



Structural Change for Maui County Governance

**Call for Council-Manager Form of Local
Government**

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EXECUTIVE SUMMARY

The residents of Maui County expect their elected officials to strive to operate the County government at the highest level of efficiency and professionalism, and as stated in the Preamble to the County's governing document, the Revised Charter of the County of Maui (1983) as amended, the people of the County of Maui wish to "secure the benefits of the best possible form of county government."

Charter Section 3-9 states "It is declared to be the policy of the County to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.
2. Eliminating duplication and overlapping of services, activities, and functions.
3. Consolidating services, activities, and functions of a similar nature.
4. Abolishing services, activities, and functions not necessary to the efficient conduct of government."

We can get better results from local government through structural change- not by asking county employees to work harder or faster. Many county employees are already struggling to keep up with current demand. We need local government to work smarter. This can be achieved, in large

part, through structural change and professional management, by adopting a form of government known as the “council-manager” model replacing the “elected mayor” model.

In the council-manager form of governance the county council is charged with defining public policy, setting high-level direction, hiring and if necessary, firing a professional manager, giving the professional manager goals and objectives, and holding him or her accountable for results.

In turn, the professional manager hires and fires his/her team of directors, and assigns goals and objectives to them aligned with council directives and policy. In so doing, accountability for results is created throughout, between council and manager and between the manager and directors. This is totally unlike the current system where there is no accountability between the mayor and council, or between the mayor and his politically appointed directors.

According to the Harvard Law & Policy Review, the council-manager form of governance is the most common form of municipal government and in a county manager form of government (See Figure 1), the county manager usually has an extensive professional expertise and a relevant advanced degree, such as a master’s of public administration or master’s of business administration.

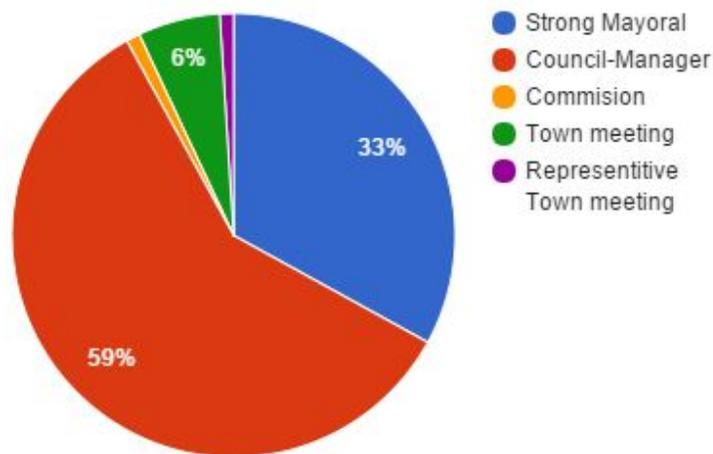


Fig. 1

This proposed form of governance would draw professionally qualified department heads and deputies as well as provide stability in operations. The county manager would carry out the policies and execute ordinances established by the Council thereby promoting effective management within a transparent, responsive, and accountable structure.

CORPORATE BACKGROUND

Until 1969, Maui County had an elected Board of Supervisors holding both legislative and executive authority. A new charter, approved by the electorate in 1968, established the current “strong mayor” system in which an elected mayor appoints department heads and executes ordinances and other policies. At the time, the population of Maui County was 45,000.

Elmer Cravalho was Maui County's first mayor (1969-1979), and he told the Charter Commission in 1975 that he supported the abolition of his office in favor of an appointed county manager.

