

Forms of Municipal Government in Maryland

By Victor K. Tervala

For most of Maryland's history the state has been in solid control of its local governments. In the colorful phrase coined by the man who gave us Dillon's Rule, local governments are nothing more than "creatures of the state," from which a local government derives all its powers and rights. Since 1954, and the advent of municipal home rule in Maryland, our towns and cities have enjoyed a measure of freedom from intrusive state interference in a number of areas. One such area is the structure and organization of our municipal governing bodies.

If the size of the governing body needs to be altered, perhaps increased from five to seven members, or maybe decreased from nine to three members, home rule powers allow changes to be accomplished locally. Similarly, it is purely a local matter as to whether a governing body will contain a mayor or whether a professional manager will be hired. If these public officials are desired, the municipality determines their duties and responsibilities and the processes by which they interact with other elected officials. The state is not involved.

The Choice of Reform

When municipal reform involving structure and organization is being considered, it stems from the belief that a different form of government can lead to more efficient and effective service. It may be that government has grown in complexity and structural change appears necessary. The rough and tumble of politics often is a prime mover for such change as well. Perhaps a mayor is unresponsive to members of the governing body or maybe the members are unable to reach consensus on all but trivial matters. Under such circumstances, elected officials will look to change how business is conducted. They will argue that reform is necessary to realign responsibilities, reduce stress and relieve the tensions undermining performance. While reform is not the only option available (mediation is another in certain circumstances), if the problems confronting a governing body appear to be long-term and intractable, changing the form of government is a good choice.

Given the broad local freedom over municipal structure and organization, one might expect a great deal of variation to characterize them. In fact, variations exist, but they revolve around four basic models: (1) Commission; (2) Weak-Mayor; (3) Strong-Mayor; and (4) Council-Manager. These forms derive from the relationship between the executive and legislative functions. To the extent all elected officials perform both the legislative and executive functions, the form of government is known as either a Commission form or a Weak-Mayor form. When functions are specialized, so that a set of elected officials performs the legislative function and another elected or appointed official performs executive work, the government is labeled a Strong-Mayor or a Council-Manager form.

The form of government typically is expressed in the municipal charter. It would be unusual, however, for a charter to name the form of government provided. Don't expect to see a bold statement in a charter that says the municipality operates as a Strong-Mayor form, or any other form. Instead, the charter contains provisions that, when read together, establish the form of government. Specifically, the form becomes known by examining charter provisions that describe executive and legislative functions. By looking at who is responsible for performing these functions and how their performance is checked and balanced by different municipal officials - the mayor, the professional manager, and members of the governing body, specifically - the form of government emerges.

Commission Form

The Commission form is the most fundamental form. There is no separation of powers under it. Legislative and executive powers are equally distributed to and shared by all elected officials. A presiding officer runs meetings of the governing body. He or she may set meeting agendas, but no one person exercises more control over legislative and executive affairs than any other. Each elected official can sponsor and vote on local legislation. Each administers the annual budget as well as day-to-day affairs.

In all but the smallest municipalities, however, a different elected official oversees a different function or department. Under a commission form of government, there may be one elected official responsible for overseeing and managing the police department, for example. He or she may be titled "the police commissioner." Another elected official may be responsible for the public works department, known as the public works commissioner. Another may control the finance office and be known as the finance commissioner, etc. The determination of which elected official oversees a particular department will be specified in the charter. Often that determination process is informal, requiring little more than the commissioners themselves to divide up the responsibilities as they see fit.

According to the Maryland Municipal League, approximately 20 percent of all municipal corporations in the state employ the Commission form of government. Its popularity undoubtedly stems, in part, from the fact that it has been successful for as long as municipal corporations have existed in Maryland. It also is a relatively simple system to understand, explain and operate. Accountability to the voters is assured, since each department of government is the bailiwick of a different elected official. If someone has a complaint about sidewalks or streets, the public works commissioner is responsible for resolving the problem. If a problem emerges with police services, the public knows that the police commissioner is responsible.

