

**HAWAII COUNTY POLICE COMMISSION  
REGULAR SESSION MINUTES  
JANUARY 16, 2009  
HUNTER EDUCATION BUILDING, WAIMEA  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

**INVOCATION**

Commissioner Kaiwi gave an invocation.

**CALL TO ORDER**

Chair Whittemore called the meeting to order at 9:04 a.m.

**ROLL CALL** (A quorum was present)

Present:	Tom Whittemore, Chair	Also Present:	Harry S. Kubojiri, Police Chief
	Louis Kaiwi, Vice Chair		Paul K. Ferreira, Deputy Chief
	Richard J. Behenna, Commissioner		Henry Tavares, Assistant Chief
	Pudding Lassiter, Commissioner		Derek Pacheco, Assistant Chief
	Karolyn P. Lundkvist, Commissioner		Marshall Kanehailua, Major
	Melvin S. Morimoto, Commissioner		James O'Connor, Captain
	Anita Politano Steckel, Commissioner		Lincoln S. Ashida, Corporation Counsel
	Michael B. Sumja, Commissioner		Josie Pelayo, Secretary

**APPROVAL OF AGENDA**

Commissioner Sumja moved to approve the agenda. Commissioner Kaiwi seconded the motion, and it carried unanimously.

**STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS** - None

**APPROVAL OF MINUTES**

Commissioner Kaiwi moved to approve the minutes of December 3, 2008. Commissioner Lundkvist seconded the motion, and it carried unanimously.

Commissioner Sumja moved to approve the minutes of December 19, 2008. Commissioner Lundkvist seconded the motion, and it carried unanimously.

Commissioner Politano Steckel moved to approve the minutes of December 30, 2008. Commissioner Sumja seconded the motion, and it carried unanimously.

**PERSONNEL ORDERS**

Commissioner Lundkvist moved to accept Personnel Orders Nos. 2008-129 to 2008-134 and 2009-001 to 2009-003. Commissioner Sumja seconded the motion, and it carried unanimously.

**COMMUNICATIONS**

Commissioner Kaiwi moved to accept the communications as listed. Commissioner Sumja seconded the motion.

**Discussion:**

- **Correspondence 09-01**, from the Kauai Police Commission, requesting attendance information to the Annual State of Hawai'i Police Commission Conference in May 2009. Commissioner Behenna stated that they need to respond with the budget in mind. Expressing interest in attending were Whittemore, Kaoiwi, Morimoto, Politano Steckel, and Sumja.
- **Administrative Notice No. 2008-134** regarding new spending guidelines. Chair Whittemore stated that the budget situation is serious, and all departments are being asked to step forward. Travel expenses can be costly. They might rethink how many people they send to the mainland and interisland conferences this year. There is value in attending these conferences, but they also need to weigh all the considerations. They have also been asked to room together. He asked for ideas to reduce expenses.

Vice Chair Kaoiwi stated that the State of Hawai'i Police Commissioners' Conference is a workshop where they learn what the other commissions are doing. Maybe they should send only one commissioner to NACOLE (National Association for Civilian Oversight of Law Enforcement). Commissioners leave after five years, but their secretary stays with the commission. If they want to send somebody who is going to repay, the most logical one is the secretary. He has said from the beginning that the secretary should go with one other person because valuable information is passed down, and she is going to retain it and bring it back for future use

Commissioner Lundkvist suggested that they send different people to the conferences, and it should not be more than two people.

Commissioner Lassiter suggested that they send a junior commissioner to the NACOLE conference, not someone who would be leaving soon. The inter-island conferences are valuable tools where they get to share and communicate ideas with other commissioners.

Chair Whittemore stated that the inter-island conferences are important, and there is clear value in working with commissions from the other islands. In other commissions he's been on, they have a policy that says if you are in your last year or two, you don't go to the mainland conference. There is a window in the first 2-3 years in which you can go to these events, and that's policy. The outcome is to set their priorities and control their expenses.

- **2009 Police Commission meeting schedule.** Chair Whittemore stated that it is a challenge to get a meeting room without having to pay a rental fee, and this year's schedule had to be adjusted for this. Chair Kaoiwi stated that they should accept the schedule. Commissioner Sumja agreed.

The motion to accept the communications carried unanimously.

