

**HAWAII COUNTY POLICE COMMISSION  
REGULAR SESSION MINUTES  
WAIMEA CIVIC CENTER CONFERENCE ROOM  
APRIL 17, 2009**

**INVOCATION**

Commissioner Kaoiwi gave an invocation.

Chair Whittemore introduced new Commissioner Donn Mende from District 3. He is the Assistant Vice President of American Savings Bank and has many years of experience in banking. He is the Treasurer of the Boys and Girl's Club and a member of Hawai'i Island United Way and Junior Achievement.

**CALL TO ORDER**

Chair Whittemore called the meeting to order at 9:00 a.m.

**ROLL CALL**

Present:	Tom P. Whittemore, Chair	Also Present:	Harry S. Kubojiri, Police Chief
	Louis Kaoiwi, Vice Chair		Paul Ferreira, Deputy Chief
	Richard J. Behenna, Commissioner		Marshall Kanehailua, Assistant Chief
	Donn S. Mende, Commissioner		John Dawrs, Major
	Melvin S. Morimoto, Commissioner		James O'Connor, Captain
	Anita Politano Steckel, Commissioner		Lincoln Ashida, Corporation Counsel
	Michael B. Sumja, Commissioner		Josie Pelayo, Secretary

A quorum was present.

**APPROVAL OF AGENDA**

Commissioner Sumja moved to approve the agenda. Vice Chair Kaoiwi seconded the motion, and it carried unanimously.

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

**APPROVAL OF MINUTES**

February 20, 2009, regular and executive sessions. Commissioner Behenna moved to approve the minutes. Commissioner Sumja seconded the motion.

Discussion: Commissioner Behenna asked to amend the regular session minutes under action on executive session matters by including the officers' names in HPC 09-06 because they were discussed in open session, and the commission had different actions for the officers. The motion carried with the amendment.

**PERSONNEL ORDERS**

Vice Chair Kaoiwi moved to accept Personnel Orders Nos. 2009-017 to 2009-036 (*including, but not limited to work assignments, training assignments, promotions, reallocations, severance from service, automobile allowances, and appointments*). Commissioner Politano Steckel seconded the motion, and it carried unanimously.

## **COMMUNICATIONS**

- Correspondence 09-04, request for legal counsel from retired Police Chief Lawrence Mahuna and Deputy Chief Paul Ferreira in Civil No. CV08-1-0149.
- Correspondence 09-05, request for legal counsel from retired Police Chief Lawrence Mahuna in Civil No. 08-00540.

Corporation Counsel Ashida stated that his office recommends that the commission approve legal counsel for both officers in Correspondence 09-04 and 09-05. Commissioner Politano Steckel moved that they concur with Corporation Counsel's recommendation and provide legal counsel for both cases. Commissioner Sumja seconded the motion, and it carried unanimously.

- Correspondence 09-06, from Corporation Counsel Lincoln Ashida, attorney-client communication regarding travel and training budget.

Commissioner Behenna stated that there are safety issues if they have to drive 2-2 ½ hours and asked for clarity. Chair Whittemore stated that they need prudence on everyone's part. Maybe they could start the meeting at a different time. Corporation Counsel Ashida stated that the whole idea of staying overnight at a hotel came about because they have to provide it for civil servants as provided in the HGEA contract. They don't have the luxury of extending the benefits to volunteers. Vice Chair Kaiwi moved to accept the correspondence. Commissioner Mende seconded the motion, and it carried unanimously.

- Correspondence 09-07, from the Kauai Police Commission, invitation to the State of Hawai'i Police Commissioners' Conference May 21-22, 2009. Chair Whittemore stated that they will send four delegates to the conference. He pointed out that Hawai'i County will host next year's conference. Vice Chair Kaiwi moved to accept the correspondence. Commissioner Politano Steckel seconded the motion, and it carried unanimously.
- Correspondence 09-08, from students at Ke Kula `O Nāwahīokalani`ōpu`u School, thanking the commission for allowing them to sit in on a police commission meeting. Commissioner Sumja moved to accept the correspondence. Commissioner Politano seconded the motion, and it carried unanimously.
- Honolulu Police Commission Minutes of January 7 and March 4, 2009.
- Maui Police Commission Minutes of January 21 and February 18, 2009.

