limited.

- Responsibilities. There was general consensus that members should attend meetings regularly and that organizations should designate at least one alternate to represent the group when the designated member is unable to attend. Ms. Neuhaus suggested that members be empowered to speak on behalf of the organization they represent. It was also agreed that the roster of members should be reviewed and a policy developed to establish criteria for removing members for non-participation.
- Subcommittees. Following discussion of whether subcommittees should be open to non-CAC members, it was decided that only CAC members can be appointed to a subcommittee. The vote in support of this position was 9 in favor; 2 opposed; and 2 abstentions.

Governance:

- Facilitation. After a brief discussion, the CAC decided that Ms. Neuhaus should continue to facilitate meetings. The vote in support of this position was 10 in favor; 1 opposed; and 1 abstention. The one dissenting view favored a community stakeholder as facilitator.
- Public Access/Media Access. There was general agreement that the public, including the media, should be given the opportunity to participate at specific times during CAC meetings. Following a discussion of several options (15 minutes at the beginning of meetings; 15 minutes at the end of meetings; or time after each agenda item), the CAC unanimously agreed to allow the public to speak for 15 minutes at the end of meetings, but prior to voting.

In response to a suggestion that there may be times when the CAC must go into executive session, Dan Hendrick, *Queens Chronicle*, raised objections to excluding the press from executive session discussions. Mr. Hendrick cited first amendment issues and the right of citizens to know what goes on in such discussions. After a member of the public noted that state law may place limitations on the Committee going into executive session, Ms. Neuhaus agreed to research this issue. The CAC then adopted a resolution that meetings will be open to the public, except when the Committee is legally allowed to go into executive session. The vote in support of this position was 12 in favor; 1 opposed; and 0 abstentions.

- Distribution of Materials. After a brief discussion, it was decided by unanimous vote that any CAC member wishing to distribute materials for consideration by the full

Committee should forward the documents to HNA at least two weeks prior to next CAC meeting.

Update on Drought Emergency Plan

Mr. Kensy reported that 11 of the wells identified for possible re-opening under the Drought Emergency Plan are already in use; 11 more have been tested and are awaiting analysis; and one is on standby. The 11 in use are drawing 11 MGD. He added that five additional wells will be sampled this week and seven more next week. Mr. Kensy also noted that two non-potable wells will be used by the New York City Departments of Transportation, Parks and Recreation and/or Sanitation for cleaning and irrigation. In a related comment, Mr. Yulinsky reported on a meeting with the Port Authority of New York and New Jersey earlier in the day to discuss using water from Station 6 for irrigation at LaGuardia Airport.

Mr. Kensy informed the CAC that water quality testing is performed by a state-certified laboratory under contract with DEP. In response to requests from Ms. Reddick and Tracey Bowes, Mr. Kensy agreed to provide in-depth information (a “report card”) on each well scheduled for reactivation (including the reasons for closure); water quality test results for wells now being used; well numbers; and a copy of the drought regulations. Mr. Kensy also noted that the regulations are posted on the DEP web site. In a general drought-related comment, it was explained that homeowners can water their lawns from 7-9 a.m. and 7-9 p.m. (odd days for people with odd-numbered houses and even days for those with even-numbered houses).

Other Issues

Other issues raised during the meeting are summarized below:

- In response to a question about the source of MTBE pollution, Mr. Cohen reported that contamination came from several sources, including the Amoco Station at Merrick Boulevard and Liberty Avenue. (A detailed history of contamination at this site could be provided to the CAC by Mr. Gardineer at a future meeting.) It was also noted that federal law now requires all underground gasoline storage tanks to be placed in bunkers and have monitoring equipment.
- Mr. Cohen reported that the Transit Authority (TA) is currently cleaning up the diesel fuel pollution at the bus depot. He added that the TA has stated that lowering the water table will facilitate final clean-up of the property. Mr. Cohen also noted that diesel fuel is thick and slow moving and that the plume from the bus depot site has not reached the Station 6 wells.
- Mr. Kensy stated that some people will receive up to 80% well water, as a result of re-opening wells during the drought.
- In response to Mr. Dunbar’s inquiry about the New York State Department of Health’s Cancer Study, Ms. Neuhaus indicated that the CAC could form a subcommittee to review this and other health-related issues.
- Councilman Jim Gennaro, Chair of the City Council’s Environmental Protection Committee, agreed to follow up with Mr. Dunbar on his inquiry about compensation for residents affected by contamination from the West Side Corporation property.

