

COUNCIL OF THE COUNTY OF MAUI  
**POLICY AND INTERGOVERNMENTAL  
AFFAIRS COMMITTEE**

October 3, 2014

**Committee  
Report No.** \_\_\_\_\_

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on August 11, 2014, and September 23, 2014, makes reference to County Communication 13-41, from Council Chair Gladys C. Baisa, regarding litigation matters.

By correspondence dated August 4, 2014, the Department of the Corporation Counsel requested consideration of a proposed resolution, entitled "INDEMNIFYING GARY YABUTA IN MARVIN KALANI MILES V. MAUI POLICE CHIEF GARY YABUTA, ET AL., CIV. NO. 14-00278 BMK", and transmitting a copy of the complaint, notice of removal, and related documents. The purpose of the proposed resolution is to indemnify Gary Yabuta, the former Chief of Police, in Marvin Kalani Miles v. Maui Police Chief Gary Yabuta, et al., Civil 14-00278 BMK.

Your Committee notes the complaint alleges Marvin Kalani Miles, an employee of the Department of Police, was the subject of discrimination and retaliation, and that he suffered damages and injuries as a result of his termination from employment on May 31, 2012.

Your Committee further notes the Police Commission reviewed the matter pursuant to Section 52D-8, Hawaii Revised Statutes, and determined Chief Yabuta is entitled to legal representation.

A Deputy Corporation Counsel gave a brief overview of the case and recommended that the Committee consider the matter in an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

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Following the executive meeting, your Committee reconvened in regular session.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Hokama, Vice-Chair Couch, and members Baisa, Carroll, Crivello, Guzman, Victorino, and White voted "aye". Committee member Cochran was excused.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "INDEMNIFYING GARY YABUTA IN MARVIN KALANI MILES V. MAUI POLICE CHIEF GARY YABUTA, ET AL., CIV. NO. 14-00278 BMK", be ADOPTED.

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

  
\_\_\_\_\_  
G. RIKI HOKAMA, Chair

# Resolution

No. \_\_\_\_\_

INDEMNIFYING GARY YABUTA IN  
MARVIN KALANI MILES V. MAUI POLICE CHIEF GARY YABUTA, ET AL.,  
CIV. NO. 14-00278 BMK

WHEREAS, Chief Gary Yabuta was an employee of the Department of Police on May 31, 2012, and was named as a Defendant in the case Marvin Kalani Miles v. Maui Police Chief Gary Yabuta, et al., Civil No. 14-1-0345(2); and

WHEREAS, the complaint was originally filed in the Circuit Court of the Second Circuit and was subsequently removed to the United States District Court for the District of Hawaii on June 17, 2014, and designated as Civil No. 14-00278 BMK; and

WHEREAS, Plaintiff alleges discrimination and retaliation, and that he suffered damages and injuries as a result of his termination; and

WHEREAS, the Police Commission has reviewed this matter under its statutory authority and determined that Chief Gary Yabuta is entitled to legal representation; and

WHEREAS, based upon an investigation of this matter, the Department of the Corporation Counsel believes there to be

a good faith basis for indemnification and has recommended that the Council indemnify this Defendant for any damages that may be assessed against him in the above-referenced lawsuit; and

WHEREAS, the damages being requested within the complaint are: general and special damages, interest, attorney's fees and costs of suit; and

WHEREAS, based upon the recommendation of the Department of the Corporation Counsel, it appears at this time that it would be in the best interest of the County of Maui to indemnify this Defendant in the above-referenced lawsuit; now, therefore,

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

1. That Gary Yabuta is indemnified by the County of Maui for any damages that may be assessed against him in the above-referenced lawsuit; and

2. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, the Chief of Police, and the Director of Finance.

APPROVED AS TO FORM AND LEGALITY:



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THOMAS KOLBE  
Deputy Corporation Counsel  
County of Maui