

ISSUE PAPER #4

Governance

Issue

Given the legal options that are available for flood control zone district governance, what is the preferred approach to governance of the Birch Bay watershed sub-flood control zone district (BBWARM)?

RCW 86.15.025 authorizes the formation of sub-flood control zone districts, or subzones, providing also that subzones “shall have authority to exercise any and all powers conferred by the provisions of RCW 86.15.080 as now law or hereafter amended.” [RCW 86.15.080 defines the general powers of flood control zone districts.]

The supervision of subzones is also provided for in RCW 86.15.050. The section states that the board of county commissioners (BOCC) in any county shall be, by virtue of their office, the supervisors of any subzones. [The Board of County Commissioners for Whatcom County is the County Council.]

In subzones with more than 2,000 residents, however, the law provides two ways that subzone supervisors can be elected (at the expense of the subzone). The first method requires that the Board authorize, by resolution, *an election to authorize* the election of subzone supervisors. The second method requires a citizen petition to again authorize *an election to authorize* the election of subzone supervisors. In order for a citizen petition to be valid, it must have been signed by more than 15% of the registered voters, in the area of the subzone, who voted in the last election. There are to be three elected zone supervisors.

The County engineer is authorized to administer subzones, although those duties may be delegated. In subzones with elected supervisors, the law (RCW 86.15.060) authorizes the supervisors to “provide for administration of the affairs of the zone by other than the county engineer.”

Finally, for any subzone, RCW 86.15.070 authorizes the Board to appoint an advisory committee of up to five people to serve without pay and at the pleasure of the Board.

Alternatives

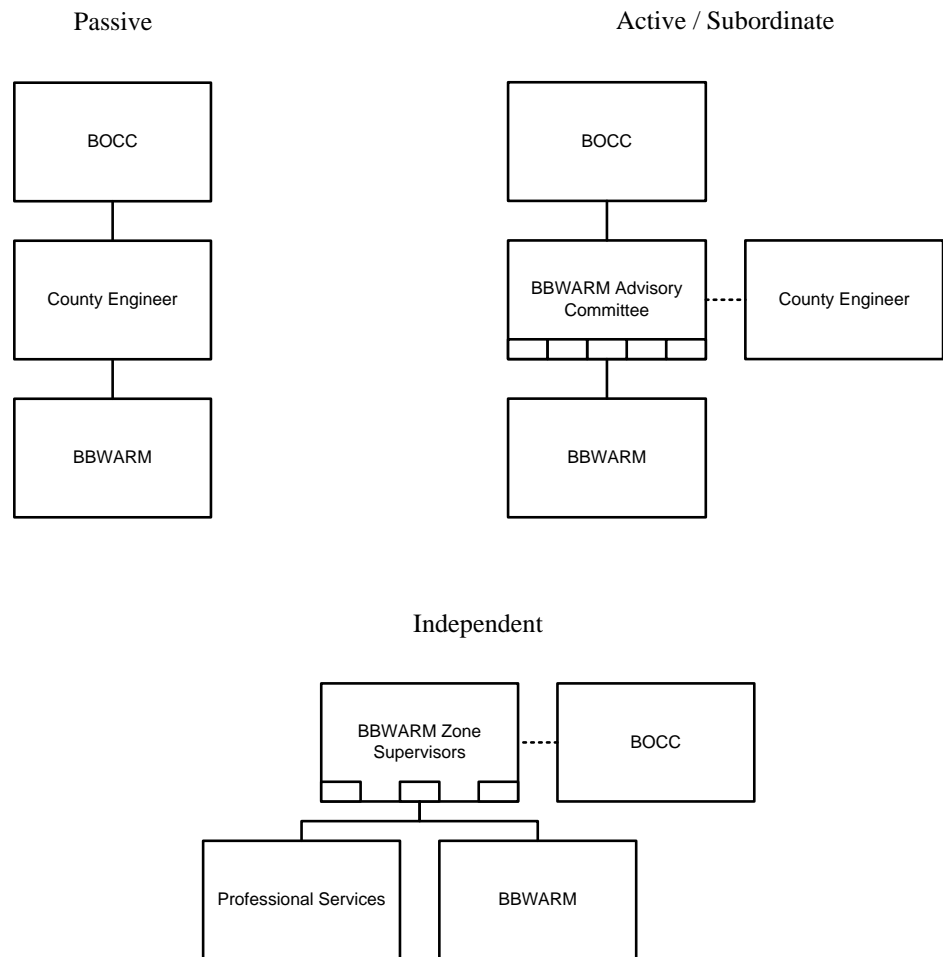
In considering alternative governance structures, it is important to note that the determination of how BBWARM will be governed in large part rests in the hands of the Board of County Commissioners. That said, among a number of options, there are three that seem to represent markedly different levels of engagement and responsibility in the area of governance.

- **Passive.** A passive approach to governance would be to accept the supervision of the BOCC and the administration of the County engineer, without an engaged advisory committee. This approach

would certainly require the least energy on the part of the residents of BBWARM, but would seem to be inconsistent with the financial commitment made by BBWARM residents and businesses through potential rates and charges – that is to say, a group willing to make a financial investment in the health of the watershed would likely be more than willing to engage in the supervision of that watershed.

- **Active / subordinate.** An active but subordinate approach to watershed management would be to request the appointment of the five-person advisory committee provided for in RCW 86.15.070, as is the County’s practice with its other existing subzones. In order to maximize BBWARM involvement, the advisory committee could be supported by a larger group tasked with such activities as (1) financial oversight, (2) program effectiveness monitoring, (3) environmental oversight, etc. In this alternative, the supervision of the subzone would remain the responsibility of the BOCC, and the administration of the subzone would remain the responsibility of the County engineer. This approach would make use of existing County programs and bureaucracy, accepting County supervision but with an active voice through the advisory committee.
- **Independent.** An independent approach to management of the watershed would be to request or petition to authorize an election to authorize the election of three BBWARM supervisors. Should the voters choose to elect zone supervisors, then the three elected supervisors would serve as the legislative body for the subzone. The subzone would then become an independently run district, subject still to RCW 86.15, but also empowered to contract with other service providers for subzone administration and other support. While maximizing the ability of BBWARM to chart its own course, this approach would require a significant amount of internal organization, expense, and coordination to provide the services that the County is already set up to provide.

Graphical depictions of each governance option are provided in the figures following.



Discussion

While there are some advantages to the passive approach, e.g., little energy is required, it simply does not provide an avenue for engagement commensurate with the level of investment made (or to be made) in the watershed.

In contrast, while the attraction of the independent approach is obvious, there are many hazards as well. There are costs associated with the election of supervisors that must be borne by the zone. There are significant costs associated with the establishment and ongoing operation of an independent entity, as well as the unstated requirement for a level of administrative and programmatic expertise – even if needed services are to be obtained by contract through private firms or the County.

Regarding the active / subordinate approach, it is our belief that the BOCC will respect and defer to an engaged advisory committee that represents the interests of those who have essentially developed and continue to pay for the watershed program itself. We believe that the institutional memory, resources, and expertise of County staff will be most efficiently utilized under this approach.

Recommendation

We recommend that the subzone request the appointment of a five-person

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advisory committee, staffed by other members of the BBWARM community, yet defer to the BOCC for ultimate supervision of the subzone.