If accountability is one of its strengths, leadership may not be one of its virtues. No single official is authorized to direct the work or speak on behalf of the municipal corporation. Leadership is intended to be exercised collectively. This

cooperative element satisfies, in part, the desire to see democratic principles reflected in the government, but may have the unintended consequence of slowing the pace at which decisions are made. Cooperation takes time - and perhaps this is a good thing - but it is not always successful. This weakness, such that it exists at all, is overcome to some extent by having different elected officials assigned to oversee different government departments.

The Commission form also is criticized for placing elected officials in positions they may be ill qualified to serve. From time to time one hears allegations that some officials know little about the departments they oversee. Perhaps they've never been exposed to police operations prior to overseeing a police department or, for a public works commissioner, to the various activities of a public works department. Such problems are not insurmountable. Most departments today are run by experienced and knowledgeable directors. There is ample opportunity for elected officials to receive on-the-job training from department directors.

Although the Commission form can be used in any municipality, it tends to be the choice of smaller jurisdictions. At least in part, this may explain why some view the form as unable to satisfy the complex demands of larger municipalities. The criticism may be unwarranted. Eight counties in Maryland use this form of government. All of them have populations and budgets that dwarf all but a handful of our largest municipal corporations.

Weak-Mayor Form

The Weak-Mayor form of government is similar to the Commission form in that each elected official shares executive and legislative responsibilities. The key difference between the two forms is that under the Weak-Mayor form, someone is officially designated as the mayor. This official, however, has no more authority over legislation or administrative and executive operations than any other elected official. Under a Weak-Mayor form of government, the office of mayor has no real independent control over the budget, and no real independent control over administrative affairs. Instead, the entire governing body, acting as a committee of the whole, controls and disposes of all governmental issues.

Suffice to say, the Weak-Mayor is not a personality trait of an office holder. It is a specific form of government articulated in the charter. The charter will clothe the Weak-Mayor with ceremonial functions and little else. At public ceremonies, for example, Weak-Mayors will speak on behalf of their municipalities. They also may set agendas and run meetings. Other responsibilities usually are not assigned them.

Typically, Weak-Mayors are not separately elected by the voters. Separate elections for any given office usually signal that the office holder will function differently from other elected officials; that is, his or her duties somehow are unique in the government and a separate election for the office is justified. Since

Weak-Mayors are not distinguishable, for the most part, from other elected officials, the need to elect them separately does not exist. For this reason, a typical Weak-Mayor charter requires elected officials to decide among themselves which of them will serve as mayor. In most instances, the appointed mayor performs the job for no more than a year or two before it is rotated to someone else. The voters usually are not directly involved in these decisions.

The advantages and disadvantages of this system are similar to those of the Commission form except, unlike the Commission form, the Weak-Mayor may confuse the average voter. In my experience most voters are merely casual observers of their municipal governments. Few have seen the charter, let alone read the document. The everyday usage of the term “mayor” suggests an executive fully in control of day-to-day operations; in other words, a Strong-Mayor. If the relevant Weak-Mayor charter provisions are not read by or explained to the voters, how could these individuals understand the duties of the office? How could they know that the mayor exercises no more authority than other elected officials? This misapprehension of the duties of the mayor has been known to extend to a few elected officials as well who mistakenly cede their authority over administrative or budgetary affairs to a Weak-Mayor simply because he or she possesses the title of mayor.

Strong-Mayor Form

The Strong-Mayor is the form of government in use in many major U. S. cities: New York, Boston, Philadelphia, Baltimore, Washington D.C., to name just a few. Under it, one person, elected by the voters, performs the executive function. He or she is responsible for the efficiency and effectiveness of government on a day-to-day basis. The Strong-Mayor prepares the annual budget for deliberation by the council and has total authority to implement the budget without council interference, barring certain executive actions requiring council approval.

On a day-to-day basis, the service delivery and staffing functions of the government, as well as all departmental operations, are directed by the Strong-Mayor. He or she decides who is hired and who is fired, although the council often is required to consent to the hiring of individual department heads. The Strong-Mayor recommends policy to the council, but typically has no vote on the council. He or she may have veto power over proposed legislation and may even exercise a line-item veto in regard to the budget.