The next CAC meeting will be held on **Thursday, May 2, 2002 at 7 p.m.** [Subsequent to the April 8th meeting, the location of the May meeting was identified as the Hillside Manor Comprehensive Care Center, 188-11 Hillside Avenue, Jamaica Estates.]

Follow-Up Items:

1. Identify locations and schedule CAC tour of nearby facilities that use GAC and other relevant filtration technologies.
2. Provide list of CAC invitees to Committee members.
3. Provide information that defines issues/items that can legally be addressed/discussed during an executive session (closed to public/media) of the Committee.
4. Provide information describing the assay and equipment that are being used to analyze water quality samples.
5. Provide in-depth information (“report card”) on wells slated for reactivation, including why each was originally closed.
6. Provide current water quality test results of wells included in the Drought Emergency Plan.
7. Provide information on standard deviation used for NYSDOH cancer study.
8. Invite Andrew English or Richard Gardineer, DEC, to attend the May 2nd CAC meeting.
9. Consider the creation of a project web site.

Brooklyn-Queens Aquifer Feasibility Study
Citizens Advisory Committee
Monday, April 8, 2002

Attendance List

CAC Members/Alternates

Canute C. Bernard, M.D.
Community Board #12

Tracey Bowes
Community Board #12

Linda Caleb Hazel
A Better Day Inc./St. Benedict The Moor/
St. Bonaventure

Manuel Caughman
Community Board #12/Brinkerhoff Action
Association

Robert Croom
Office of Assemblyman William Scarborough

Councilman Leroy Comrie
New York City Council

Kirk Dunbar
Resident

Kenneth Gill
Addisleigh Park Civic Association

Richard Hellenbrecht
Community Board #13

Irving Hicks
Brinkerhoff Action Association

Debra Hunte
Brinkerhoff Action Association

Peter Lutz
Office of Queens Borough President

Yvonne Reddick
Community Board #12

Earl Roberts
113th Precinct Community Council

Betsy Scheinbart
Office of Councilman Allen Jennings

Patricia H. Vosges
Allen A.M.E. Church

Guests

Ruth Bryam
Southeast Queens Concerned Neighbors

Smapan Chatterjee
Student

Richard Colon
Office of Congressman Gregory W.
Meeks

Joan DeCamp
Community Board #9

Ruth W. DuBerry
UNCA

Kimberly Francis
Concerned Citizens of Laurelton

Councilman Jim Gennaro
New York City Council

Stokely Gordon
Resident

Sarah Hicks
Brinkerhoff Action Association

Al Jordan
Resident

Gladys Marshall
UNCA

Lois Menyweather
Office of Attorney General Eliot Spitzer

Maurice Muir
Community Board #12

Charles Pringle
Resident

Juan D. Valcare
South Ozone Park Coalition

Media

Courtney Dentch
Jamaica Times

Dan Hendrick
Queens Chronicle

Project Team

Nicole Brown
Malcolm Pirnie, Inc.

Don Cohen
Malcolm Pirnie, Inc.

Roman Kensy
New York City Department of Environmental Protection

Mark Lanaghan
New York City Department of Environmental Protection

Lenny Myerson
New York State Department of Environmental Conservation

Helen Neuhaus
Helen Neuhaus & Associates Inc.

Denise Woodin
Helen Neuhaus & Associates Inc.

Anita Wright
Helen Neuhaus & Associates Inc.

Bill Yulinsky
New York City Department of Environmental Protection

STATION 48 PLANT EFFLUENT TO WASTE

DATE	NITRATE-N mg/L	TETRACHLOROETHENE ug/L	MTBE ug/L
8/14/01	7.67	2.7	0.5

MAXIMUM CONTAMINANT LEVEL (MCL)		
Nitrate - N mg/L	Tetrachloroethene ug/L	MTBE ug/L
10	5.0	50

New York City Department of Environmental Protection Department Bureaus

The New York City Department of Environmental Protection (DEP) protects the environmental health, welfare, and natural resources of the City and its residents.

The Department manages the City's water supply and wastewater system, carries out Federal Clean Water Act and Clean Air Act regulations, handles hazardous material emergencies and toxic site remediation, oversees asbestos monitoring and removal, enforces the City's noise code and manages citywide water and energy conservation programs.

