

COUNCIL OF THE COUNTY OF MAUI
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

February 15, 2019

Committee
Report No. _____

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

Chair and Members:

Your Governance, Ethics, and Transparency Committee, having met on January 23, 2019, and reconvened on January 30, 2019, and February 5, 2019, makes reference to County Communication 19-1, from Council Chair Mike White, relating to the appointment and removal of administrative heads of departments.

By correspondence dated January 2, 2019 (received on January 8, 2019), the Mayor notified the Council Chair of his appointments of the Managing Director, Corporation Counsel, Prosecuting Attorney, Director of Water Supply, Director of Finance, Director of Public Works, Director of Environmental Management, Planning Director, Director of Housing and Human Concerns, Director of Transportation, and Director of Parks and Recreation, pursuant to Section 6-2(5) of the Revised Charter of the County of Maui (1983), as amended ("Charter").

By correspondence dated January 14, 2019, the Mayor transmitted proposed resolutions for each administrative head to your Committee, including a proposed resolution entitled "APPROVING THE APPOINTMENT OF PATRICK K. WONG AS THE CORPORATION COUNSEL." The purpose of the proposed resolution is to approve the Mayor's appointment of Patrick K. Wong as the Corporation Counsel, pursuant to Charter Sections 6-2(5) and 8-2.2.

Your Committee notes Charter Section 8-2.2 provides that the Corporation Counsel shall be appointed by the Mayor with the approval of the Council. In addition, 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, or the appointment shall be deemed

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confirmed. Accordingly, the deadline for the Council to confirm or deny the appointment of Mr. Wong as the Corporation Counsel is March 9, 2019.

By correspondence dated January 14, 2019, the Mayor transmitted the following: 1) County of Maui Job Description for the Corporation Counsel; 2) Ordinance 4848 (2018), relating to the minimum qualifications of the Corporation Counsel; and 3) Patrick K. Wong's resume.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed resolution, entitled "APPROVING THE MAYOR'S APPOINTMENT FOR CORPORATION COUNSEL," approved as to form and legality, incorporating the minimum qualifications for the position and nonsubstantive revisions. The Department also transmitted a proposed resolution entitled "DISAPPROVING THE MAYOR'S APPOINTMENT FOR CORPORATION COUNSEL." The purpose of the proposed resolution is to disapprove the appointment.

Your Committee notes by Resolution 16-96, the Council proposed an amendment to the Charter be placed on the General Election ballot to require Council approval of the Mayor's appointment of administrative heads of departments and allow additional qualifications for administrative heads appointed by the Mayor to be established by ordinance. The proposed Charter amendment was approved at the 2016 General Election.

Ordinances 4803, 4840, 4841, 4847, 4848, and 4864, respectively, established additional qualifications for administrative heads appointed by the Mayor in Chapter 2.14, Maui County Code. The effective date of the ordinances was January 2, 2019.

As noted in his resume, Mr. Wong served as Corporation Counsel from 2011 through 2018 under the prior Administration. Mr. Wong was admitted to the practice of law in the State of Hawaii in 1992.

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Your Committee met with Mr. Wong. In his opening remarks, Mr. Wong said he would like to continue the work of the Corporation Counsel. He believes in the strength of the Department and feels he should be given the opportunity to continue in a position he has held for the past two administrations. He believes under his leadership, the Department has been effectively serving the Council and the County.

Mr. Wong told your Committee that, if confirmed as Corporation Counsel, he would look to establish an investigative unit to address concerns on the unlawful use of County credit cards, or P-cards. He intends to resolve the injection wells issue and plans to work collaboratively with the Department of Environmental Management to look for more prudent ways to dispose of wastewater. He will work to ensure open government is maintained and that issues are discussed in an open session whenever possible.

Your Committee received numerous written testimonies in support of and in opposition to Mr. Wong's appointment.

After reviewing Mr. Wong's experience and capabilities and giving due consideration to public testimony, your Committee recommended his nomination be disapproved. Your Committee was concerned with some of his past legal decisions affecting the County. Therefore, your Committee determined another nominee would be more well suited to lead the Department at this time. Your Committee commended Mr. Wong for his commitment to public service.

Your Committee voted 5-4 to recommend adoption of the proposed resolution to disapprove the appointment of Patrick K. Wong as the Corporation Counsel and filing of the revised proposed resolution to approve the appointment. Committee Vice-Chair Rawlins-Fernandez and members Kama, King, Paltin, and Sinenci voted "aye." Committee Chair Molina and members Hokama, Lee, and Sugimura voted "no."

