

COUNCIL OF THE COUNTY OF MAUI
POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE

February 18, 2015

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 January 22, 2015, and February 4, 2015, makes reference to County Communication 15-27, from the Mayor, notifying the Council of his appointment of John D. Kim as the Prosecuting Attorney, and transmitting 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 provide for the disapproval of the appointment.

Your Committee notes 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, or the appointment shall be deemed to be confirmed. The deadline for the Council to confirm or deny the confirmation of Mr. Kim as the Prosecuting Attorney is March 6, 2015.

COUNCIL OF THE COUNTY OF MAUI
POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE

Page 2

Committee
Report No. _____

Your Committee notes Mr. Kim has been serving as the Prosecuting Attorney since 2011.

In his opening remarks, Mr. Kim noted the Department of the Prosecuting Attorney is probably the largest law firm in the County, and commended the Department's staff for its ability to work under extensive pressure and deadlines. He further noted the Department's successful transition to electronic filing of criminal cases as required by the Hawaii Supreme Court.

Your Committee confirmed that the Department of Police and the Office of the Public Defender support Mr. Kim's appointment.

Your Committee noted the receipt of written testimony submitted to the Committee in opposition to Mr. Kim's appointment.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consider issues related to the powers and liabilities of the Council.

Your Committee also voted to convene an executive meeting, closed to the public, pursuant to Section 92-5(a)(2), Hawaii Revised Statutes, to consider matters affecting privacy.

Your Committee notes Mr. Kim was made aware of his right to request the discussion to be held in open session.

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

Based on the information received, your Committee voted 8-0 to recommend adoption of the proposed resolution entitled "APPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY"; filing of the correspondence dated January 16, 2015,

COUNCIL OF THE COUNTY OF MAUI
POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE

Page 3

Committee
Report No. _____

transmitting a proposed resolution disapproving the appointment; and filing of the communication. Committee Chair Victorino, Vice-Chair Couch, and members Baisa, Carroll, Cochran, Crivello, Guzman, and White voted "aye". Committee member Hokama was excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating nonsubstantive revisions.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS the following:

1. That Resolution _____, as revised herein and attached hereto, entitled "APPROVING THE APPOINTMENT OF JOHN D. KIM AS THE PROSECUTING ATTORNEY", be ADOPTED;
2. That the correspondence dated January 16, 2015, from the Department of the Corporation Counsel, attached hereto, be FILED; and
3. That County Communication 15-27 be FILED.

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

Page 4

**Committee
Report No.** _____

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



MICHAEL P. VICTORINO, Chair

pia:cr:15015aa:kcw

Resolution

No. _____

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

WHEREAS, by letter dated January 2, 2015, 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

Resolution No. _____

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



EDWARD S. KUSHI, JR.
Department of the Corporation Counsel
County of Maui

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REQUEST FOR LEGAL SERVICES

Date: January 16, 2015
From: Michael P. Victorino, Chair
Policy and Intergovernmental Affairs Committee


TRANSMITTAL
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Edward S. Kushi, Jr., Esq.

RECEIVED CORPORATION COUNSEL
2015 JAN 16 AM 10:08

Subject: Confirmation of Prosecuting Attorney (PIA-15)

Background Data: An approving resolution has been transmitted to the Council relating to the above. A disapproving resolution should also be transmitted for posting on the Committee agenda.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER: Please provide a disapproving resolution.

Requestor's signature  Michael P. Victorino	Contact Person <u>Kimberley Willenbrink</u> (Telephone Extensions: <u>7761</u>)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): Friday, January 16, 2015
REASON: For posting on Friday, January 16, for the Policy and Intergovernmental Affairs Committee meeting on January 22, 2015.

FOR CORPORATION COUNSEL'S RESPONSE

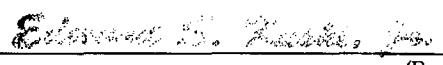
ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):
SEE ATTACHED

DEPARTMENT OF THE CORPORATION COUNSEL

Date 1.16.15

By 
(Rev. 7/03)

Resolution

No. _____

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

WHEREAS, by correspondence dated January 2, 2015, 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

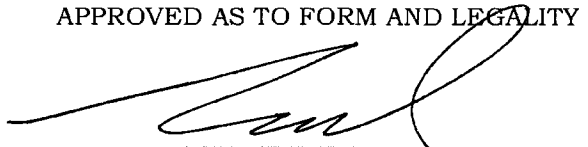
WHEREAS, Charter Section 8-3.2 provides that the prosecuting attorney shall be appointed by the mayor with the approval of the council; and

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



EDWARD S. KUSHI, JR.
Department of the Corporation Counsel
County of Maui

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Attorney.disapproval.doc