Vice Chair Kaiwi moved to accept the minutes from the Honolulu and Maui Police Commissions. Commissioner Politano Steckel seconded the motion, and it carried unanimously.

### **COMMITTEE REPORTS**

- Budget and Finance (Whittemore/Kaoiwi): Chair Whittemore stated that because of the Chief's selection process, they had unusual travel expenses. However, the expenses can be justified.
- Office Management and Staffing (Whittemore): No report.
- Rules and Policies (Behenna/Sumja): Commissioner Behenna stated that in their review of the rules, they are reviewing the County Charter, rules from all county commissions, and minutes from the past year. They will request input from the Chief, commissioners, and Corporation Counsel and expect to complete the process in July.
- Contractual Services (vacant): No report.
- Public Relations/Information (vacant): Chair Whittemore stated that when the new commissioners come on, he will make assignments.

### **CHIEF'S REPORT**

Including:

- **Crime:** Major Dawrs summarized the written report. He pointed out that a revision was made, and it will be forwarded to the commission. He doesn't know the specifics regarding the clearance rate for theft in Area and I and II, but sometimes one person is responsible for a large number of thefts. The high number could be related to juvenile cases, and juvenile and adult cases are handled differently. .
- **Traffic:** Major Dawrs summarized the written report. He stated that all numbers are down compared to this time last year. Almost all of roadblocks are funded by federal grants.

Major Dawrs reported on a deep water diving accident in which the diver could have surfaced and was hit by a boat. The person is now missing. There are existing rules that are pretty universal, but apparently were not followed. People need to mark their area with floaters. DLNR is assisting on the case.

- **Personnel:** Assistant Chief Kanehailua reported having 10 sworn and 17 civilian vacancies, a number of which are school crossing guards. Some defunded positions have affected the Police Department. One recent retiree will be coming back as a volunteer. All requests to fill vacancies and out-of-state travel must be go before the Expenditure Review Committee (ERC). The Mayor did say there would be no cuts in Public Safety, but that is only for sworn officers.

Chief Kubojiri reported that on April 16, Marshall Kanehailua was promoted to Assistant Chief of Administration. Through a civil defense grant, they will be getting 6-8 new

consoles for dispatch. The \$89 million new radio system is still in progress, but they don't have any money of it.

- **Finance:** There was no discussion on the written report.
- **Commendations:** Chief Kubojiri reported receiving 15 commendations in the past month, 7 from South Hilo, 3 from Puna, 1 from Hamakua, 3 from Kona, and 1 from North Kohala.
- **Other Departmental Activities:** Chief Kubojiri reported that they started the bike patrol in Hilo, and they have been patrolling the Keaukaha and beach park areas. They had one bicycle chase in which they apprehended an individual who was on foot. The business community really appreciates this. They hope to expand to Kona and Waimea. They recently got word that OHA is willing to give them a grant to expand their bike patrols. Chair Whittemore stated that an OHA trustee told him that he really likes the idea of bike patrols, and they will be meeting soon.

Chief Kubojiri reported that they are working on an on-line survey. They want to know how the public perceives them and whether they are meeting their mission statement. It is a tool that will help them. They hope to announce this at Police week.

Chief Kubojiri was asked to send only a summary of the commendation letters to the commission rather than every letter.

Chief Kubojiri stated that this was national telecommunications week, and they had a luncheon for all dispatchers. Commissioner Politano Steckel stated that Deputy Chief Ferreira's memo regarding telephone courtesy is very important and it needs to be reinforced. She has seen what a voice can do, even on the phone. In response to Commissioner Politano Steckel's inquiry, Chief Kubojiri stated that they have a policy whereby officers have to keep people informed about the status of their complaint. They should respond within a few days rather than have people wait.

