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COUNTY COUNCIL

MEMO TO: Tony Takitani, Chair,
and Members of the Special Committee on County Governance

F R O M: Kimberley Willenbrink, Legislative Analyst *KCW*
Sharon Brooks, Legislative Attorney *John for SB*

SUBJECT: **FORMS OF COUNTY GOVERNANCE (STRUCTURE AND PERFORMANCE)** (CG-1(3))

INTRODUCTION

This memorandum responds to your questions on how a County Manager form of governance could be structured and how a County Manager might improve the performance of Maui County's government.

For purposes of this memorandum, "County Manager" form of governance means a municipal government with a structure that includes an appointed chief executive. In addition, the "Strong Mayor" form of governance means a municipal government with a structure that includes an elected chief executive.

The research is relevant to the basic policy question before the Special Committee on County Governance:

Should the County of Maui's chief executive remain an elected position or become an appointed position?

SUMMARY

Our review of the available scholarship on municipal governance does not provide an obvious answer to the question of whether the performance of Maui County's government would improve with a County Manager form. But the objective research does seem to support a few conclusions, such as the following:

- Voter turnout for municipal elections tends to decrease when the municipality's chief executive is not an elected position.

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- Effectiveness in municipal government is based on the performance of professional administrators, regardless of whether the chief executive is elected or appointed.
- Though politically influential interests are powerful in both Strong Mayor and County Manager governments, the absence of elections allows a County Manager the freedom to:
 - foster innovation;
 - concentrate on management instead of political activities; and
 - invest in long-term, community-wide solutions.

Likewise, scholarly research does not reveal an ideal structure for a County Manager form of governance. Determining the chief executive's authority and relationship is left to the judgment of those who draft and approve County Charter provisions.

STRUCTURE OF COUNTY MANAGER FORM OF GOVERNANCE

Variables to be considered when contemplating the structure of the County Manager position include:

- **Appointment criteria and procedure.**

What are the educational and professional requirements for the position of County Manager? Is the appointment made by a county council, a volunteer board or commission, or an outside firm?

- **Term in office.**

Does the County Manager have a definite or indefinite term?

- **Termination criteria and procedure.**

Does the County Manager serve at the will of the County Council?
Or may the County Manager only be terminated for cause?

- **Authority to appoint department heads and other personnel.**

Are appointments made unilaterally by the County Manager or
with the County Council's concurrence?

- **Authority to manage departments.**

How much oversight does the County Council have in the County
Manager's management of County departments and agencies?

- **Authority to propose and manage the budget.**

Would the County Manager submit a proposed budget to the
county council? Would the County Manager have the ability to
refuse to execute an appropriation? Would the County Manager
have the ability to propose or approve budget amendments during
the fiscal year?

Some County Manager governments have a position called mayor. Some
Strong Mayor governments have a position called county manager. Again, the
distinction is whether the chief executive is elected or appointed. Titles alone
do not necessarily carry substantive effect, and terminology can be misleading.

In either a County Manager or a Strong Mayor form of governance, the
County Charter can impose stringent qualifications for department directors
and other appointed positions and make appointments contingent upon
approval by a County Council or a commission. In contrast, the County
Charter can afford substantial discretion to the chief executive for appointed
positions. The issues of directors' qualifications and the County Council's
confirmation authority are not necessarily related to the basic question before
the Special Committee.

PERFORMANCE OF COUNTY MANAGER FORM OF GOVERNANCE

Please find below summaries of relevant research material we have accessed.

Article: “What Have We Learned about the Performance of Council-Manager Government? A Review and Synthesis of the Research”

In 2015, the scholarly journal Public Administration Review published an article by Professor Jered B. Carr entitled “What Have We Learned about the Performance of Council-Manager Government? A Review and Synthesis of the Research.” Professor Carr chairs the Department of Public Administration at the University of Illinois at Chicago.

Professor Carr’s article appears to be one of the most recent and thorough research papers on the County Manager form of governance. He notes there are 10 “propositions,” to use his terminology, that may be gleaned from previous academic work on this subject. His article evaluates the strength of the evidence for each of the propositions. This evaluative process leads him to state four “main points,” or conclusions.

Following is a summary of Professor Carr’s evaluation of 10 propositions about the County Manager form of governance:

- 1) A County Manager limits the influence of politically powerful interests. Evaluation: Probably not true.

A notable 2013 study on municipalities’ consideration of “sustainability policies” did not support the proposition that a County Manager limits the influence of politically powerful interests. The authors determined “that the effect of key organized interests (business, environmental, general interest) on the adoption of these sustainability initiatives did not vary with form.” In other words, **there are not “systematic differences between the two forms of government in their responsiveness to powerful constituencies.”**

- 2) A County Manager is more likely to adopt comprehensive policies.
Evaluation: Generally true.