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Your Governance, Ethics, and Transparency Committee
RECOMMENDS the following:

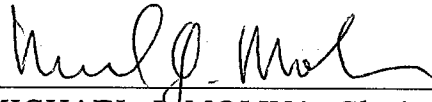
1. That Resolution _____, attached hereto, entitled
"DISAPPROVING THE MAYOR'S APPOINTMENT FOR
CORPORATION COUNSEL," be ADOPTED; and
2. That the proposed resolution, attached hereto, entitled
"APPROVING THE MAYOR'S APPOINTMENT FOR
CORPORATION COUNSEL," be FILED.

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



MICHAEL J. MOLINA, Chair

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Resolution

No. _____

DISAPPROVING THE MAYOR'S APPOINTMENT FOR CORPORATION COUNSEL

WHEREAS, by letter dated January 2, 2019, received by the Council on January 8, 2019, Mayor Michael P. Victorino notified the Council he appointed Patrick K. Wong as the Corporation Counsel, pursuant to Sections 6-2(5) and 8-2.2 of the Revised Charter of the County of Maui (1983), as amended; and

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

WHEREAS, Charter Section 8-2.2 states: "The corporation counsel shall be appointed by the mayor with the approval of the council"; now, therefore,

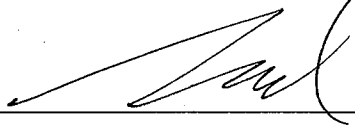
BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby disapproves the appointment of Patrick K. Wong as the Corporation Counsel; and

Resolution No. _____

2. That a certified copy 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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Resolution

No. _____

APPROVING THE MAYOR'S APPOINTMENT FOR CORPORATION COUNSEL

WHEREAS, by letter dated January 2, 2019, received by the Council on January 8, 2019, Mayor Michael P. Victorino notified the Council that he appointed Patrick K. Wong as the Corporation Counsel, pursuant to Sections 6-2(5) and 8-2.2 of the Revised Charter of the County of Maui (1983), as amended; and

WHEREAS, Charter Section 6-4 authorized the Council to establish specific qualifications for administrative heads appointed by the Mayor in addition to any set forth in the Charter; and

WHEREAS, Section 2.14.100, Maui County Code, attached hereto as Exhibit "A," establishes additional qualifications for the Corporation Counsel effective January 2, 2019; and

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

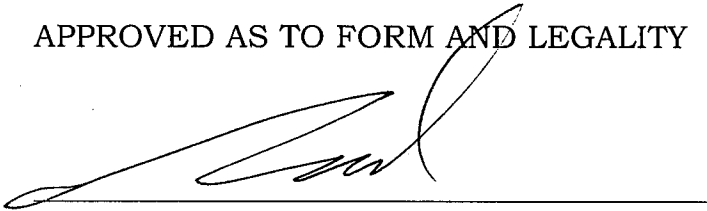
WHEREAS, Charter Section 8-2.2 states: "The corporation counsel shall be appointed by the mayor with the approval of the council"; now, therefore,

Resolution No. _____

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

1. That it deems Patrick K. Wong to have satisfied the minimum qualifications for the position of Corporation Counsel;
2. That it hereby approves the appointment of Patrick K. Wong as the Corporation Counsel; and
3. That a certified copy of this resolution be transmitted to the Mayor.

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, appearing to be "A. Wong", is written over a horizontal line.

Department of the Corporation Counsel
County of Maui

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2.14.100 - Corporation counsel.

The corporation counsel shall have the following minimum qualifications:

1. As set forth in the charter, the corporation counsel shall be an attorney licensed to practice and in good standing before the Hawaii supreme court.
2. As set forth in the charter, the corporation counsel shall have engaged in the practice of law for five years.
3. As a part of or in addition to the five years of experience in the practice of law, three years of civil litigation experience.
4. As a part of or in addition to the five years of experience in the practice of law, three years of responsible managerial and budgetary experience.
5. As a part of or in addition to the five years of experience in the practice of law, three years of experience in one or more of the following functions:
 - a. Serving as chief legal advisor or legal representative of a municipality or other governmental entity, its departments, boards and commissions, or officers and employees in matters relating to their official duties.
 - b. Representing a public or private entity in legal proceedings.