Maui County is no longer a sleepy plantation community. The population borders on 170,000 and Maui County employs over 2,500 people. The administration of Maui County shoulders critical responsibilities, including;

- Overseeing a \$600,000,000 + budget and numerous capital improvement projects;
- Managing a 2,500+ workforce, including civil service and union contracts;
- Ensuring public safety by providing police, fire and emergency preparedness protection;
- Ensuring an adequate water supply and sound waste water disposal;
- Handling solid waste;
- Planning, repairing and installing roads, walkways, bikeways, paths and other means of transportation, including public bus transit;
- Developing and maintaining an extensive park system;
- Supplying information technology supporting numerous community functions;
- Planning future developments and enforcing existing land use regulations;
- Addressing the effects of anticipated climate change;
- Ensuring an adequate and sustainable energy supply;
- Protecting the environment, including near-shore waters;
- Supporting an adequate supply of affordable housing
- Nurturing culture;

- Overseeing legal and regulatory affairs and ensuring compliance with federal, state and county laws, rules and regulations;
- Supervising all of the above responsibilities and personnel on three islands

Organizational structure is key to efficient and effective delivery of these services- to residents and others dependent on local government for various permits, approval and support.

The current elected mayor model of county government may not be the best way to support these duties. Clear lines of authority, responsibility and accountability for results are needed; that can best be found in the council-manager model where a professional county manager, reporting to an elected county council, is hired to do the work.

Currently the administration is heavily political. The Mayor's term is for 4 years and requires no degree or experience. As an elected position, the Mayor and his administration spend the first term trying to ensure re-election, and then have no incentive the following 4 years to provide services in an efficient manner.

S.W.O.T.

S.W.O.T. analysis reveal that there are some great opportunities for change that may strengthen practices of Maui County's local government.

Strength:

The current strong mayoral form of governance that Maui County is utilizing places all administrative power with the Mayor, but all legislative power lies with the council. This separation creates a strong division which is a strength if the people do not trust the council that they elected. The Mayor has the power to reject the council's direction when it comes to services provided and laws enacted.

Alternatively the council holds the "purse strings" and spends roughly 4-6 months working on the budget for the following fiscal year. This is both time consuming and costly. The Mayor and his budget office work for 6 months creating it, and then the council spends 6 months going over each line item and cutting back wherever they can.

Since the administration expects a certain amount of cutbacks, they have learned to embellish what they budget for and the council spends a lot of time figuring out exactly where those embellishments are, and then cuts them and re-appropriates the funds as they see fit.

This structure has a strong checks and balances, but as we will see, that may not make the most fiscal sense.

Weakness:

The current form of government does not fit the best use practices of time value money. County resources are wasted and politics are too heavily involved in the administration of county business.

Every week in Maui County, citizens are denied services that they have paid for. Service such as refuse service in which the department of environmental services claims that they don't have the funds to hire enough employees.

Weakness is also found in the fact that politics plays such a large role in the management of county services. Instead of having a qualified manager, Maui County relies on popularity to determine who will handle the day to day operations of a multi-million dollar organization.

Currently all departments are headed by those that are appointed by the mayor. While there are requirements regarding the length of time directors have spent in the field, they are not always followed and there is little the people or the council can do about it.

This means that the departments are not always managed in the most efficient way and furthermore, the departments undergo a change in management about every 4-8 years.

Opportunities:

After analyzing the strengths and weaknesses it is apparent that there is an opportunity to shift the form of governance to a council-manager style of governance. This change could allow Maui

County to save hundreds of thousands of dollars over the next 5 years and to promote efficiency within all of the departments.

Recent studies by NACo have determined that municipalities that adopt the Council-Manager form of government save an average of 10% annually. This savings alone is a reason to take advantage of the opportunity to restructure Maui County's local government.

Threats:

The current system sets the stage for a power struggle between the administration and the council, which can easily undermine any actions. Lack of transparency is a major threat that Maui County residents face from their elected officials. Due to the highly political nature of the current form of government, there is a great potential for "payoffs" and "favors" to occur. This undermines the integrity of the government and takes the power away from its constituents.

There is also the threat of wasted funds due to inefficient practices. It has been noted that there is a high rate of turnover for department directors in the County of Maui. These turnovers are costly and set the stage for inefficiencies from lower level employees.