The descriptions below outline the responsibilities of the respective bureaus and offices within the Department. Each area is headed by a Deputy Commissioner or Assistant Commissioner who answers to the Commissioner of the Department.

Bureau of Water Supply

The Bureau of Water Supply (BWS) manages, operates and protects New York City's upstate water supply system to ensure the delivery of a sufficient quantity of high quality drinking water. BWS is also responsible for the overall management and implementation of the provisions of the City's \$1.5 billion Watershed Protection Program resulting from the Watershed Memorandum of Agreement (MOA) and for ensuring the City's compliance with the provisions of the Filtration Avoidance Determination. The Bureau conducts extensive monitoring of water quality, both within the City's distribution system and throughout the upstate watersheds. In addition, BWS has responsibility for system planning, engineering, management and acquisition of lands, enforcement of watershed regulations, and security.

Bureau of Environmental Compliance

The DEP's Bureau of Environmental Compliance responsibilities include responding to 1,360 hazardous material emergency incidents annually; maintaining a comprehensive database of 3,700 facilities containing hazardous and toxic materials; managing environmental investigations and assessments of contaminated sites; overseeing the remediation of four active hazardous waste municipal landfills; conducting 24,000 field inspections in response to 15,000 air and noise code complaints in a year; helping implement the requirements of the Clean Air Act Amendments of 1990; meeting with community and various public interest associations regularly to provide general information and promote compliance; and operating a New York State approved environmental laboratory to perform analysis of asbestos, air pollutant and hazardous materials samples.

Bureau of Wastewater Treatment

To maintain the chemical and physical integrity of New York Harbor and other local water bodies and sustain the continued use and viability of the New York water environment through: the removal of organic and toxic pollutants from the City's wastewater; control of discharges from Combined Sewer Overflows and dry weather bypassing; optimum operation of treatment

plant collections system; integration of watershed management concepts into facilities' planning and design; and enforcement of a city-wide industrial pre-treatment and pollution prevention program.

To achieve these water quality goals, the Bureau of Wastewater Treatment, with an administrative, technical and field staff of approximately 2,000 employees, operates: 14 water pollution control plants treating an average of 1.5 billion gallons of wastewater a day; 89 wastewater pump stations; 8 dewatering facilities; 490 sewer regulators; and 6,000 miles of intercepting sewers. The Bureau also operates a skimmer vessel to retrieve floatable debris from local waters and manages the Harbor Survey Program for the routine sampling and analysis of the waters in New York Harbor.

Environmental Planning and Assessment

The Office of Environmental Planning and Assessment (OEPA) is responsible for conducting environmental reviews for DEP in accordance with all applicable City Environmental Quality Review (CEQR) and State Environmental Quality Review (SEQR) regulations. In addition, this office provides technical assistance to other City agencies especially in the areas of air and noise quality and hazardous materials. The OEPA also provides, through the Environmental Economic Development Assistance Unit (EEDAU), regulatory and technical assistance to New York City businesses and non-profit organizations. EEDAU works with the Mayor's Office and other regulatory agencies at the City, State and Federal levels to coordinate and encourage similar efforts. The Office also provides technical assistance for the preservation of natural resources (wetlands remediation and development of natural landscaping plans) and conducts long range projections (population/employment, consumption and demand/flow) for the agency.

24-Hour Help Center

DEP's 24-hour Help Center is the nerve center of the agency. Around the clock you can find Customer Service Agents at work helping New Yorkers solve environmental problems. Examples of calls agents handle include those about running hydrants, backed-up sewage, pipe leaks, smoking chimneys, loud noise from bars, broken or leaky water meters, and much more. The Center's function is to help New Yorkers find the person or department at the DEP that can help. To report water, sewer, air, noise, asbestos, industrial waste, broken and leaking water meter problems, call 718 DEP-HELP (337-4357) 24 hours a day, 7 days a week.

The Center also maintains the One Stop Information and Referral Center, a walk-in service area located on the first floor of the DEP's headquarters at 96-05 Horace Harding Expressway in Corona, New York. The staff of the One Stop provides individual and personalized assistance to people with any question about the department. Individuals may walk-in and file complaints concerning water, sewer, air and noise problems; request copies of publications; ask for information about programs; or request applications for permits issued by the department.

Bureau of Customer Services

The Bureau of Customer Services is responsible for all functions related to water and sewer billing for residents of New York City and certain upstate communities. Additionally, the Bureau contracts for the installation of water meters in unmetered buildings and tests and validates the accuracy of water meters installed by private plumbers prior to installation. It also manages the Toilet Rebate Program and other water conservation programs.