Studies have found **County Manager governments are more likely to make the investments needed for broad and sustainable policy solutions**, whereas Strong Mayor governments tend to favor “localized” or “symbolic” policy actions that are less politically risky and require a lower level of long-term, system-changing commitment.

- 3) A Strong Mayor is more likely to adopt policies directing visible benefits to particular segments of the community. Evaluation: Generally true.

A 2011 study, among others, found **County Manager governments tend to pursue community-wide economic development policies**. In contrast, Strong Mayor governments tend to pursue economic development projects that are “targeted” and “localized” because they provide opportunities for “credit claiming” and, therefore, are “politically advantageous.”

- 4) Voter turnout for municipal elections is lower for County Manager governments. Evaluation: True.

Decades of research has consistently shown **the presence of a Strong Mayor election on the ballot produces higher voter turnout**.

- 5) County Manager governments are more likely to engage constituents in policy decisions. Evaluation: Probably not true.

County Manager governments tend to participate in a broad range of civic engagement, whereas Strong Mayor governments are more focused on citizen participation via elections. But **the percentage of residents actually engaged with municipal government does not appear related to a form of governance**.

- 6) A County Manager spends more time on management than a Strong Mayor. Evaluation: Generally true.

Most studies support this proposition. **County Managers tend to spend most of their time on management**, whereas Strong Mayors tend to divide their time among management, policy, and political activities. The article defines “political activities” as “ceremonies, public relations, meetings with other governmental officials at other levels of government, speeches, etc.” One study found a Strong Mayor typically spends almost twice as much time on political activities as a County Manager.

- 7) County Manager governments have less intragovernmental conflict. Evaluation: Generally true.

This proposition has been supported in recent studies, with academics noting **professional County Managers have the ability to reduce conflict and promote cooperation in government.**

- 8) County Manager governments are more likely to adopt innovative policies and practices. Evaluation: Generally true.

Studies indicate a County Manager form of governance promotes innovation because **a less political environment encourages risk taking.**

- 9) County Manager governments produce higher-quality services. Evaluation: Probably not true.

Though there is some support for this proposition, **the strongest indicator for high-quality services is the presence of professional administrators**, whether led by a County Manager or a Strong Mayor.

- 10) County Manager governments are more effective in executing basic municipal functions. Evaluation: Probably not true.

Elected officials in County Manager governments generally rate their effectiveness higher in some basic functions, such as reviewing and approving the municipality's budget and overseeing program effectiveness, than those in Strong Mayor governments. **But studies otherwise do not show a strong correlation between effectiveness in core functions and form of governance.**

Professor Carr concludes his evaluations with this observation: "The evidence for propositions 1, 5, 9, and 10 is considerably weaker than that for the other six propositions."

Professor Carr's four main points:

- a) There is a limited amount of empirical literature comparing the County Manager and Strong Mayor forms of governance.
- b) The empirical literature that does exist tends to support the view that County Manager governments "seek to distribute the benefits of public policies more broadly" than Strong Mayor governments.
- c) The empirical literature also suggests County Manager governments "are more willing to adopt innovative policies and procedures."
- d) **The scholarly research does not support the contention that there is a difference "in the general operational effectiveness of the organizations" attributable to the form of governance.**

Chart: Comparison of forms of governance by Municipal Research and Services Center

The Municipal Research and Services Center provides this chart, at www.mrsc.org, comparing forms of governance based on laws that apply to cities in the State of Washington:

Comparison of Strong Mayor vs. County Manager

Characteristics	Strong Mayor	County Manager
Legislative authority	Council	Council
Executive authority	Elected mayor	Appointed manager
Selection of CEO	Popularly elected	Appointed by council on the basis of experience
Removal of CEO	Recall election	Removed by a majority vote of the council
Tenure of executive	4-year term	Indefinite
Tenure of council	4-year term	4-year term
Appointment of department heads	Mayor (with council confirmation if provided)	Manager (no council confirmation)
Removal of department heads	Mayor	Manager
Veto	Mayor	Manager has no veto
Policy development	Mayor can propose	Manager can recommend
Policy implementation	Mayor	Manager
Underlying principles	Separation of powers Political leadership Strong central executive	Separation of politics from administration Promotion of economy and efficiency through professional management Strong central executive Business model

Blog post: “Local Government 101: Strong Mayor vs. Council Manager”