PROBLEM IDENTIFICATION

To identify any problems that the county faces, we must first ask some important questions. How is Maui County doing as a supplier of services to its citizen/customers? Are we getting maximum

value and high performance? Is the County “easy to do business with?” Is an adequate supply of water available both now and to meet future needs? Are building and other permits easy to obtain? Is waste disposal efficiently run? Are near-shore waters clean and healthy? Do we have an adequate supply of affordable housing? Are our plans being implemented and enforced seamlessly and in accordance with public policy? Do the mayor and county council work well together for the benefit of residents?

Let’s take a look: *See Appendix A-I*

REVIEW OF BEST PRACTICES

The ability to develop a career, including promotion from within to that of a director, is good human resource practice. It is both cost effective and performance based allowing for best time value money practices.

A change in structure would allow the best fit candidates to advance in their department, saving the County hundreds of thousands of dollars. Employees would move up the chain in their department with the ability to be promoted to director (which is not currently a possibility) and bring with them the historic knowledge that comes from working in a department for many years.

The movement to convert Maui County government to the council-manager structure is not about the current mayor’s performance, but rather it is a solution to the growing demands of our

community. The future is bound to be more difficult as the county grows in population and the delivery of services increases in complexity.

It can best be faced by a professional manager utilizing the Management by Objectives business model. The appointed County Manager would be responsible for setting measurable goals, checking in with their subordinates to see if they are meeting those goals, guide them if necessary, and recheck performance or modify the goal.

Not only would this be possible under a Council-Manager form of government, this would create a results oriented government.

At the present, the mayor has virtually no accountability for performance, except to the electorate every 4 years, and in the second term of office there is no electoral accountability because the mayor cannot run again.

Winning an election is not the same as running the county. Electing a person who is the most popular, who raises the most campaign contributions and who attends the most potlucks is not the best way to select a chief executive officer in today's world.

The council-manager form of local government was created over one hundred (100) years ago in response to rampant cronyism in local government. Because elected mayors attain office through a political process, including appealing to special interests that see opportunity or gain if one

candidate is elected over another, this form of government is often marred by favoritism, insider-dealing and cronyism, real and/or perceived. Wittingly or not, campaign supporters appear to be given or actually are given special treatment, permits, or contracts, not because it makes good sense for the community, but because it makes good political sense.

Elimination of cronyism is a key benefit of professional management. County managers don't have to raise campaign funds, their focus is on service delivery, not reelection.

STAKEHOLDERS' INTERESTS

The county-manager form of government bestows many benefits on a community:

- Accountability at all levels, between council and a hired county manager and between the manager and directors he or she hires;
- An experienced professional to run county operations;
- Elimination of forced turnover of directors with each election cycle;
- Elimination of cronyism and political favoritism, replaced by professionalism and accountability for results;
- Greater efficiency and better customer service to residents and stakeholders.

ALTERNATIVE SOLUTIONS/RECOMMENDED SOLUTIONS

Best practices review indicates that a structural change in leadership will help address the concerns that the county is facing at this time.

A change from an elected mayor to a council-manager form of government will place the responsibility of day to day operations in the hands of a trained professional instead of an elected official. This will take politics out of the operations of the county, thereby allowing them to obtain maximum efficiency.

A county manager would be a professional administrator appointed by the County Council, replacing the position of an elected mayor although the position of mayor may still exist in a more ceremonial form.

The National Association of Counties (NACo) has reported that the county manager system can promote efficiency and professionalism in government. NACo recently found a county manager, or equivalent position, exists in more than 81% of surveyed counties.

The Charter Commission, after a yearlong study of governance in Maui County, made the following recommendation to the council and the mayor: “The Commission recommends that a task force be established to thoroughly review the structure of the County of Maui government, research other models of county governments and prepare a report.”

RISK/BENEFIT ANALYSIS

A change in leadership from a council-mayor form of government to a county manager form of government is well aligned with the Countywide Policy Plan.

The Countywide Policy Plan establishes the goal for government services to be “transparent, effective, efficient, and responsive to the needs of residents,” with the objective to “strengthen governmental planning, coordination, consensus building, and decision making”

The implementing action associated with the good governance goals in the Countywide Policy Plan is to “evaluate and, if necessary, recommend modifications to the County Charter that could result in a possible change to the form of governance for Maui County.”

