

JOHNSON COUNTY STORMWATER MANAGEMENT 2016 STRATEGIC PLAN IMPLEMENTATION

Watershed Board Bylaws Discussion



PREPARED ON BEHALF OF

Johnson County Public Works & Infrastructure
Urban Services Division

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I. KEY ISSUE DISCUSSION

Below are some key terms, issues, and notes associated. Part I of this memorandum is intended as a Summary document, with Part II containing more detailed information.

PLEASE NOTE: The following are intended as talking points, and are NOT final positions. Suggestions included are just that; suggestions. This is a first-take based on Watershed Based Organization (WBO) discussions and County comments.

Key Terms:

Watershed – Unless noted otherwise, this term refers to one of the 6 areas identified by the WBO. Each Watershed will have a Board.

Board – group of representatives that discusses and makes decisions on stormwater improvements within each Watershed.

MEMBERSHIP

Key Issues

Who participates in the Watershed Board and contributes to decisions?

Suggested Path Forward

Membership on the Board should be granted to all municipalities that have jurisdictional authority within the Watershed. For Watersheds with unincorporated area, the County shall have membership on the Board. Eligible Cities or the County may waive their right to participation in the Watershed Board. In addition, the Board should appoint at least three additional members to serve in an ex-officio capacity (e.g. Johnson County Stormwater [in case there is not unincorporated area], MARC, Johnson County Wastewater, Chamber of Commerce, Development Community Representative). Membership on the board, ex-officio status, and County participation should be reviewed every two years and adjusted accordingly.

VOTING RIGHTS/PROCEDURES

Key Issues

Fundamental decision power to direct the organization and forward projects to the County

Suggested Path Forward

Each member will be granted a single vote on the board, regardless of population, land area, or tax base. One key exception: a City must comprise at least 2% of a Watershed on a land area basis to have voting rights.

OFFICERS

Key Issues

How will the Watershed Boards function internally?

Suggested Path Forward

At a minimum, the Watershed Boards should elect a Chair, Vice-Chair (for service in the Chair's absence), and Secretary. Formal duties of the Officers will be listed in each Watershed Board's by-laws. Chair will be responsible for ensuring Stormwater Management Program goals and procedures are met. Secretary will be in charge of recording activities and decisions of the Board. It is assumed that officers will come from the membership pool, and will serve on a volunteer basis. It is not suggested that Watershed Boards will have paid staff.

REPRESENTATION TO THE STORMWATER MANAGEMENT PROGRAM

Key Issues

How will guidance and approval be provided to the Stormwater Management Program in lieu of the Stormwater Management Advisory Council?

Suggested Path Forward

Each Watershed Board will select a representative to communicate issues and preferences to the Stormwater Management Program. It is suggested that the Chair of each Watershed Board fulfill this role. This new, so far un-named group of Watershed Representatives will function as a replacement to the existing Stormwater Management Advisory Council.

WATERSHED PLANNING

Key Issues

How will the Watershed Boards develop and prioritize stormwater improvements?

Suggested Path Forward

Each Watershed will be studied in order to develop a list of known or probable flooding, water quality and system management impairments, as well as a prioritized list of capital improvement projects to address the same. This prioritized list of projects will form the basis of the Watershed Board's improvement plans for the watershed. Individual Cities will be expected to contribute existing information, models, and system knowledge to facilitate the completion of the Watershed Studies.

Watershed Studies are anticipated to be funded by the County Stormwater Management Program.

Watershed Studies will be developed with the greatest practicable disregard for municipal boundaries, possibly requiring Cities to work together to achieve watershed improvements. Since Watershed Study results will be available to Board Members, individual cities will be encouraged to develop complementary plans for stormwater improvements. Improvements will be subject to approval (including funding approval) of the municipalities impacted.

METRICS AND MEASUREMENT

Key Issues

How will the Watershed Boards and the Stormwater Management Program measure success?

Suggested Path Forward

The Watershed Boards will collaborate with Stormwater Management Program staff to develop and maintain a list of stormwater metrics including those that relate to flooding, watershed water quality, and system management. Progress against these metrics will be reviewed on at least an annual basis and included in a report to the SMP.

Part II

PURPOSE

The purpose of the following section is to provide material that can be incorporated into the Watershed-Based Organization Bylaws for the Johnson County Stormwater Management Program 2016 Strategic Plan Implementation.

ROUGH GUIDE FOR THE FORMATION OF WATERSHED-BASED ORGANIZATION BYLAWS

Introduction

The 2016 Strategic Plan for the Johnson County Stormwater Management Program (SMP) states that the SMP will modify itself to incorporate decision making from watershed-based organizations. Currently, the SMP is a municipal-based program in that individual municipalities sponsor projects. As part of the implementation of the 2016 Strategic Plan, the SMP has assembled a Watershed-Based Organization Subcommittee (WBO Subcommittee) consisting of area stakeholders, including city staff and elected officials, representatives from governmental organizations, nonprofit associations, and local consultants. The SMP has tasked the WBO Subcommittee with providing guidance regarding the policies and procedural framework of future watershed-based organizations.

From previous meetings, the WBO Subcommittee has noted the need for structural uniformity in the watershed-based organizations. The watersheds across Johnson County are diverse and may have different priorities, but the organizations will need to have consistent formation and operation. Some cities in the County will be in multiple organizations and the cities have to be fair and equitable in their balancing of the limited resources of funding and time. The WBO Subcommittee has also noted the need for a well-defined management structure to delineate responsibilities, authority, and limitations amongst members so as to reduce logistical challenges. The watershed-based organizations will later draft Bylaws that will be designed to provide a foundation of clear and uniform operational structure. Drafted Bylaws will direct the organizations by documenting goals, boundaries, and means of conflict resolution.