## **COMMITTEE REPORTS**

- **Discussion on committee assignments:** Chair Whittemore stated that he spoke to some of the commissioners regarding committee assignments. He wants to look into the structure and mission of each committee. The Budget and Finance Committee is self-explanatory, and this committee needs to work with the commission and the police department on budget constraints and the budget approval process. The Office Management and Staffing Committee deals mainly with Josie and falls on the Chair; he will be on this committee. He wants to review the Rules and Policies Committee. There are processes that he wants to go over with the current committee and Corporation Counsel to set up guidelines before bringing up recommendations. He has asked Commissioners Behenna and Sumja to stay on the committee, and they will work on structure and refinement of the committee. The Contractual Services Committee will remain vacant since they have not used an investigator recently.

Chair Whittemore reported that he would like to start a new committee that focuses on community relations, and it would link up with the police department's public relations specialist. The goal would be for each commissioner to identify two to three opportunities in their district to engage the Chief in public appearances with key people and community groups. He wants the committee to focus on police officers who are doing things in the community that need to be acknowledged and that they don't see in the press. This is putting the human feel to the police department rather than the intimidation of the blue uniform. They need to see the police engaged in things like coaching, paddling, etc. They need to support that and spotlight the police officers.

Chair Whittemore further reported that he spoke to Corporation Counsel and the Chief and wants to set up a new committee. It would be a hand's on committee that works with Internal Affairs. It would lean more with clarity and information that comes to them so that they could clearly understand that action is taken on a timely basis. A lot of times they are not familiar with cases because it's been six months since they reviewed the case. The intent would be that prior to the meeting, hopefully the week before, two commissioners would meet with Internal Affairs and go over each case that they are working on so that they could share information with the other commissioners. They are not trying to micro manage but are trying to be well-informed. He wants the commissioners to rotate quarterly on this committee so that there would be new people engaging in conversation and contact with Internal Affairs. He asked for thoughts from the other commissioners.

Commissioner Morimoto pointed out that there were no guidelines for the committees.

Chair Whittemore agreed. He stated that he would like to set up goals for each committee in the beginning of the year and measure their accomplishments. For Rules and Policies, their goal is to clean it up in a timely fashion. For Community Relations, each commissioner would put forth two meetings that the Chief would be able to get in front of the public. They don't want to tie up the Chief in this process, but they also want to effectively put the police department in front of the community. As

commissioners, they are all proud of what their police officers do, and they should spotlight them as much as possible. He'll work with the committees on their goals.

Chair Whittemore stated that Corporation Counsel Ashida will work on a training program for them as to where their boundaries are and where they can and cannot go in their role as commissioners. A similar process was done about four or five years ago. As commissioners, they need to be in sync with the police department so that they perceive the commission in supporting role, not an intruding one.

Commissioner Kaiwi stated that he listened to the County Council concerning the microwave radio. Deputy Chief Ferreira gave a good synopsis of how much money would be used, and where the money was coming from. If the grants do not come in, they will run into problems. His main concern is that in 2013, the requirements will go into effect. If they don't do anything now, they will run into trouble. So, they need to lobby their council people. They need to express concern about finances.

Commissioner Kaiwi stated that with the new appointments, the salary for the Police Chief, Corporation Counsel, their Deputies, and their secretaries has to revert back. He expressed his concern to some of the council people at the last confirmation hearing, and some of them didn't realize that was happening. It's not right.

Chair Whittemore stated that the communications system has come up before, and they did ask Chief Mahuna to give them a report on the whole thing.

Chief Kubojiri explained that the conversion from analog to digital is similar to what's happening with TV. It is a more efficient use of band width. Come January 1, 2013, there will be new VHF licensing requirements. The biggest kicker is that all the frequencies will open up for commercial use, and public safety will not be able to knock them off as they now do. Equipment will no longer be manufactured to handle the radio they now have. The \$89 million is for hardware, software, site location, new tower, construction, everything. The county hired Macro Corporation to do the study. The Mayor asked Macro Corporation to come and explain to him and the County Council what the impact will be. Maui Police Department went through this years ago. They agreed to review Macro Corporation's plans and give them feedback. Councilperson Brenda Ford has been pushing this matter, is on top of it, and knows the deadlines.

Chair Whittemore asked that they be notified when the County Council hears this matter. Commissioner Behenna asked for a copy of the study.

Commissioner Lassiter stated that they should not eliminate the Contractual Services Committee because they have funding for it. If they delete it and lose the funding, they might not have the funding if the need for a private investigator comes up.