At the recommendation of the Maui County Charter Commission, the council recently took this matter up in their Policy and Intergovernmental Affairs Committee and voted to create a special committee to research other models of government and prepare a report. This required them to waive their rules and fall back onto Robert’s Rules of Order regarding special committees.

Due to Sunshine Laws, if 3 or more council members attend the special committee meetings then a report must be made at the next council meeting. They would be able to negotiate around this if

they voted themselves onto the committee as non-voting members, which was recommended by corporation counsel.

If the findings indicate the best use practice is to change the structure of government, then the issue would go on the ballot for 2016 and be voted on by the people. If they vote in favor of the structural change, then a Charter amendment would need to occur to address the new duties and organizational changes.

COSTS/BUDGET/ROI

Many local governments have found that their overall costs are actually reduced under competent management. Savings can come from decreased operating costs, increased efficiency and productivity, improved revenue collection, and effective use of technology. The economic health of the community may also benefit from implementation of improved business development and retention strategies.

As elected mayors and their administration turnover with each election cycle, the County experiences; loss of knowledge as all appointed directors depart, loss of productivity due to steep learning curves for new directors, discouragement of rank and file employees who may know more about departmental duties than incoming politically appointed directors , and directional change and rework resulting in delay and lost opportunity costs.

These effects (massive turnover at the director level) are costly. That is why most communities transitioning to a county-manager structure report overall savings due to better operational performance.

Furthermore, the current mayor has hired several former politicians (termed-out council members) to serve in his administration as executive assistants. These two executive assistants make \$90,000 a year each. The mayor's salary combined with that of the two assistants would be more than enough to compensate a professional county manager who could bring a wealth of experience to the position.

According to findings made in a recent IBM White Paper, Maui County could expect to save more than \$60,000,000 a year by changing to a County manager form of government. In "Smarter, Faster, Cheaper: An operations efficiency benchmarking study of 100 American cities," IBM's David Edwards examined publicly available data on factors such as population, geographic size, collective bargaining, and the like that are conventionally assumed to contribute to a city's efficiency. What he found was that in reality, these factors had little impact on municipal efficiency. Instead, Edward's findings suggest that the determining factor in how efficiently a city deployed resources is management. He defines management as "the ability of government leaders to make strategic and operational decisions about what services will be provided to which citizens, at what level, and how."

Cities with city manager forms of government are nearly 10 percent more efficient than cities with strong mayor forms of government, a finding which validates the assumption that placing executive authority with a professional manager who is not involved in the politics of running the city leads to more efficiently managed communities. “Managers are important,” writes Edwards. “They influence outcomes.”

Considering Maui County’s FY 2015 budget was ~\$600,000,000 the savings (if calculated to the modest end of 10 percent) would be over \$60,000,000. Maui’s proposed Fy2016 budget is \$732,489,776. Assuming an annual budget increase of 5% per annum in each of the following years (2017-2022), the budget for 2022 will be nearing one billion dollars.

By applying IBM’s findings to Maui County’s projected budget amounts for Fy 2016-2022, the county could save over half a billion dollars during that period. (See Figure 2.)

