

**HAWAII COUNTY POLICE COMMISSION  
REGULAR SESSION MINUTES  
DECEMBER 19, 2008  
DEPARTMENT OF LIQUOR CONTROL, HILO**

**INVOCATION**

Commissioner Kaoiwi gave an invocation.

**CALL TO ORDER**

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

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

Present:	Pudding Lassiter, Chair	Also Present:	Lawrence K. Mahuna, Police Chief
	Tom Whittemore, Vice Chair		Harry S. Kubojiri, Deputy Chief
	Richard J. Behenna, Commissioner		Henry Tavares, Assistant Chief
	Louis Kaoiwi, Commissioner		Marshall Kanehailua, Major
	Melvin S. Morimoto, Commissioner		Samuel Thomas, Major
	Anita Politano Steckel, Commissioner		Kay Oshiro, Accountant
	Michael B. Sumja, Commissioner		Lincoln S. Ashida, Corporation Counsel
			Josie Pelayo, Secretary
Absent:	Karolyn P. Lundkvist, Commissioner		

**APPROVAL OF AGENDA**

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

**STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS**

ROGER CHRISTIE (COMPLAINT HPC 08-30) stated that he challenges statements that the Chief made to the Hawai'i Tribune Herald that the lowest enforcement priority of marijuana was not an ordinance and that there would be no change in how they prioritize the enforcement of marijuana. It was clear to him that this was an ordinance and surprised that the Chief would not follow the law. The new law is the law of the people. The Chief violated Rule 7.b.3 and 7.b.1. The Chief stepped over the line, although he would always defend him for protecting his rights here in Hilo. He personally thanked Chief Mahuna for allowing the Cannabis Ministry for existing in Hilo. He would like to give the Chief a chance to correct his statements. He would appreciate a Chief who puts the people of Hawai'i County first rather than unnamed people in Washington, D.C.

**APPROVAL OF MINUTES**

Commissioner Behenna moved to approve the minutes of November 5, 13, 14, 18, and 20, 2008. Vice Chair Whittemore seconded the motion, and it carried unanimously.

**PERSONNEL ORDERS**

Commissioner Kaoiwi moved to accept Personnel Orders Nos. 2008-112 to 2008-128. Commissioner Politano Steckel seconded the motion, and it carried unanimously.

### **COMMUNICATIONS**

Commissioner Kaiwi moved to accept the communications as listed. Vice Chair Whittemore seconded the motion. Discussion: Commissioner Behenna stated that he would like to agendaize topics in their NACOLE report for future meetings. The motion carried unanimously.

### **COMMITTEE REPORTS**

- Budget and Finance (Whittemore/Kaiwi) – No report.
- Office Management and Staffing (Lassiter/Morimoto) – No report.
- Rules and Policies (Behenna/Sumja): Commissioner Behenna stated that they will discuss this further next year.
- Contractual Services (vacant)
- Public Relations/Information (Lassiter/Behenna) – No report.

### **CHIEF'S REPORT**

Including:

- **Crime:** Assistant Chief Tavares summarized the written report. In response to questions, he stated that the doubling of the sexual assaults in Area II was the result of one person being arrested for multiple counts following a grand jury indictment. The burglary rates will fluctuate with clearances.
- **Traffic:** Major Thomas summarized the written report. Additional traffic enforcement was started in November.
- **Personnel:** Major Kanehailua reported that they have 34 sworn vacancies, but the recruit class has 31 members, so that leaves them with 3 vacancies. However, three officers who left, will now be returning. They just finished their cadet recruitment, and have 15 cadets.
- **Finance:** Accountant Kay Oshiro entertained questions to the written report. The county now has stricter rules regarding certain items, but it has not impacted the department. Overtime continues to be an issue, but they are okay. They submitted their budget to the County in the beginning of November. They are looking to submit their CIP budget in January.

Vice Chair Whittemore asked that the CIPs be emailed to them for review.

Commissioner Sumja stated that they would like to lobby on behalf of the department, but they need to know the schedule.

Major Kanehailua stated that a timeline of the budget process would be send to them.

Commissioner Kaiwi expressed concern over repair and maintenance of police buildings, and that it is often put at the bottom of the Public Works list. It is not fair to

the department. They need to take care of their structures and not let it deteriorate. When the buildings deteriorate, it gives the Chief and the department a bad image.

Ms. Oshiro stated that there was a meeting to prioritize projects for the federal stimulus package.

Vice Whittemore stated that the communication system is one of the projects under consideration.

- **Commendations:** Chief Mahuna reported that they had 13 commendations in the past month: South Hilo 4, Puna 2, Ka'u 1, South Kohala 2, North Kohala 1, and Kona 3.
- **Other Departmental Activities:** Chief Mahuna reported that this is his last meeting. It has been his pleasure serving as Chief, and he thanked the commission. He is sure his replacement will visualize all the core values of the department.

