

**MINUTES OF THE FEBRUARY MEETING OF THE ENVIRONMENT AND SANITATION COMMITTEE OF  
BRONX COMMUNITY BOARD 8**

February 19, 2020

Mosaic Conference Room, 5676 Riverdale Ave Bronx 10471

Committee members in attendance: K. Argenti, E. Garcia, D. Travis, R. Fanuzzi, B. Bender, S. Froot, R. Spalter, C. Tepelus, L. Spalter

In attendance:

Adam Bosch (DEP)	J. Haller
Michael DeLoach (DEP)	Bob Cooney
Effie Ardizzone (DEP)	Jodie Colon
Daniel Padernacht (CB8)	Anne Marie Garti
Frederick Klein (Assemblyman Dinowitz's Office)	Alisa Eilenberg
Heather Smith (Riverdale Press)	Ira Levenberg
Julius Motal (Riverdale Press)	

The meeting was called to order at 7:05 pm.

I. Approval of the Minutes

Minutes of the meeting of December 18, 2019 were accepted. In favor: K. Argenti, E. Garcia, D. Travis, R. Fanuzzi, B. Bender, S. Froot, R. Spalter, C. Tepelus, L. Spalter.

II. Chair's Report

- A. New York State has banned the distribution of thin plastic bags by businesses on March 1, 2020. NYS DSNY is distributing reusable bags through elected officials' and community board offices. Bronx Community Board 8 Environment and Sanitation committee will hold a meeting on the ban and DSNY will give away free bags at the committee's March meeting.
- B. The U. S. Composting Council has awarded Jodi Colon, Project Manager of NYC Compost Project, its 2020 H. Clark Gregory Award in recognition of her contributions to the composting industry and her leadership of compost education programs for the public. The Environment and Sanitation Committee congratulates Ms. Colon on her achievement and thanks her for her many appearances at committee meetings.
- C. DDC will begin its HEDA-003 water main replacement in the Fort Independence neighborhood in mid-February. DDC notices and updates will be posted on the Bronx Community Board 8 Facebook page. Community members are encouraged to contact Tara Figueroa, [heda3ccl@gmail.com](mailto:heda3ccl@gmail.com) with construction issues and to inform Bronx Community Board 8 of problems. Bronx CB8 Committee issued recommendations for project management to DDC that were discussed at its December 2019 meeting.
- D. NYC DEP will file its Citywide/Open Waters Long Term Control Plan with NYS DEC in March and include the daylighting of Tibbett's Brook as a green infrastructure project within the plan. Projects filed under the green infrastructure project may have a

separate timetable than other projects in the LTCP, which have a uniform completion date of 2035.

### III. NYC Department of Environment Sanitation and the Jerome Park Reservoir

R. Fanuzzi recapped events to this point: NYC DEP announced its policy for the Jerome Park Reservoir north basin at the committee's June 2019 meeting. Stating the need for a "failsafe" measure in the event of a power outage at the Croton Filtration Plant, DEP will keep the north basin of the Jerome Park Reservoir permanently empty. In a February 3 letter to Bronx Community Board 8 District Manager Ciara Gannon, DEP announced a new policy, keeping the reservoir filled with 5-8 feet of water, in response to community members' objections and opposition of elected officials and Bronx Community Board 8. On February 13, NYS Office of Historic Preservation (SHPO) sent a letter to DEP and the Office of Assemblyman Jeffrey Dinowitz reversing its prior approval of DEP's "Modified Negative Declaration" for the rehabilitation of the Jerome Park Reservoir and stating that an empty reservoir will have an "adverse effect" on the historic features of the reservoir and surrounding community, in response to research provided by the Bronx Council for Environmental Quality and concerns raised by Assemblyman Dinowitz.

DEP Deputy Commissioner of Public Affairs Michael DeLoach and Director of Public Affairs Watershed Adam Bosch explained DEP's reasons for keeping the north basin filled with 5-8 feet of water instead of fully filled. Water travels 24 miles from the Croton Aqueduct to the Jerome Park Reservoir and then to the Croton Filtration Plant, from which it is distributed through the New York City water system. In the event of an emergency shutdown of the Croton Filtration Plant, DEP would have 6-8 hours' worth of water, roughly 90 million gallons of water, in its pipes on the way to the reservoir and no way to release the water before the reservoir. If the reservoir were fully filled, the water would overflow the Jerome Park Reservoir North Basin, which has a 255 million gallon capacity. DEP calculates that 5-8 feet of water will allow the reservoir to accept water from the aqueduct without overflowing if the water is not distributed to the city. Mr. Bosch stated that drain valves at shafts were manual and could not be opened to "blow off" a substantial amount of water.