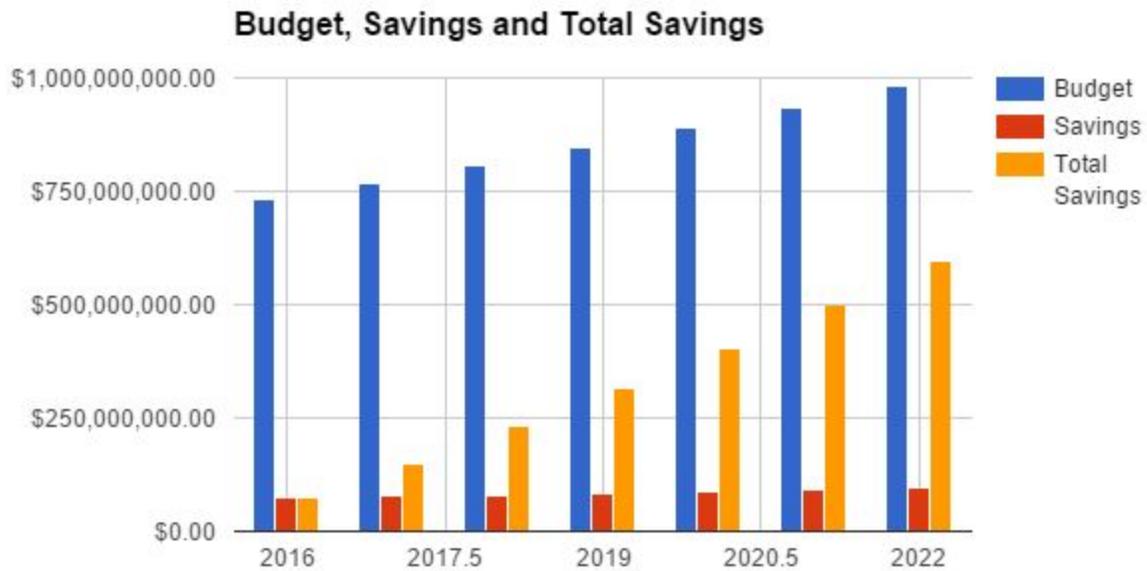


Fig.2

There are also costs and returns associated with the change itself. Currently the mayor’s salary is over \$135,000.00 per year with an expected increase of 19 percent per year.

According to the U.S. Bureau of Labor Statistics (BLS) the median salary for a county administrator is \$117,000.00 annually with a projected growth of 11%. (See Figure 3.)



Fig.3

This change would save the county money immediately and the funds spent on any studies would be encumbered. Overall costs would be reduced under competent management.

ADDRESS CONCERNS

One of the main concerns that constituents have regarding this type of a change is that it will somehow weaken the integrity of checks and balances. This is simply not true. The council-manager form of governance is modeled after the corporate model of Board of Directors

and CEO with the council members representing the Board of Directors, the mayor representing the Chairman of the Board, and the County Manager as the CEO.

Unlike that of federal and state governments, the primary role of cities and counties is to deliver basic services to citizens, such as water, roads, solid waste disposal, etc. That's why Maui County's local elections are nonpartisan. By contrast, federal and state governments hash out contentious social and foreign policy issues, often along party lines.

This is not to say the council-manager structure is lacking in checks and balances. Far from it, because an elected council has tremendous leverage and control over a professional manager, while the people continue to elect the council, thereby retaining a hold on who sets policy, adopts laws and oversees the manager's performance. The checks and balances in the council-manager model are therefore far greater than those in the elected mayor model- where the council and mayor have very little interaction, except over the budget, and even that has not gone well of late, resulting in name-calling, loss of services for the stakeholders, and bad blood between the mayor and council.

IMPLEMENTATION PLAN/NEXT STEPS

The Maui County Council has voted to appoint a special committee on governance, composed of community members nominated and voted in by majority vote of the council members, to

research different forms of government and see if they recommend a change in Maui County's form of government. The committee will meet for 120 days and then will report back to the council with their findings.

The change (if recommended) would require a change in the charter - to convert our local government to council-manager form by vote of the people in November 2016. Charter amendments may be initiated by resolution of the Council, adopted after two readings and passed by a vote of six or more Councilmembers.

The effective date would be January 1, 2019, at the end of the current mayor's term, giving the county 2 years after passage to arrange a smooth transition to the new model.

EXPECTED OUTCOMES

A June 2015 research report by the National Association of Counties, entitled "An Overview of County Administration," concluded a county manager form of government can promote efficiency, "ensure counties provide quality services to their residents," and "keep counties resilient in the face of unexpected changes."

It is expected that Maui County will benefit two fold from this type of organizational change.

The first benefit will be a more efficient, effective and transparent government and subsequently the county will benefit financially.

The testimony received from the community along with the statistical data available indicate a probable acceptance of the recommended change by the council. If accepted and voted in by the people, then the council of 2018 would appoint the county manager, thus concluding the change.