Under the Strong-Mayor form, the council does not involve itself with day-to-day operations. Instead it operates at arms length from such activities. Its role is to perform the legislative function, adopting municipal ordinances and policies. Policymaking specifically includes establishing the policies under which the mayor will run day-to-day operations. It is only through the instrument of policymaking that the council has an opportunity to shape and influence daily operations. It then becomes the council’s job to oversee the mayor’s

implementation of council policies, thus assuring itself and the voters that the government is being correctly run and managed.

The strength of this form lies in its leadership potential and in its useful division of labor. The Council's job, for example, is to take a long-range view of governmental needs. The Council acts as the deliberative arm of the government, studying its requirements, balancing the interests of residents against the resources at the government's disposal, and then thoughtfully promulgating its budget, ordinances and policies. Meanwhile, the mayor's job is to focus on immediate administrative and operational demands. His or her job concerns the details of government. The mayor is empowered to speak on behalf of the government, lobby for its causes, and set its tone and direction. Strong leadership and management skills in a mayor can never be assured, of course, but this form of government makes available such tools in the event such an individual is elected as mayor.

The Strong-Mayor form is structured so that its two parts - the mayor and council - are interdependent. The weakness of the form lies within this very quality. Each part has an important role to perform, although those roles cannot be performed well, or perhaps not at all, without mutual cooperation. The council must rely on the mayor to provide information of sufficient quality and quantity to do its policy-making and oversight work. The mayor must rely on the council to provide sufficient funds to run the government and to demonstrate sufficient trust and forbearance in the office holder, allowing the mayor to work relatively free of excessive council demands. In effect, the mayor seeks to avoid unnecessary constraints on his or her actions. Typically the mayor will assert that the office holder should be able to perform the job according to his or her own standards and judgment when such discretion would be in the interests of the government. When the roles of the two parties are not well understood by one another, when sufficient information from the mayor's office is not forthcoming for whatever reasons, and/or when the council desires and attempts to interfere with routine management decisions, this form of government is vulnerable to breakdowns, some more serious than others.

Council-Manager Form

A professional manager can be accommodated in all of the four forms of municipal government. In the Council-Manager form, however, the professional manager is given formal authority, through the municipal charter, to run day-to-day operations. If a professional manager exists in the other three forms, he or she may have de facto control of daily operations, but formal authority to manage and administer government affairs remains with one or more elected officials. The International City/County Management Association reports that 49 percent of all municipalities across the nation with populations exceeding 2,500 residents use this form of government. In Maryland, the percentage is less. Approximately 11 percent of all municipalities in the state (18, at last count) employ it. They are mostly the larger communities such as Rockville, Bowie, and Ocean City.

The Council-Manager form derives from the corporate model of governance in which a board of directors appoints a professional manager - the CEO - to run the corporation. It also is similar to the Strong-Mayor form, except in this case, instead of an official being elected to serve as the chief executive officer, a professional manager is appointed to the position. Unlike the Strong-Mayor, who must be selected from the pool of municipal residents, professional managers can be selected from anywhere in the world and can be selected solely on the basis of their professional qualifications.

Under the Council-Manager form, the manager is the chief executive officer. Like a Strong-Mayor, the manager prepares the annual budget for deliberation by the council. Once the budget is approved, the manager has broad authority to implement the budget free from council interference. The manager is responsible for the operation of all municipal departments on a day-to-day basis. He or she decides who is hired and who is fired except for department heads, whose hiring typically is the joint responsibility of the council and the manager. The manager is responsible for recommending policies to the council, although he or she has no vote on the council. He or she has no veto power, either. Professional managers are accountable to, and typically serve at the pleasure of, the council.

Under this form of government, the council performs the legislative function, adopting municipal ordinances and policies. The council is intended to operate at arm's length from day-to-day affairs, which remain the responsibility of the manager. The council's role is to establish the policies under which the manager runs operations.

