

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

February 18, 2011

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy Committee, having met on January 25, 2011 and February 2, 2011, makes reference to County Communication No. 11-2, from Council Chair Danny A. Mateo, relating to the confirmation of the Mayor's appointment of the Prosecuting Attorney.

Your Committee received correspondence dated January 11, 2011, from the Council Chair, transmitting the Mayor's correspondence, dated January 4, 2011, notifying the Council of his appointment of John D. Kim as the Prosecuting Attorney, and a proposed resolution entitled "APPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY". The purpose of the proposed resolution is to approve the Mayor's appointment of John D. Kim as the Prosecuting Attorney, pursuant to Sections 6-2(5) and 8-3.2 of the Revised Charter of the County of Maui (1983), as amended ("Charter").

At your Committee Chair's request, the Department of the Corporation Counsel transmitted a proposed resolution entitled "DISAPPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY". The purpose of the proposed resolution is to ensure that the Council can disapprove the appointment if it so decides.

Your Committee notes that Section 8-3.2 of the Charter provides that the Prosecuting Attorney shall be appointed by the Mayor with the approval of the Council. Section 6-2(5) of the Charter provides that the Council shall confirm or deny the confirmation within 60 days after receiving notice of the appointment by the Mayor. Accordingly, the deadline for the Council to confirm or deny the confirmation of Mr. Kim as the Prosecuting Attorney is March 4, 2011.

In advance of the meeting, your Committee's Chair wrote to the Maui County Bar Association, requesting comments from its members on the appointment. In addition to written testimony from the Mayor, your Committee received written testimony from 17 attorneys and 3 non-attorneys in support of the appointment, many of whom work in the Department of the Prosecuting Attorney. Your Committee also received oral testimony

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from 5 attorneys in support of the appointment. The testifiers cited Mr. Kim's extensive legal experience with the Department of the Prosecuting Attorney and with the Department of the Corporation Counsel, his role as mentor, his deep commitment to the pursuit of justice, his routine display of good judgment and efforts to seek solid case dispositions, his strong work ethic and even temperament, his professionalism and capacity to increase employee morale, and his sound character and integrity. There was no testimony against the appointment.

According to the resume that Mr. Kim submitted, he has worked as a government attorney on Maui continuously since December 1985. He worked as a Deputy Prosecuting Attorney for 17 of those years, as a Deputy Attorney General for 1 year, and as a Deputy Corporation Counsel for 7 years.

Mr. Kim described his philosophical approach to running the Department, including his plans for improving staff morale, formulating the Department's budget, and handling the Department's caseload. In addition to addressing management issues, Mr. Kim provided his perspective on various programs and on prosecution of cases.

Through his remarks, Mr. Kim displayed a depth of knowledge concerning the prosecution of criminal cases in Maui County and practices which would empower his deputies.

Your Committee noted the quality of Mr. Kim's reputation, his competency as a leader, and his extensive experience as a government attorney on Maui. Your Committee was satisfied that it had done its due diligence in considering Mr. Kim's suitability for the position. Accordingly, your Committee recommended that the appointment of John D. Kim as Prosecuting Attorney be confirmed.

Your Committee voted 9-0 to recommend adoption of the proposed resolution entitled "APPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY"; filing of the proposed resolution entitled "DISAPPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY"; and filing of the communication. Committee Chair Hokama, Vice-Chair Carroll, and members Baisa, Cochran, Couch, Mateo, Pontanilla, Victorino, and White voted "aye".

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Your Policy Committee RECOMMENDS the following:

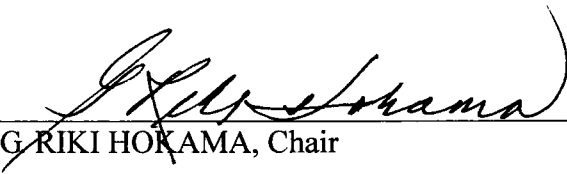
1. That Resolution No. _____, attached hereto, entitled "APPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY", be ADOPTED;
2. That Resolution No. _____, attached hereto, entitled "DISAPPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY", be FILED; and
3. That County Communication No. 11-2 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair

pol:cr:11015aa:cmn

Resolution

No. _____

APPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY

WHEREAS, by letter dated January 4, 2011, Mayor Alan Arakawa notified the Council that he appointed John D. Kim as Prosecuting Attorney, pursuant to Sections 6-2(5) and 8-3.2 of the Revised Charter of the County of Maui (1983), as amended (“Charter”); and

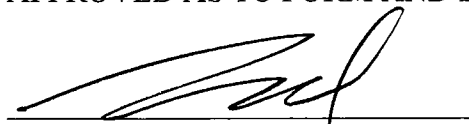
WHEREAS, Charter Section 6-2(5) requires the Council to confirm or deny the appointment within sixty (60) days after receiving notice of the appointment by the mayor; and

WHEREAS, Charter Section 8-3.2 states that “[t]he prosecuting attorney shall be appointed by the mayor with the approval of the council”; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves the appointment of John D. Kim as the Prosecuting Attorney;
and
2. That certified copies of this resolution be transmitted to the Mayor, the Managing Director, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



First Deputy Corporation Counsel
County of Maui

Resolution

No. _____

DISAPPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY

WHEREAS, by correspondence dated January 4, 2011, Mayor Alan Arakawa notified the Council of the appointment of John D. Kim as the Prosecuting Attorney, pursuant to Sections 6-2(5) and 8-3.2 of the Revised Charter of the County of Maui (1983), as amended (“Charter”); and

WHEREAS, Charter Section 8-3.2 provides that the prosecuting attorney shall be appointed by the mayor with the approval of the council; and

WHEREAS, Charter Section 6-2(5) provides that the Council shall confirm or deny the confirmation within 60 days after receiving notice of the appointment by the mayor; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby disapproves the appointment of John D. Kim as the Prosecuting Attorney; and
2. That certified copies of this resolution be transmitted to the Mayor.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel
County of Maui

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