RESOURCES

- Maui County Charter: <http://www.co.maui.hi.us/DocumentCenter/View/83827>
- Maui Island Plan General Overview: <http://www.co.maui.hi.us/index.aspx?NID=1120>
- Resolution PIA-54 : <http://www.co.maui.hi.us/DocumentCenter/View/83827>
- Maui Countywide Policy Plan 2030:
<http://www.co.maui.hi.us/documentcenter/view/11132>
- Maui County Charter Commission Revised Final Report 2011-2012 25, June 2012:
<http://www.co.maui.hi.us/DocumentCenter/View/81295>
- Smarter, Faster, Cheaper; An Operations efficiency Benchmarking Study of 100
American Cities IBM White
Paper:[http://www-01.ibm.com/common/ssi/cgi-bin/ssialias?infotype=SA&subtype=WH
&htmlfid=GBW03132USEN#loaded](http://www-01.ibm.com/common/ssi/cgi-bin/ssialias?infotype=SA&subtype=WH&htmlfid=GBW03132USEN#loaded)
- Gartner Report for Maui County 2013:
<http://www.mauicounty.gov/DocumentCenter/View/83935>

APPENDIX A

Water Use and Development Plan

“The purpose of the County Water Use and Development Plans(WUDP’s) is to inventory all projected water demands within each county and ensure that the future water needs of the county are met...The responsibility for preparation of the County WUDP rests with the specific entities charged with water planning within the county, as may be enumerated by county ordinance.” -

Commission on Water Resource Management website

The most recently approved Maui County Water Use and Development Plan is dated March 1990, 25 years ago, yet it is regarded as “the primary long-range plan of DWS [Maui County Department of Water Supply] (Maui Island Plan, p.6-16)

“The DWS is currently facing a major financial deficit.” (Maui Island Plan, p.6-20)

APPENDIX B

Maui County General Plan

“The Planning Director shall...3. Recommend revisions of the general plan at least every ten (10) years to guide the development of the county. 4. Prepare, administer and enforce long-range planning programs.” (Maui County Charter Section 8-8.3; also see Maui County Code section 2.80B.040.)

Until adoption of the Maui Island Plan in December 2012, the last general plan was approved in 1990, 22 years earlier.

“Milestones. The Maui Island Plan shall contain specific milestones designed to measure progress in the implementation of the Maui Island Plan’s vision, principles, goals, and policies.”

The most recent Maui Island Plan does not contain benchmarks or milestones against which progress can be measured. One chapter of the plan states that benchmarks will be developed later, but none have been identified 2.5 years after adoption. Timelines are absent as well. The lack of benchmarks, milestones and timelines makes assessments of progress impossible and renders accountability for performance unattainable.

APPENDIX C

Planning Director/Executive Accountability

“The Planning Director shall issue a report annually providing a detailed explanation of the implementation and enforcement of the general plan and community plans to the mayor and council.” (Maui County Code, section 2.80B.030, subsection I, quoting section 8-8.5 of the Maui County Charter.)

Absent benchmarks, milestones and timelines, meaningful annual reports are a near impossibility. In any event, these provisions of the charter and code have been ignored.

The Planning Director has given no annual reports to the mayor and council (and therefore to the people) in recent years. Lack of accountability is a hallmark of poor performing organizations.

APPENDIX D

Maui County Community Plans

“Each of the County’s nine community plans shall, to the extent practicable, be updated within ten years (decennially) of the respective plans adoption.” (Maui County Code section 2.80B.080.)

Hana’s plan is 21 years old; Paia-Haiku’s and Kahoolawe’s are 20 years old; West Maui’s and Makawao-Pukalani’s are 19 years old; Kihei-Makena’s and Lanai’s are 18 years old; Molokai’s is 14 years old; and Wailuku- Kahului’s is 13 years old. While updates of the Lanai and Molokai community plans are underway, little if any action has been taken to update the other plans.

APPENDIX E

Mayor/Council Relations: Good Government

“Strive for Good Governance, Goal: Government services will be transparent, effective, efficient, and responsive to the needs of residents.” (Countywide Policy Plan, p. 78.)