The strength of this form is its potential to displace, if not entirely replace, political interests with economic, business or managerial interests in running municipal operations. Municipal governments primarily are service providers. Delivery of those services, it is asserted, should be based substantially, if not entirely, on best management practices and principles that promise to maximize government efficiency and effectiveness. The appointment of a professional manager provides that opportunity. Moreover, while politics probably invades all important decision making of a public entity, delegating operational control to a professional manager signals the public's desire to insulate administrative and management functions from politics to whatever extent is possible. Nonetheless, it may be worthwhile to bear in mind that it is a rare, and perhaps foolish, public manager who conducts business blind to the political landscape over which he or she treads.

Two weaknesses characterize this form of municipal government. To illustrate them, consider the fact that elected officials are intended to operate at arm's length from management affairs. If there is a problem with operations, elected officials are not empowered by the charter to correct them. They must convey their concern and/or dissatisfaction to the manager and await the

response. This is the crux of the matter. Regardless of what a charter might dictate, many elected officials are tempted to involve themselves in management decisions in a direct fashion.

The only persons accountable to the public for governmental performance are the government's elected officials. Incentives therefore always exist for elected officials to involve themselves in any business that engages the municipality, including management issues. Managers are not accountable to the public, except in an indirect sense. An appointed manager is directly accountable only to the elected officials who continue to employ him or her. If there are problems with the manager's performance, the manager may anticipate being discharged, but the voters have only the elected officials to hold responsible. Consequently, the dual weaknesses of this form of government are entwined: the diminished responsibility of elected officials for daily operations and the diminished accountability of the manager to the public. These weaknesses suggest that a certain amount of interference by elected officials in daily operations is inevitable, despite charter constraints to the contrary. How intrusive and disruptive the interference will depend on the personalities involved. Some council-manager systems are apt to be riddled with interference, others only infrequently.

Hybrid Forms

Home rule powers have been used by many, perhaps most, municipal corporations in Maryland to create "hybrid" forms of government. A hybrid arises when the elements of one form are combined with the elements of at least one other form. For example, consider a proposal that was recently posted on a municipal web site. It would combine the elements typically found in a Council-Manager form with elements of a Strong-Mayor form. In this case, the proposal would delegate daily operational control to a professional manager, but retain the office of mayor, requiring it to be a full-time position with its own staff. The mayor's office would be granted certain leadership responsibilities that span both the governing body and municipal administration. In effect, the proposal would create neither fish nor fowl; neither a Council-Manager form nor a Strong-Mayor government, but elements of both. The government would be a hybrid.

The creation of a hybrid allows a government to select the structures and elements that it perceives as most suited to local needs. In many cases the selected elements aim to satisfy one or more important political interests. In the above case, the municipality already operates as a Strong-Mayor form. Proponents of the proposed change believe that the only politically viable way to become a Council-Manager form of government is to allow some elements of the present Strong-Mayor form to continue: hence, the splitting of certain authority between the mayor and the professional manager and allowing the mayor to continue as a full time job with dedicated staff.

Because hybrids are tailored to meet the needs of a given jurisdiction, in many instances they should be preferred over the use of one of the four “pure” forms outlined above. Nonetheless, care must be used in mixing and matching the various elements. It should be performed with an eye toward whether the selection of any given element fully comports with the selection of other elements.

For example, in the above discussion of the Weak-Mayor form, this article questioned the wisdom of having a Weak-Mayor elected separately by the voters. In effect, this results in a hybrid where the election process typically found in a Strong-Mayor form is grafted onto a Weak-Mayor system. Yet, as pointed out, a Weak-Mayor functions only marginally different than other elected officials. Separate elections are unnecessary for Weak-Mayors and potentially confusing to voters who may be largely unaware of the workings of a Weak-Mayor system.

Biases

All of the forms of government discussed in this article have been successfully used in Maryland. Efficient and effective government is possible under any of them. Certainly each form has its drawbacks. Each has its strengths and weaknesses. For this reason, the contention that one form of government is generally superior to another, a statement often heard, is difficult to support. Bear in mind that the efficiency and effectiveness of any government organization may ultimately have more to do with the quality of the people serving in office rather than its structural components. That said, the best form of government is the one best designed to meet the needs of your municipal corporation. Those needs can change with the complexity of operations and, as suggested, even with the presence or absence of certain appointed and elected officials.

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