Office of the Agency Chief Contracting Officer

The Office of the Agency Chief Contracting Officer (ACCO) is responsible for the procurement activities of the agency including: competitive sealed bids; requests for proposals; small purchases and purchases through the Department of Citywide Administrative Services; contract payments; and State Prevailing Wage Laws. The Agency lets approximately 250 contracts a year totaling approximately \$1 billion.

The ACCO's office interacts with personnel in each of the Agency's bureaus. In addition, staff provides information and guidance to the prospective contractors and current contractors regarding the bidding on small purchases, open market orders, etc. The Bid Room, which is open to the public, is where contractors purchase the plans and specifications for the competitive sealed bid contracts. It is also where all competitively sealed bid contracts are publicly opened.

Bureau of Environmental Engineering

The primary responsibility of the Bureau of Environmental Engineering is the planning, design and construction of major water quality related capital projects. These projects focus on two important issues for the City - the continued delivery of high quality drinking water to the City and the continued improvement of water quality within the New York Harbor and estuaries. These two important environmental goals create three important mandates for the Bureau of Environmental Engineering. These are the completion of City Tunnel No. 3, the upgrade of the Newtown Creek Water Pollution Control Plant, and the abatement of combined sewer overflows into the water bodies surrounding the City.

Bureau of Water and Sewer Operations

The primary responsibilities of the Bureau of Water and Sewer Operations (BWSO) are: the operation, maintenance and protection of the City's drinking water and wastewater collection (sewer) systems; the protection of adjacent waterways; and the development and protection of the Department's Capital Water and Sewer Design Program. The Bureau also approves and inspects water and sewer connections performed by licensed plumbers and/or authorized contractors. In addition, BWSO has overall responsibility for the approval and inspection of all public and private construction projects which could impact on the City's water or sewer systems.

For this reason, anyone wishing to build a private sewer, to construct any type of structure on a City sidewalk, to discharge water from a below ground swimming pool into the sewer system, or

to connect a service line with the City's water or sewer system for any reason must receive the approval of this Bureau. We are also responsible for maintaining and updating all water and sewer information records for the City of New York.

Through the maintenance and repair of the City's water and sewer systems, our field forces ensure: (1) that residences and businesses will have an adequate supply of potable water, (2) that there will be sufficient water for fire protection, and (3) that we will have a properly functioning wastewater collection system. Thus, the services we provide extend far beyond the routine day-to-day operation of the water and sewer systems, and include responding to many different problems and emergency situations. These include: water main breaks; leaks from water and sewer mains; broken or inoperable fire hydrants; open hydrants; sewer backups; catch basin (street drainage) failures resulting in street flooding; and complaints of poor water pressure, discolored water, or water with taste or odor problems.

BWSO is also responsible for the operation of the Staten Island Bluebelt. This is an ecologically sound, cost effective natural alternative to storm sewers, which occupies approximately 15 square miles of land in the South Richmond area of Staten Island. This project preserves streams, ponds and other wetland ("bluebelt") areas, allowing them to perform their natural function of conveying, storing and filtering storm water. These areas also provide important community open spaces and a diverse wildlife habitat.

NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION
BROOKLYN-QUEENS AQUIFER FEASIBILITY STUDY
CITIZENS ADVISORY COMMITTEE (CAC)
OPERATIONAL GUIDELINES

PURPOSE/FUNCTIONS

The Brooklyn-Queens Aquifer Citizens Advisory Committee (CAC) is an advisory body made up of community partners from the public and private sectors. Its purpose is to assist the New York City Department of Environmental Protection (DEP) in conducting its Brooklyn-Queens Aquifer (BQA) Feasibility Study, by providing guidance and input on water quality, flooding, health and related environmental issues and outreach to groups and individuals throughout the area.

The BQA Study is designed to investigate the use of groundwater from aquifers to supplement the city's drinking water supply and reduce flooding in Southeast Queens. The Study also includes a cooperative effort with the New York State Department of Environmental Conservation (DEC) to clean up groundwater at the West Side Corporation (WSC), a DEC Class 2 hazardous waste disposal site.