DEP Deputy Commission for Public Affairs Michael DeLoach confirmed the DEP policy of 5-8 feet of water and stated that DEP heard the community's opposition to the empty north basin "loud and clear." There are no changes to the policy stated in the February 3 letter. Mr. DeLoach also cited DEP's receipt of the February 13 SHPO letter finding adverse effect on Jerome Park Reservoir and stated that the restoration of the east wall and the resulting exposure of new construction techniques above the water line of 5-8 feet in the Jerome Park Reservoir are not subject to Section 106 of the National Preservation Act of 1966, as asserted by SHPO in the letter, because federal funds are not being used in the JRAQ-REH east wall restoration project. The National Preservation Act requires an environmental review with "consulting parties," or community-based organizations, and a demonstration of alternatives for projects undertaken on historically designated sites where federal funds were expended. Mr DeLoach said that DEP is preparing a response to SHPO on this matter.

Discussion of the JRAQ-REH project, the new DEP reservoir policy, and the failsafe requirements for the Croton Filtration Plant centered on the following questions and concerns stated by community board members and meeting attendees:

- When did DEP know that the Croton Filtration Plant would require a near-empty portion of the reservoir to accommodate an emergency?

Mr. Bosch stated that he learned of the possible use of the north basin for this purpose in 2015. He did not know exactly when the plan was made official and that engineers considered the fluctuation of water level as an ordinary operation.

- Why isn't the new Croton Filtration Plant emergency operational policy subject to SEQRA review and an environmental impact statement?

Committee read, displayed on the monitor, and entered into the minutes a letter from community member and attorney, Kathryn Robb, to Bronx Community Board 8 stating that the operational change in the Croton Filtration Plant does not fit the characteristics of Type II under SEQRA law, which are exempt from environmental review; qualifications of Type II actions are found in Section 617.5 c. 26. Ms. Robb's letter asserts that the new operational plan fits the qualifications for a Type I action, as found in Section 617.4 b. 6 & 9, because Jerome Park Reservoir is on the State and National Register of Historic Places. Type I actions require an Environmental Impact Statement (EIS). D. Travis also noted that the amount of water displaced by the new policy, 255 gallons, also warrants an EIS.

The committee agreed with Ms. Robb that the new operational policy for the Croton Filtration Plant was a Type I action as described in SEQR because of its impact on an historic feature, as defined by the SHPO letter of February 13, and called upon DEP to conduct an environmental review of its policy and to update the Croton Filtration Plant EIS that was prepared in 2004. These positions are consistent with the Board's June and December 2019 resolutions.

Mr. DeLoach stated that DEP listed the capital project rehabilitation of the Jerome Park Reservoir is a Type I project and had proceeded through environmental reviews, with notice to the community. He stated that the emergency plan, on the other hand, is exempt from SEQR and is an Unlisted action or Type II action, with the concurrence of NYC Corporation Counsel. Committee members expressed the need to further discuss SEQRA and EIS requirements for the plant emergency plan and to distribute Ms. Robb's letter to DEP. Mr. DeLoach agreed.

- Why hasn't the DEP considered and prepared alternative analyses of other, less impactful actions for accommodating overflow water from the aqueducts into the Jerome Park Reservoir?

Community members cited examples of alternatives, such as lowering the water in both south and north basins and opening the valve between dividing wall; opening shafts to allow water to escape into Harlem River. A. Garti stated that Croton Lake and closing a shutoff valve near the plant offer alternatives to the present emergency plan and will

not impact an historic resource. Keeping the water high will also sustain liner walls damaged by an empty reservoir.

Mr. Bosch stated that DEP has done internal studies of alternatives and have not found a feasible alternative. The committee asked for those studies. The committee also asked for a determination in writing that it is impossible to split the water between the two basins. Environment and Sanitation Committee members stated desire to have technical discussion with engineers and operation managers and for agency to publicly document its internal reviews of alternative actions.

- Will DEP change the spray concrete method or the extent of its coverage on the east wall of the reservoir to render it below the new 5-8 waterline? Why didn't DEP change its plans for the east wall reconstruction of the Jerome Park Reservoir to reflect the operational need of the Croton Filtration Plant? R. Spalter and L. Spalter asked why DEP's public presentations to Bronx Community Board 8 did not include any information about the emergency plans for the north basin until June 2019.