Chief Mahuna stated that regarding building repairs, they have been very consistent in trying to get the county government to come up with a plan for systematic inspections and the actual doing of the construction to mitigate some areas of concern. They are cognizant that a leaking room may have a litany of other problems that impact many areas. There is an obvious difference between the State's Waimea courthouse, which has systematic repairs, and the County's Waimea police station. He agrees with Commissioner Kaiwi that something needs to be done. Some of their CIP projects are extremely expensive.

Chief Mahuna further stated that he is leaving the department almost fully staffed. They are running a police department a cut above the rest, and he knows this because there are officers coming in from other police departments. They are getting transfers from the whole state. They know that when it comes to this police department, they will be treated fairly and with integrity.

They expect to be CALEA accredited in 1½ to 2 years. This will mean that the police department will be in compliance with over 300 standards.

## **NEW BUSINESS**

**Selection of Chair and Vice Chair for 2009:** Commissioner Politano Steckel moved to nominate Tom Whittemore as Chair and Louis Kaiwi as Vice Chair for 2009. Commissioner Morimoto seconded the motion, and it carried unanimously. Vice Chair Whittemore thanked the commissioners for their vote of confidence.

## **INVESTIGATION OF COMPLAINTS**

### **Statements on Complaints:**

ADAM LEHMANN (COMPLAINT HPC 08-30) stated that regarding Chief Mahuna's comments about the lowest enforcement of marijuana, he would have expected more from a Police Chief to say if you're pro marijuana, you're pro terrorist. He is the head and should set an example. It hurts him to know that this is the law enforcement for the whole

island. To say that, is leading officers to break the law that they are supposed to uphold. It would be great for Chief Mahuna to announce to the department, the newspapers, and residents of the Big Island that this is the new law of the land, and that he looks forward to upholding all the laws. He would love to have the Chief correct his comments and apologize.

MR. KLARE: (COMPLAINT HPC 08-30) stated that his comments follow that of Adman Lehmann. He's heard that this law is being challenged because of the separation of powers. Chief Mahuna and Jay Kimura lobbied the state legislature to keep marijuana outlawed. These kinds of thoughts come from the cold war and are fear based.

BILL DALEY (COMPLAINT HPC 08-30) stated that marijuana enforcement is not an issue for him, but selective enforcement is an issue. He would like the police commission to strongly rebuke the Chief's statement. This kind of thing cannot be a policy. He expects the commission to be as outraged as he is. For anybody to publicly speak against any law is outrageous. He has no interest in marijuana. He is more concerned that they can pick the laws and follow it. This body is the first line against lawlessness. An apology is not enough for him.

### **EXECUTIVE SESSION**

Commissioner Kaiwi moved to meet in executive session to consider discipline and charges against officers or employees of the Hawaii County Police Department, to conduct an annual performance evaluation of an employee 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). Vice Chair Whittemore seconded the motion, and it carried unanimously. Executive session convened at 10:44 a.m.

Regular session reconvened at 12:05 p.m.

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

- **Complaint HPC 08-29:** Complainant alleged that an officer put handcuffs on him roughly and used profanity. Commissioner Kaiwi moved to refer this complaint to the Chief for an Internal Affairs Investigation. Commissioner Sumja seconded the motion, and it carried unanimously.
- **Complaint HPC 08-30:** Complainant alleged that Chief Mahuna told the newspaper that the new marijuana ordinance was a resolution, and that there would be no change in how the police department prioritizes the enforcement of marijuana. Vice Chair Whittemore moved that they defer action on this complaint pending clarification from the Attorney General regarding the enforceability of the ordinance and to wave the 60-day time limit. Commissioner Behenna seconded the motion, and it carried unanimously.

- **Complaint HPC 08-31:** Complainant alleged that during his arrest for DUI, an officer used extreme and unnecessary force. Vice Chair Whittemore moved to defer the complaint to the next meeting in order to obtain a statement from the officer. Commissioner Sumja seconded the motion, and it carried unanimously.

### **EXECUTIVE SESSION**

Commissioner Kaiwi moved to meet in executive session to conduct an annual performance evaluation of an employee 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. Vice Chair Whittemore seconded the motion, and it carried unanimously. Executive session convened at 12:18 p.m.

Regular session reconvened at 1:15 p.m.

### **ANNUAL PERFORMANCE EVALUATION OF CHIEF LAWRENCE MAHUNA**

Commissioner Kaiwi moved that they extract items from the evaluation that pertain to the next chief, as discussed in executive session. Commissioner Morimoto seconded the motion, and it carried with ayes from Kaiwi, Whittemore, Lassiter, Morimoto, and Politano Steckel. Nays were called by Behenna and Sumja.

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

### **ANNOUNCEMENTS**

- Chair Lassiter announced that the next monthly meeting would be on January 16, 2009, at the Hunter Education Building, Department of Land and Natural Resources, 66-1220D Lalamilo Road, Kamuela.
- Collection of files and documents – Done.

### **ADJOURNMENT**

The meeting was adjourned at 1:20 p.m.

SUBMITTED:

Josie Pelayo  
JOSIE PELAYO, SECRETARY

APPROVED:

Pudding Lassiter  
PUDDING LASSITER, CHAIR