Voterheads is an educational and advocacy group that seeks improvements in municipal governments. Last year, Voterheads CEO Karl McColleston authored a post at blog.voterheads.com entitled “Local Government 101: Strong Mayor vs. Council Manager.” He summarized positive and negative elements of both the County Manager and the Strong Mayor forms of governance as follows:

	County Manager	Strong Mayor
PROS	<ul style="list-style-type: none">• Increased stability• Less susceptible to political influence	<ul style="list-style-type: none">• Leadership more visible to the public• Leadership directly accountable to voters• Mayor can enact changes more quickly
CONS	<ul style="list-style-type: none">• Harder to figure out who citizens talk to• Harder to hold elected officials accountable	<ul style="list-style-type: none">• Election changes can bring instability to services• Politics more likely trump other factors in decision making

Article: “Can Municipal Political Structure Improve Fiscal Performance?”

Professor Clayton P. Gillette of New York University School of Law in 2014 compared the County Manager and Strong Mayor forms of governance in an article for Review of Banking and Financial Law, published by Boston University. He noted there is a dispute among researchers about which form better promotes fiscal prudence.

Some say Strong Mayor governments are “strongly correlated with, and arguably causally related to, fiscal stability” and are “associated with lower costs of government.” The theory is that a Strong Mayor will have the political capital and legal authority to curb excessive spending by the legislative body through use of the line-item veto or refusing to execute misguided appropriations.

Professor Gillette noted others reach the opposite conclusion:

Notice also the related paradox created by strong mayor systems. The very autonomy that must be granted to a strong executive in order to centralize budgetmaking necessarily risks exacerbating the intertemporal conflict. Strong mayors, like law school deans, may suffer from an edifice complex, a desire to invest in capital projects that stand as testimony to their period of rule. Such projects are typically funded by borrowing, and that activity, of course, lies at the heart of the tendency to trade short-term benefits for long-term costs.

In summary, the research is inconclusive on whether form of governance impacts fiscal prudence.

Article: “Can Strong Mayors Empower Weak Cities?”

In a 2006 article for Yale Law Journal, University of Virginia Law Professor Richard C. Schragger noted a nearly century-long trend of municipalities moving away from Strong Mayor governments to County Manager governments. His article cautioned against continuing the trend, particularly in an era when municipalities may have to challenge “political competitors” at other levels of government:

The professional manager provides a comforting image of governance in which executive power--in fact, the exercise of political power of any kind--is submerged and repressed. Weak-mayor charters and the dominance of the council-manager model reflect the widespread notion that municipal government is mainly administrative in nature. This understanding indirectly serves the interests of mayors' political competitors at the state and federal level, who benefit from mayors' lack of power.

In other words, weakening the chief executive position may place the municipality at a disadvantage in competition for state and federal resources, relative to municipalities with stronger chief executives.

Article: “Solutions to the City Attorney's Charter-Imposed Conflict of Interest Problem”

Heather E. Kimmel, in an article for Ohio State Law Journal in 2005, noted one benefit of County Manager government is that the municipality’s legal department will be able to avoid the intragovernmental conflicts of interest common in Strong Mayor governments:

A city that uses the council-manager form of government may be able to avoid conflicts of interest for the city attorney by avoiding the separation of powers that normally occurs in a strong mayor-council form of government. With the city government unified under the city council, the city attorney would have only one client. . .

The traditional council-manager form of city government consists of a popularly elected city council, and a city manager who is elected by the city council from the members of the city council. The mayor is also a member of the city council, elected either popularly or by the city council. The city manager, as opposed to a popularly elected mayor in the strong mayor-council form of government, is the chief executive of the city and responsible to the city council. He may be removed by a majority vote of the council. The city manager is responsible for appointing officers and department heads. The city government under this structure is not divided into branches, but is unified in the city council.

If the city manager appoints the city attorney, the city attorney's client is arguably the entire council, because the city manager may be removed by the council. If the council members disagree among themselves, that is an issue of who the highest policy-making authority is, not a conflict of interest for the city attorney, and that issue must be resolved within the council.

The benefit noted in this article is that a County Manager form of governance may encounter fewer conflicts of interest because the attorney’s client is singular and clearly known.

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CONCLUSION

We hope this is helpful. We acknowledge research results do not provide conclusive answers to the questions posed by the Special Committee. There appear to be well-supported arguments for both the County Manager and the Strong Mayor forms of governance. In addition, there is a wide range of structural elements that can be considered for the County Manager position, if that form of governance is favored. Please let us know if we can answer additional questions or conduct additional research.

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cc: Hon. Mike White, Council Chair
Ms. Lori Teragawachi