Commissioner Behenna stated that he wants to better define the role of each committee. His thought is that being up-to-date on the whole radio communication thing would be a task for the Public Relations/Information Committee. He reminded

that he and Commissioner Sumja put together a report on the NACOLE conference that they attended which they will talk about in future meetings. At the conference, there was discussion on training for civilian oversight boards and annual evaluations of themselves and their effectiveness.

Chair Whittemore stated that they will agendaize items discussed at the NACOLE Conference at the next meeting.

Commissioner Anita Politano Steckel stated that someone else should evaluate them. It should be somebody outside of themselves, but she doesn't know who can do it. She asked to be on the Community Relations Committee.

Commissioner Behenna stated that it might make more sense to make the Internal Affairs Committee an assignment instead of a committee since it would rotate. Chair Whittemore stated that he discussed it with Corporation Counsel, and it has to be a committee in order to abide with the Sunshine Law.

Chair Whittemore stated that he appreciates their input regarding the different committees. He will work on the assignments and goals between now and the next meeting.

- **Budget and Finance** (Whittemore/Kaoiwi): No report.
- **Office Management and Staffing** (Lassiter/Morimoto): Commissioner Lassiter stated that they anticipate the commission's office moving back to the renovated county building in November. Corporation Counsel Ashida stated that the target is fall 2009, but that's a moving target.
- **Rules and Policies** (Behenna/Sumja): Commissioner Sumja stated that they will discuss this over the next four to five meetings.
- **Contractual Services** (vacant): No report.
- **Public Relations/Information** (Lassiter/Behenna): No report.

### **CHIEF'S REPORT**

Including:

- **Crime:** AC Tavares summarized the written report. He reported that in light of the down turn in the economy, they have been looking at the stats but have not seen much difference. The community policing officers were asked to keep an eye out for burglaries. They are preparing to work on public awareness. Their stats have not indicated that crime goes up when the economy goes bad. Now that gas prices are lower, they expect more people to be on the road, and there could be more citations and more accidents. The sexual assault number has gone up because of multiple indictments of one person in Ka'u.

- **Traffic:** AC Pacheco summarized the written report. There was a drop in accidents, fatalities, and arrests. Their grants for roadblocks have not been affected by the budget crunch. They had one fatality this year.

Commissioner Behenna stated that he was struck by the zero in all the child restraint columns. Chief Kubojiri stated that last year, Hawai'i County had the highest compliance rate for seatbelt/child restraints.

- **Personnel:** Major Kanehailua reported that as of January 5, they had 9 sworn and 8 civilian vacancies. A recruit class of 17 will graduate at the end of the month. They have four intergovernmental requests to transfer to Hawaii County Police. A sergeant who transfers over will start as a PO II, but patrol officers will start as patrol officers. A lot of officers, who left the department, want to return. Kay Oshiro was promoted to County Finance, and they are looking for a new accountant. They had two vacancies in dispatch, but a new person started today.
- **Finance:** Deputy Chief Ferreira reported that Accountant Kay Oshiro was promoted to County Controller. She has return rights for four years plus an additional four years. He summarized the written report. They had a meeting with the budget office which was on the bleak side. They calculated a 5% cut this past year and now need to make a 10% cut. Chair Whittemore asked for a copy of the CIP projects as soon as possible.
- **Commendations:** Chief Kubojiri reported receiving 10 commendations since the last meeting -- South Hilo 7, Puna 1, and Kona 2.
- **Other Departmental Activities:** Chief Kubojiri reported that the Mayor put a county-wide freeze on all civilian positions. A committee was set up to review all requests to fill vacancies, and they look at its impact. Sworn positions have not been affected. They prioritize their immediate needs and send out requests to fill as a priority.

Commissioner Politano Steckel thanked the police and fire departments for their handling of the New Year's Day fire on her street. Their response was very quick, and it was done with a minimum amount of disturbance.

Commissioner Kaiwi stated that he visited the Waimea police station that morning and is concerned that they have only one clerk. If she is out sick, someone has to be pulled off the road. Some time ago, he went to the Keaau Police Station, and a computer was down. At that time, there were a lot of new computers at the Hilo station set for administration. The rural districts need to be taken care of also, not only administration.