Mr. DeLoach answered no to the first question. As to why the JPR plans did not include the new Jerome Park Reservoir waterline in plans and approvals for the reservoir capital project, Mr. Bosch said the question was reasonable. The committee expects an answer.

- Why wasn't the Croton Filtration Plant built with a back-up generator that would have spared the Jerome Park Reservoir from being used as a failsafe measure in case of emergencies? What guidelines, oversight, and regulations oversee the energy generation for the plant and who did DEP have to consult in order construct an electrical facility without a back-up power source?

Community member Robert Cooney recalled his warnings at the Croton Filtration Plant Monitoring Committee that the plant should not be built without a backup generator and repeated his request for justification and permission. K. Argenti shared 2013 letter from DEP Commissioner to Croton Filtration Plant Monitoring Committee that reiterated the New York State Department of Health's decision that the project did not require a waiver to operate without a back-up generator and stated that because the Croton Filtration Plant had three water supply sources and four energy feeders sources of energy generation, the Croton Filtration plant did not need an electrical substation; in the event of a plant shutdown, the city could obtain water from the Catskill Delaware aqueduct. R. Cooney said that every prospective site for the Croton Plant had backup power except its present site and that the city was vulnerable to water shortage if the Catskill Delaware ceased operation because the Croton Filtration Plant had no backup power. R. Cooney also asked for consultation with DEP on its electrical needs.

Mr. Bosch stated that the Croton Filtration Plant uses more electricity than any other DEP facility and cited the size and environmental impact of building the equivalent of a

small power station in the surrounding community. He also stated that in the event of a shutdown of the Croton Filtration Plant, water would be supplied to the city from the Catskill Delaware aqueduct. Kensico and Hillview reservoirs can provide backup water for a month without the Croton Filtration Plant in operation. He did not know to whom DEP answers for electrical redundancy requirements of the plant itself. The committee expects an answer.

Mr. DeLoach reiterated that NYS Department of Health reviewed and approved the plan to proceed without an electrical generator because of water supply backups. He expressed willingness to have a follow up conversation about backup power.

- From what source did DEP get capital funds to repair the Jerome Park Reservoir? The 2017 EAS for the project stated that federal funds will be used, placing the project under federal historic resource review.

DEP stated that no federal funds were used for the project and that they are in conversations with SHPO to clarify the matter. The committee expects an answer to whether or not any federal funds were spent on the Jerome Park Reservoir as capital funds or maintenance.

- Where did DEP send 90 million gallons when it started up the plant? How fast can the reservoir drain water and can it keep pace with the input?

Mr. Bosch will get back to the committee on the first question. He stated that the Jerome Park Reservoir can drain 10 million gallons a day and is not enough to keep with incoming water when the Croton Filtration Plant is not distributing water.

- What changes or extra measures does DEP have to undertake with respect to its Public Design Commission (PDC) applications for the Jerome Park Rehabilitation to reflect the emergency shutdown plan and the new waterline? PDC approval expires on February 13.

DEP will respond at a later date.

Environment and Sanitation community committee member and Water Working Group chair Karen Argenti made a Power Point presentation, entered into the minutes. Ms. Argenti asked DEP to engage community members with Jerome Park reconstruction issues, including rat abatement, construction zones, maintenance, garbage pick-up, etc. She cited “consulting parties” as defined by national preservation law, precedent of Citizen Advisory Councils to create dialogue, and the City Charter section that allows a representative of the Community Board to participate in all EIS. D. Travis cited the outpouring of community protect and need for engagement with the agency. Other questions addressed rates and amounts of water through the Croton water system to city residents. A. Bosch stated that DEP maintains a stable flow of water from beginning to end of the system.

R. Fanuzzi supported the establishment of a Citizen Advisory Council that meets regularly with DEP and reports to the Environment and Sanitation Committee and will forward questions from the meeting to Mr. DeLoach.

#### IV. Hazards of Gas-Powered Lawn Tools

Community member and environmental activist Alisa Eilenberg proposes that private homeowners, private institutions, and the City of New York adopt alternatives to gas-powered lawn tools in order to alleviate pollution, asthma, noise, and fossil fuel usage. Ms. Eilenberg has fought successful battles against incineration in Bronx Community District 8 and other Bronx communities and is grateful for the past support of Bronx Community Board 8's Environment and Sanitation Committee. She is the founder of the Riverdale Committee for Clean Air. Ms. Eilenberg now works closely with AGZA, an alliance of environmental consultants helping users transition to electrically powered lawn tools.