The CAC will be an essential component of the Study's Community Outreach Program and will play a central role in advising DEP. It is being specifically established to:

- Provide for the representation of a variety of interests throughout project planning and implementation.
- Review project data and findings.
- Review and provide input on preliminary recommendations and alternative plans.
- As appropriate, participate in planning related to the Station 6 groundwater treatment plant, in particular the programmatic and architectural aspects of the community-use portion of the facility.
- Serve as a community liaison and communications channel, in order to maintain ongoing dialogue on project goals, issues, and concerns.
- Advise the project team with regard to planning an ongoing program of community outreach activities. This will include determining appropriate times and forums for presenting information to Community Boards and other constituencies, in order to

ensure timely receipt and consideration of public input as part of the decision-making process.

- Assist DEP in screening and selecting candidates for the Scientific Review Panel.

MEMBERSHIP

An effective CAC is a group that represents a broad variety of community interests. The CAC for the BQA Study will consist of approximately 25-30 members, including elected officials, representatives of Community Boards, civic leaders, members of environmental and neighborhood organizations, residents, and institutional representatives. It is anticipated that CAC membership may change over the duration of the project to accommodate emerging circumstances and needs. Membership changes will be considered either by the full CAC or by a membership subcommittee. This will include developing criteria for adding and removing members, making recommendations on specific membership changes, and providing orientation for new members.

Membership Responsibilities. CAC members will generally be appointed because they represent a constituency or organization in the project area. Organizational representatives must be able to speak on behalf of their group and voice its perspective by actively soliciting its members' concerns, views, and recommendations. It is important that CAC members attend meetings regularly and share their views with the entire group in order to work towards building consensus on critical project issues.

Designation of Alternates. Members are encouraged to designate one or more alternates to represent them when they are unable to attend a CAC meeting. Alternates will be subject to all of the membership responsibilities outlined above. In order for the CAC process to work effectively, all members and alternates must remain informed and up-to-date on issues pertaining to the project. Alternates will therefore receive all information and materials related to the CAC and are strongly encouraged to attend all meetings.

Subcommittees. The CAC will be a working committee. As such, it is anticipated that issue-specific subcommittees will be established as needed and at the discretion of the CAC. Subcommittee membership will be determined by the CAC, and only members of the CAC will be appointed to serve on a subcommittee.

GOVERNANCE

Facilitation and Scheduling. CAC meetings will be facilitated by the project team. The Committee will meet monthly or more frequently, as required. The agenda, date, time, and location of meetings will be determined jointly by the CAC and project team but shall generally be the first Thursday of each month.

Process by Majority Vote. The decision-making process for the CAC will be a majority vote of members present for those items on the agenda. (A majority will be defined as half plus one of the number of CAC members present.) Items requiring a vote that are not on the agenda will be deferred to the next meeting, prior to which time they will be placed on the agenda. Agendas will be sent out with the Minutes of the previous meeting at least ten calendar days prior to the meeting.

Public Access. All CAC meetings will be open to the public, including the media. Members of the public will be allowed to speak for a period of 15 minutes at the end of each meeting, prior to any voting. The CAC may occasionally decide, by a majority vote, that it is necessary to discuss certain items in executive session. The Committee will enter into executive session under limited circumstances only and will comply with all restrictions outlined in the New York State Open Meetings (Sunshine) Law (See attached).

Meeting Documentation. All CAC meetings will be documented by means of Minutes recorded by project staff. The Minutes will reflect any decisions reached by the group, as well as dissenting opinions. Minutes will be circulated to CAC members, alternates, and meeting attendees and made available to the public and press upon request.

Distribution of Materials by CAC Members. CAC members may prepare and distribute written materials for consideration by the full committee. All materials should be forwarded to the project team for distribution to the CAC within two weeks of the next meeting in order to provide adequate time for review by committee members. All information distributed by e-mail will be sent by regular mail as well.

YOUR RIGHT TO KNOW

Open Meetings Law

The Open Meetings Law

The Open Meetings or "Sunshine" Law went into effect in New York in 1977. Amendments that clarify and reaffirm your right to hear the deliberations of public bodies became effective on October 1, 1979.

In brief, the law gives the public the right to attend meetings of public bodies, listen to the debates and watch the decisionmaking process in action.

As stated in the legislative declaration in the Open Meetings Law (section 100): "It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy."

What is a Meeting?

Although the definition of "meeting" was vague as it appeared in the original law, the amendments to the law clarify the definition in conjunction with expansive interpretations of the law given by the courts. "Meeting" is defined to mean "the official convening of a public body for the purpose of conducting public business." As such, any time a quorum of a public body gathers for the purpose of discussing public business, the meeting must be convened open to the public, whether or not there is an intent to take action, and regardless of the manner in which the gathering may be characterized.