Chief Kubojiri stated that Hannah Thornton was his police operations clerk when he was in Waimea and when Chief Mahuna was there. She runs the district, and the captain knows that. They have sworn people who know her duties and are put there

such as for light duty, etc. Regarding the computers, it has been has been their position that administration is the last place to get anything. They have always put operations first. The new computers came from the contingency fund and are for recruit training on the RMS system. The computers in the cars will do the same function as the computer at the station. Previously, officers had to wait their turn to use the office computer. Now with the mobile data, they can use the one in their car. They now lease their computers, and if it breaks, they can return it.

Commissioner Sumja inquired about the duties of the Public Relations Specialist whom he wants to work with on positive public publicity. Chief Kubojiri stated that Ms. Loos handles the department's website, fields calls from the media, and does their annual report. He spoke to her about the new committee, and she looks forward to working with the commission. Chair Whittemore stated that they will complement each other.

Commissioner Morimoto inquired into the police department's response to banning of fireworks. Chief Kubojiri stated that the State is trying to leave it up to each county. Every year they have fire works related injuries, accidents, and fires. Honolulu wants a total ban. There has to be a balance between the cultural issues and safety. He wants to see what is proposed before he responds.

## **NEW BUSINESS**

Discussion on Police Commission procedures and legal matters concerning its authority and limitations as defined in the Hawai'i County Charter and Hawai'i Revised Statues. Chair Whittemore stated that Corporation Counsel Ashida will help with this.

## **INVESTIGATION OF COMPLAINTS**

### **STATEMENTS ON COMPLAINTS**

OFFICER ANDRES FOJAS (Complaint 08-31) stated that he read Mr. Larson's letter. Larson made false statements. They had a roadblock. He could smell that Larson was drinking, and his eyes showed it. After the standard field sobriety test, he offered Larson the breath test. After he started reading Larson the form, he started getting angry and raising his voice. He continued to read the form again. Larson interrupted him again and got real argumentative. He didn't get a chance to read him the form. Larson was very uncooperative, so he told him he was under arrest and to turn around. Larson started poking him on his shoulder. He told him to turn around. Larson tried to pull away from him. He had to take him down. He took him down on a grassy area, not a gravel area. Larson was non-compliant when he tried to put his hands behind his back, and Officer Pauole had to assist him in getting the handcuffs on. One of Larson's complaint is that the handcuffs were too tight. It is procedure to double lock, so it could not have gotten tighter. When he removed the handcuffs at the station, he did notice a little redness to the area. He had to put the cuffs back on when he transported Larson to the hospital. He knows the cuffs were not tight because he put his finger in to test it, and it was double locked. It could not become tighter or looser. After Larson had his blood drawn, he asked him if he wanted to see a doctor. He said no. Larson became uncooperative while he was reading the form to him.

Commissioner Kaiwi moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Sumja seconded the motion, and it carried unanimously.

**EXECUTIVE SESSION** (closed to the public)

Commissioner Lundkvist moved to meet in executive session to consider discipline and charges against officers or employees of the Hawaii County Police Department where consideration of matters affecting privacy would be involved and to consult with Corporation Counsel on questions and issues that pertain to the commission's powers, duties, privileges, immunities, and liabilities pursuant to HRS 92-5 (2) and Hawaii County Charter Section 13-20 (b). Commissioner Politano Steckel seconded the motion, and it carried unanimously. Executive session convened at 11:29 a.m.

Regular session reconvened at 11:51 a.m.

**ACTION ON EXECUTIVE SESSION MATTERS**

Commissioner Morimoto moved to ask the Chief to pursue getting video equipment through grant money to use in enforcement. Commissioner Sumja seconded the motion, and it carried unanimously.

**STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS** – None.

**ANNOUNCEMENTS**

- A presentation by Officer John Briski on the dangers of drunk driving will be agendize for the next meeting. A second presentation will be made for public viewing and a press release will go out.
- Chair Whittemore announced that the next monthly meeting would be on February 20, 2009, at 9:00 a.m., at the Department of Liquor Control, Hilo Lagoon Centre, 101 Aupuni St., Suite 230, Hilo.
- Collection of files and documents – Done.

**ADJOURNMENT**

The meeting was adjourned at 11:50 a.m.

SUBMITTED:

*Josie Pelayo*

JOSIE PELAYO, SECRETARY

APPROVED:

*Tom Whittemore*

TOM WHITTEMORE, CHAIR