“Core Principles: To accomplish our vision, the people of our islands must foster and respect the Aloha Spirit.” (Countywide Policy Plan, p. iii.)

“Maui Mayor Arakawa calls Councilmembers White, Hokama ‘snollygosters.’” (Headline, Maui Time, May 12, 2015.)

“Maui County’s auditor and some Maui County Council Members Tuesday called for an end to the bickering over a recent audit showing the county did not earn \$21 million in interest earnings and for moving on to learn from the experience.” (Maui News, April 15, 2015.)

“Maui County Council Member Don Couch has introduced a measure he hopes will help diffuse a conflict over strained communications between council members and their staffs and county department directors and other administration officials.” (Maui News, November 22, 2014.)

The mayor has hired retiring and termed-out council members and a former mayoral challenger into his administration, raising concern about patronage, waste, and political maneuvering.

Moreover, the mayor has issued a gag order on all council members and their staff to prevent them from talking directly to departments. He is currently requiring them to go through his office in order to reach department directors.

APPENDIX F

Wastewater Systems

“Maui will have wastewater systems that comply with or exceed state and federal regulations...”

(Maui Island Plan, Goal 6.2.) “Meet or exceed all State and Federal standards regulating wastewater disposal or reuse.” (Maui Island Plan, Policy 6.2.2, p. 6-12.)

“A federal judge ruled Friday that all four injection wells at the Lahaina wastewater facility are ‘illegal’ and in violation of the Clean Water Act, leaving the county open to tens of thousands of dollars a day in civil penalties...” (Maui News, January 27, 2015.)

“Municipal wastewater plumes discharging from aquifer to ocean were detected by near shore wading surveys at Kihei and Lahaina.” (USGS Scientific Investigations Report 2009-5253, Executive Summary.)

APPENDIX G

Information Technology

“Maui County executives understand the important role that technology plays in helping the County realize it’s key strategic objectives in becoming an efficient, effective and responsive government.” (Gartner Report, February 2013)

But among 16 competencies rated by Gartner, 15 were rated below the target rating of 3, defined as “Meets Basic Need/Market Parity - ‘appropriately supports business demand’” Only one function was rated 3 and none were rated a best practice, defined as “allows business to be a top performer.” Six were rated 1 or 1.5, defined as “Inadequate/Poses Risk - causes considerable barriers in meeting business demand.”

“IT spending has historically been focused on the ‘Run’ function - ‘keeping the lights on’ - with limited resources available to focus on growing the functionality of technology and enabling better business services.” (Gartner Report, p.22)

APPENDIX H

Land Use Enforcement

“**HRS §205-12 Enforcement.** The appropriate officer or agency charged with the administration of county zoning laws shall enforce within each county the use classification districts adopted by the land use commission and the restriction on use and the condition relating to agricultural districts under section 205-4.5 and shall report to the commission all violations.”

The County, acting in concert with the developer of the “Mega Malls” and Honua’ula (Wailea 670), refused to enforce a 1995 lawful Land Use Commission order requiring development of an 88 acre parcel of land mauka of Pi’ilani Highway in Kihei into a 123 lot light industrial park. Only after challenge by community groups and a contested case hearing (with support of the Hawaii Office of Planning) was the order enforced.

APPENDIX I

Proliferation of Illegal Vacation Rentals: Effect on Affordable Housing, Quality of Neighborhoods and Quality of Life

“A study commissioned by the Hawai‘i Tourism Authority and conducted at the end of 2013 and between August and September 2014 estimated Maui Island had 8,840 vacation rental units advertised on the Internet, the most of any island in the state. Molokai had 365 and Lanai 22, according to the study.”

“Commissioners agreed that short-term vacation rentals, hundreds of them operated illegally, not only takes away from homes that could be rented by residents, but also drives up housing prices and ruin the sense of community in neighborhoods.” (Maui News, February 15, 2015)

The County of Maui has no enforcement plan, yet we know that plans are needed for effective change to occur.

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