Since the law applies to "official" meetings, chance meetings or social gatherings are not covered by the law. Also, the law is silent with respect to public participation. Therefore, a public body may permit you to speak at open meetings, but is not required to do so.

What is Covered by the Law?

The law applies to all public bodies. "Public body" is defined to cover entities consisting of two or more people that conduct public business and perform a governmental function for the state, for an agency of the state, or for public corporations, including cities, counties, towns, villages and school districts, for example. In addition, committees and subcommittees are specifically included within the definition. Consequently, city councils, town boards, village boards of trustees, school boards, commissions, legislative bodies and committees and subcommittees of those groups all fall within the framework of the law.

Notice of Meetings

The law requires that notice of the time and place of all meetings be given prior to every meeting.

If a meeting is scheduled at least a week in advance, notice must be given to the public and the news media not less than 72 hours prior to the meeting. Notice to the public must be accomplished by posting in one or more designated public locations.

When a meeting is scheduled less than a week in advance, notice must be given to the public and the news media "to the extent practicable" at a reasonable time prior to the meeting. Again, notice to the public must be given by means of posting.

When Can a Meeting be Closed?

The law provides for closed or "executive" sessions under circumstances prescribed in the law. It is important to emphasize that an executive session is not separate from an open meeting, but rather is defined as a portion of an open meeting during which the public may be excluded.

To close a meeting for executive session, the law requires that a public body take several procedural steps. First, a motion must be made during an open meeting to enter into executive session; second, the motion must identify "the general area or areas of the subject or subjects to be considered;" and third, the motion must be carried by a majority vote of the total membership of a public body.

Further, a public body cannot close its doors to the public to discuss the subject of its choice, for the law specifies and limits the subject matter that may appropriately be discussed in executive session. The eight subjects that may be discussed behind closed doors include:

- a. matters which will imperil the public safety if disclosed;
- b. any matter which may disclose the identity of a law enforcement agency or informer;
- c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- d. discussions regarding proposed, pending or current litigation;
- e. collective negotiations pursuant to Article 14 of the Civil Service Law (the Taylor Law);
- f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
- g. the preparation, grading or administration of exam-inations; and
- h. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

These are the only subjects that may be discussed behind closed doors; all other deliberations must be conducted during open meetings.

It is important to point out that a public body can never vote to appropriate public monies during a closed session. Therefore, although most public bodies may vote during a properly convened executive session, any vote to expend public monies must be taken in public.

The law also states that an executive session can be attended by members of the public body and any other persons authorized by the public body.

After the Meeting—Minutes

If you cannot attend a meeting, you can still find out what actions were taken, because the Open Meetings Law requires that minutes of both open meetings and executive sessions must be compiled and made available.

Minutes of an open meeting must consist of "a record or summary of all motions, proposals, resolutions and any matter formally voted upon and the vote thereon." Minutes of executive sessions must consist of "a record or summary of the final determination" of action that was taken, "and the date and vote thereon." Therefore, if, for example, a public body merely discusses a matter during executive session, but takes no action, minutes of an executive session need not be compiled. However, if action is taken, minutes of the action taken must be compiled and made available.

It is also important to point out that the Freedom of Information Law requires that a voting record must be compiled that identifies how individual members voted in every instance in which a vote is taken. Consequently, minutes that refer to a four to three vote must also indicate who voted in favor, and who voted against.

Enforcement of the Law

What can be done if a public body holds a secret meeting? What if a public body makes a decision during an executive session that should have been open?

Any "aggrieved" person can bring a lawsuit. Since the law says that meetings are open to the general public, you would be aggrieved if you feel that you have been improperly excluded from a meeting or if you believe that an executive session was held that should have been open.

Upon the judicial challenge, a court has the power to nullify action taken by a public body in violation of the law "upon good cause shown." In addition, a court also has the authority to award reasonable attorney fees to the successful party. This means that if you go to court and you win, a court may (but need not) reimburse you for your expenditure of legal fees.

It is noted that an unintentional failure to fully comply with the notice requirements "shall not alone be grounds for invalidating action taken at a meeting of a public body."

The Site of Meetings

As specified earlier, all meetings of a public body are open to the general public. Moreover, the law requires that public bodies make reasonable efforts to ensure that meetings are held in facilities that permit "barrier-free physical access" to physically handicapped persons.