The purpose of this guide is to give a rough outline of the potential Bylaws of the watershed-based organizations based on feedback received from the WBO Subcommittee. Of note, this guide is not definitive but acts to facilitate further discussions so that additional details can align with stakeholder needs.

Bylaws Key Components

Below is a list of suggested Articles to include in the Bylaws of the watershed-based organizations. Provided is a general explanation of key components to include in the Articles with the understanding that the organizations will best decide the specific language.

ARTICLE I. NAME, GEOGRAPHIC AREA, AND STATEMENT OF PURPOSE

Article I should identify the name of the watershed-based organization along with the geographic area for which it is concerned. The County and municipalities within the organization should be stated, indicating that the geographic area encompasses parts of or all of such municipalities.

In addition, Article I should provide a concise but thorough explanation of the organization's statement of purpose. The WBO Subcommittee has discussed potential goals of the organizations that may provide direction when considering the statement of purpose. Individual comments from meetings are summarized as such:

- The guiding principle should be to put the watershed first
- Goals should clearly define areas of mutual benefit amongst members
- The quality of natural systems should be explicitly incorporated
- Outcomes should be tracked over time, measured, and communicated to the public

The following examples are further language that could be included in a statement of purpose:

- Exist for the public benefit and advantage of the people of Johnson County, KS
- Promote the health, safety, and welfare of the people of Johnson County, KS, by preserving water quality, addressing flooding, and promoting stormwater system management
- Develop and implement a watershed-based master plan through coordinated and collaborative efforts amongst members
- Pursue watershed-based funding through the SMP, and explore pursuing alternative funding

ARTICLE II. MEMBERSHIP

Important points to note under Article II would be defining membership eligibility, rights, resignation and termination, and non-voting membership. In regards to eligibility, the WBO Subcommittee has decided that membership should be granted to all municipalities that have property or jurisdictional authority within the geographic area designated by the watershed organizations.

Essentially, the cities would be the members of the organizations and would have the right to appoint one voting representative to cast the member's vote for the Board of Directors. Cities should likely file the appointment and resignation of the voting representative via written statement to the Secretary. Under Article II, consideration should also be given as to the requirements for membership termination.

As for non-voting membership, the WBO Subcommittee decided that other organizations such as NGOs, governmental entities, water suppliers, or members of the business community could have ex officio status. The Subcommittee has noted the need to include broad stakeholders so that multiple benefits

are identified and maximized. Article II should have language providing the Board of Directors with the discretion to create non-voting membership.

ARTICLE III. BOARD OF DIRECTORS

The Board of Directors will consist of municipality representatives that will be responsible for overseeing, governing, and controlling the business of the watershed-based organization. Representatives should have the ability to make informed decisions and should act within an appropriate scope of loyalty and care to the organization.

Article III should include language for the qualifications of Directors, meaning Directors should be representatives of municipal members, along with language for the conditions of Director removal. Organizations may want to allow members to appoint one primary representative and two alternative representatives to serve on the Board. Cities should provide written notice of the designation and removal of representatives to the Secretary.

The Bylaws will also note what constitutes a quorum for the transaction of business at any meeting of the Board. As well, voting requirements should state eligibility to vote and what constitutes majority approval.

ARTICLE IV. OFFICERS

At a minimum, the Board should appoint from its members officers to hold positions of Chair, Vice Chair, and Secretary. The Bylaws should state the procedures for officer elections and when they occur, along with conditions for how to handle the removal and resignation of officers. In addition, the Bylaws should indicate officer duties, authorization, and term limitations. Officers could have additional duties beyond what would generally be considered. For instance, the Vice Chair is designated to act as chairperson in absence of the Chair, but could also be given the duty to chair committees on special subjects as established by the Board.

ARTICLE V. COMMITTEES

The Board of Directors can decide how committees function and what powers they have over designated matters. The WBO Subcommittee has suggested that the watershed-based organizations have a Technical Advisory Committee. Bylaws would state that the Committee does not have the authority to make decisions on behalf of the organization, but would perform duties and tasks as the Board shall from time to time direct. Such duties may include, though would not be limited to, technical matters and referral comments. For instance, the Technical Advisory Committee may report to the Board on matters of a scientific or technical nature and may also develop and submit referral comments on items such as permitting and local government decisions.

Examples of other advisory committees that watershed-based organizations have noted in their Bylaws include committees for education and outreach, finance, environmental review, agriculture, and legislation. Article V would include language indicating that the committees may consist of Directors or

non-voting members as appointed by the Board. Bylaws should also note provisions guiding the meetings of any committees.

ARTICLE VI. MEETINGS OF MEMBERS

Article VI should designate the schedule of regular meetings. For example, meetings should be scheduled as needed, but at least quarterly. Language should state the required notice for meetings, along with provisions to call for special meetings and the requirements for meeting cancellation.

ARTICLE VII. AMENDMENTS

Lastly, the Bylaws should stipulate the procedures for proposing and incorporating amendments. The WBO Subcommittee does expect that the structure of the watershed-based organizations will change and evolve as the program progresses. Just as members should take careful consideration in the initial formation of the Bylaws, so too should they consider a yearly review to ensure that the Bylaws reflect the organization's practice and are able to resolve internal disputes.

ADDITIONAL CONSIDERATIONS

The WBO Subcommittee has stated that the watershed-based organizations need to know clear delineations of legal authority, including allocation of staff resources and funding. The above guide for the Bylaws gives direction for potential member roles and responsibilities. But still, municipalities will need further formalization of such matters and should consult with legal counsel to address and resolve potential conflicts.