## **INVESTIGATION OF COMPLAINTS**

**Statements on Complaints** - None.

**EXECUTIVE SESSION:** Commissioner Sumja moved to meet in executive session to consider discipline and charges against officers or employees of the Hawai'i 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 Hawai'i County Charter Section 13-20 (b). Commissioner Politano Steckel seconded the motion, and it carried unanimously. Executive session convened at 10:40 a.m.

Regular session reconvened at 1:35 p.m.

### **ACTION ON EXECUTIVE SESSION MATTERS**

- **Complaint HPC 08-32:** Complainant alleged that during his arrest, officers did not present a search warrant, his cane was taken away, he was pushed and knocked to the ground, and the handcuffs were too tight. Commissioner Morimoto moved that there was insufficient evidence to prove the complainant's allegations against three officers. Vice Chair Kaiwi seconded the motion, and it carried unanimously.
- **Complaint HPC 08-33:** Complainant alleged that an officer disclosed her confidential medical records without her authorization. At the previous meeting, the commission found insufficient evidence to prove the complainant's allegation. The complainant sent in additional information for reconsideration of the commission's decision. Commissioner Behenna moved to reconsider the complaint. Commissioner Politano Steckel seconded the motion. Discussion: Commissioner Behenna stated that the officer's short statement was insufficient. Commissioner Politano Steckel stated that it is a "he said, she said." Ayes were called by only Behenna, Sumja, and Politano Steckel. The motion died. The commission's previous decision stands.
- **Complaint HPC 09-01:** Complainant alleged that the police did not serve his TRO. (*The TRO was served after the complaint was filed.*) Commissioner Morimoto moved that there was insufficient evidence to prove the complainant's allegation. Commissioner Politano Steckel seconded the motion, and it carried unanimously.
- **Complaint HPC 09-02:** Complainant reported that a male and female asked him about purchasing cannabis. He alleged that an officer told him it was because of the way he looked. He also alleged that the officer told him that if he didn't like it, he could move away from that side of the island. Vice Chair Kaiwi moved that there was insufficient evidence to prove the complainant's allegations. Commissioner Sumja seconded the motion, and it carried unanimously.
- **Complaint HPC 09-03A & 03B:** Complainants alleged that an officer arrested the wrong person in a domestic abuse case. At the previous meeting, the complaint was deferred in order to obtain additional information. Commissioner Sumja moved that there was insufficient evidence to prove the complainant's allegations. Vice Chair Kaiwi seconded the motion, and it carried unanimously.
- **HPC 09-08:** Complainant complained about the manner in which a police vehicle was driven. Complainant also complained about the manner in which an unmarked police vehicle was driven. Chair Whittemore stated that they were still waiting for records on the case, and so the complaint was deferred to the next meeting.
- **HPC 09-11:** Complainant alleged that an officer incorrectly gave him a citation. Vice Chair Kaiwi moved that there was insufficient evidence to prove the complainant's

allegation. Commissioner Politano Steckel seconded the motion, and it carried unanimously.

- **HPC 09-12:** Complainant alleged that when officers responded to a domestic dispute at his home, they decided his guilt and insisted he leave his residence. Commissioner Morimoto moved that there was insufficient evidence to prove the complainant's allegations. Vice Chair Kaowi seconded the motion, and it carried unanimously.

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

**ANNOUNCEMENTS**

- Chair Whittemore announced that the next monthly meeting would be on May 15, 2009, at 9:00 a.m., at the County's Aupuni Conference Room, 101 Pauahi St., Hilo.
- Collection of files and documents. – Done.

**ADJOURNMENT**

The meeting was adjourned at 1:55 p.m.

SUBMITTED:

*Josie Pelayo*  
JOSIE PELAYO, SECRETARY

APPROVED:

*Tom Whittemore*  
TOM P. WHITTEMORE, CHAIR