Exemptions from the Law

The Open Meetings Law does not apply to:

1. judicial or quasi-judicial proceedings, except proceedings of zoning boards of appeals;
2. deliberations of political committees, conferences and caucuses; or
3. matters made confidential by federal or state law.

Stated differently, the law does not apply to proceedings before a court or before a public body that acts in the capacity of a court, to political caucuses, or to discussions concerning matters that might be made confidential under other provisions of law. For example, federal law requires that records identifying students be kept confidential. As such, a discussion of records by a school board regarding a particular student would constitute a matter made confidential by federal law that would be exempt from the Open Meetings Law.

FREEDOM OF INFORMATION LAW

Who is subject to the Freedom of Information Law?

Any New York State or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function is subject to the Law. The courts are outside its coverage but often must disclose records under other provisions of law. The State Legislature is covered by the Freedom of Information Law but is treated differently from agencies generally. Private corporations or companies are not subject to the Freedom of Information Law.

Do I contact the Committee on Open Government to get public records?

The Committee does not maintain records generally. To obtain records, you must contact the agency that you believe maintains possession of the records. For example, if you are interested in obtaining minutes of a school board meeting, your request should be made to the school district.

A request should be directed to the "records access officer" of the agency, the person having the duty of coordinating an agency's response to a request. The request should reasonably describe the records sought, and you should provide sufficient detail to enable agency staff to locate the records.

How long must I wait to get access to records?

Section 89(3) of the Freedom of Information Law states in part the following:

"Each entity subject to the provisions of this article, within five business days of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgment of the receipt of such request and a statement of the approximate date when such request will be granted or denied..."

If neither a response to a request nor an acknowledgment of the receipt of a request is given within five business days, or if an agency delays responding for an unreasonable time after it acknowledges that a request has been received, a request may be considered to have been constructively denied. In such a circumstance, the denial may be appealed in accordance with §89(4)(a) of the Freedom of Information Law. That provision states in relevant part the following:

"...any person denied access to a record may within thirty days appeal in writing such denial to the head, chief executive, or governing body, who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought."

In addition, it has been held that when an appeal is made but a determination is not rendered within ten business days of the receipt of the appeal as required under §89(4)(a) of the Freedom of Information Law, the appellant has exhausted his or her administrative remedies and may initiate a challenge to a constructive denial of access under Article 78 of the Civil Practice Rules [Floyd v. McGuire, 87 AD 2d 388, appeal dismissed 57 NY 2d 774 (1982)].

How much can I be charged for public records?

An agency may charge up to 25 cents per photocopy not in excess of 9 by 14 inches, or in the case of records that cannot be photocopied, the actual cost of reproduction (for example, photographs, computer disks, tape recordings, etc.), unless otherwise prescribed by statute. An agency cannot charge for search or clerical time.

Can I inspect records instead of paying the fees?

Yes. Any person has the right to inspect accessible records at no charge. However, there may be situations in which some aspects of a record—but not the entire record—may be properly withheld. In that event, an applicant would not have the right to inspect the record. However, the agency may prepare a redacted copy and charge the established fee.

Does the Freedom of Information Law apply to computer records?

Yes. The term "record" is defined to include all information kept, held, filed, produced or reproduced by, with or for an agency, in any physical form whatsoever. Therefore, the Freedom of Information Law clearly applies to government records generated, received, or maintained electronically.

Do I have to give a reason why I want public records?

No. An agency cannot ask a requester why he or she wants records or what the intended use of the record might be. The only instance in which an agency can ask why a person wants a record is when the request is for a list of names and home addresses. The agency is authorized to seek an assurance that the list will not be used for commercial or fund-raising purposes; if it is determined that a list will be used for these purposes, an agency can deny access.

I asked a local government official a question about his office, but he didn't answer. What can I do to make him answer?

The Freedom of Information Law pertains to records; it is not intended to be used as a vehicle for cross-examining government officials or employees. Therefore, an agency is not required to answer questions or to create a new record in response to questions. While agency staff may answer questions—and many do—that kind of service is separate from the requirements of the Freedom of Information Law, which deals with requests for existing records.

Do I have a right to know how the government spends money?

Yes. Records reflective of government expenditures are generally available. Also, an agency is required to create a payroll record, which indicates the name, public office address, title and salary of every officer or employee of the agency.