Ms. Eilenberg cited the environmental impact of noise and pollution on her Riverdale neighborhood, especially upon the elderly. She noted that the conversion from gas to battery powered tools will require training but that the benefits, especially for the employees of landscaping companies, is worth the time and effort. Ms. Eilenberg's proposal found a favorable reception among committee and community members. R. Fanuzzi advised local residents to keep up 311 calls for air and noise disturbance in order to maintain a record. He also proposed that the Association of Riverdale Cooperatives take up the issue at a future meeting and invite Ms. Eilenberg to attend. The committee will also forward Ms. Eilenberg's presentation to Councilmembers' offices so that elected officials can learn about alternatives to noise and pollution-generating lawn tools and pursue new regulations or guidelines.

#### V. FY 2022 Expense and Capital Budgets

The committee discussed its FY 2021 budget priorities and agency responses. A proposed new item for the DEP capital budget: back-up power generator for the Croton Filtration Plant.

The meeting was adjourned at 9:15 pm.

Respectfully submitted,

R. Fanuzzi

Chair, Environment and Sanitation Committee

Katherine Robb  
3874 Cannon Pl  
Bronx, NY 10463

February 17, 2020

Community Board No. 8 Bronx  
5676 Riverdale Avenue, Suite 100  
Bronx, New York 10471

Dear Members of Bronx Community Board 8,

As a citizen and lawyer living within the boundaries of the Bronx Community Board 8, I'm writing to address what I believe to be a legal inaccuracy in the letter dated February 3, 2020 from the New York City Department of Environmental Protection ("DEP") regarding their operational decision to change the water level in the north basin of Jerome Park Reservoir ("Reservoir"). I will not be able to attend the meeting on February 19, 2020, where I understand representatives of the DEP will be present, and I'm hoping you can bring this legal inaccuracy to the DEP's attention on behalf of myself and the other citizens who enjoy the sparkling water of the historic Reservoir.

The DEP's February 3, 2020 letter states: "The operational decision to change the elevation of the basin in the Reservoir is a Type II Action under SEQRA (617.5(c)(26) as a continuation of DEP's role as the steward of the NYC water supply system." While it is true that section 617.5(c)(26) lists "routine or continuing agency administration and management," as a Type II action that allowance also states that it does not include "new programs or major reordering of priorities that may affect the environment." Lowering the water level in the Reservoir from its historical level of roughly 28-feet to "5 – 8 feet of water in the north basin year round" is a major reordering of priorities that will adversely affect the environment.

The essence of actions that qualify as Type II actions are those that (a) in no case have a significant adverse impact of the environment based on the criteria contained in section 617.7(c) and (b) are not a Type I action as defined in section 617.4. The lowering of the water level in the Reservoir both qualifies as a Type I action as defined in section 617.4 and meets the criteria contained in section 617.7(c) as having a significant adverse impact on the environment.

First off, the lowering of the Reservoir water level qualifies as a Type I action under 617.4(b)(9) because it is an Unlisted action that exceeds 25 percent of the threshold established in 617.4(b)(6)(i), meaning an

action that affects the physical alteration of 2.5 acres, which occurs wholly within a historic site that is listed on both the National Register of Historic Places and the State Register of Historic Places.

Secondly, the lowering of the water level meets several of the criteria set forth in 617.7(c), which are considered indicators of significant adverse impacts on the environment. These include the following:

- A substantial adverse change in existing ground or surface water quantity - see 617.7(c)(1)(i);
- Impacts on a significant habitat area or other significant adverse impacts to natural resources – see 617.7(c)(1)(ii);
- The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character – see 617.7(c)(1)(v);
- The creation of a hazard to human health, which may occur through an increase in mosquitos since five to eight feet of water is essentially swamp level – see 617.7(c)(1)(vii); and
- A substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses – see 617.7(c)(1)(viii).

Given the above, the DEP either needs to keep the water level of the Reservoir's north basin at its historic level or the DEP must complete an EIS directly addressing the environmental effects of lowering the Reservoir's north basin water level on a permanent basis.

Sincerely,

Katherine Robb



