

Approved

**COUNTY OF KAUAI
MINUTES OF
OPEN SESSION REGULAR TELECONFERENCE MEETING**

Board/Commission	Kauai Police Commission	Meeting Date	March 25, 2021
Location	Teleconference Teams Meeting	Start of Meeting: 9:03 a.m.	10:28 a.m.
Present via Microsoft Teams	Chair Catherine Adams.; Vice Chair Gerald Bahouth; Commissioners: Mary K. Hertog, Leina`ala Jardin, Kevin Mince, Roy Morita and Dean Pigao. Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Ellen Ching; Office of the County Attorney: Deputy County Attorney Teresa Tumbaga. Kauai Police Department: Assistant Police Chief Bryson Ponce and numerous sworn officers and employees in the Kauai Police Department.		
Excused			
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Adams called the meeting to order at 9:03 a.m.
Roll Call	Chair Adams asked staff to do a roll to ascertain quorum. A roll ensued with all seven (7) Commissioners present to conduct business.	
Announcements	<ul style="list-style-type: none">• Special open session teleconference meeting 9:00 a.m. Wednesday, March 31, 2021. Executive session to follow.• Next scheduled regular teleconference meeting 9:00 a.m. Thursday, April 22, 2021. Executive session to follow.	
Public Testimony	None.	
Approval of Meeting Minutes	<ul style="list-style-type: none">• Open session minutes of December 17, 2020 Meeting• Open session minutes of January 28, 2021 Meeting	

SUBJECT	DISCUSSION	ACTION
	<p><u>Discussion</u> Mr. Mince informed the Commissioners the December 17 meeting minutes was contested at the Commission’s last meeting by Commissioner Hertog and himself because the statements by Ms. Ching reflected in the original draft minutes did not reflect what was transcribed verbatim. Ms. Hertog added both she and Mr. Mince objected because the statements Ms. Ching made that did not reflect what she actually said as noted in the transcription submitted by staff. The December 17 minutes described Mr. Mince and her herself doing whatever they wanted to do with the rules without any regard to the county attorney’s advice and she does not see it as being corrected in this current set of minutes.</p> <p>To address Commissioners Hertog and Mince’s concerns, Ms. Omo stated that the March 25, 2021 meeting minutes would reflect their concerns about the inconsistent statements reflected in the December 17, 2020 meeting minutes, and that Chair Adams should call for a motion to strike out the incorrect statements described by Commissioners Hertog and Mince, and then it would no longer be part of the record.</p> <p>Chair Adams called for a motion to strike out the section where the incorrect statements were made and replace it with the verbatim transcript of Ms. Ching’s actual statements, and then approve the minutes as amended.</p> <p>Chair Adams called for a motion to approve or amend the open session minutes of the January 28, 2021 Meeting. With no further discussion, Chair Adams moved to the Chief’s Monthly Reports.</p>	<p>Chair Adams called for a motion to approve or amend the open session minutes of December 17, 2021 meeting. Mr. Morita moved. Vice Chair Bahouth seconded. Mr. Morita withdrew his motion. Vice Chair Bahouth withdrew his section.</p> <p><u>New motion</u> Mr. Morita moved to approve the draft minutes of the December 17, 2020 meeting as amended. Ms. Hertog seconded. Hearing no objections. A roll call ensued with all seven (7) Commissioners voting unanimously in favor of the motion.</p> <p><u>Motion No. 2</u> Vice Chair Bahouth moved to approve the minutes of the January 28, 2021 meeting as submitted. Ms. Jardin seconded. Hearing no objections. A roll call ensued with all seven (7) Commissioners voting unanimously in favor of</p>

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		the motion.
Chief's Monthly Reports	<ul style="list-style-type: none"> a) Administrative & Technical Reports b) Investigative Bureau Reports c) Patrol Bureau Reports d) New updates on KPD's recruitment efforts e) Pertinent Announcements and or updates <p>Chief Raybuck was on a training so Assistant Chief Bryson Ponce would be providing the Chief's reports.</p> <p>Assistant Chief Ponce reported that the Department recently underwent some interior renovations in the Chief's office and the waiting room area. Additional renovations were also done in the investigative services bureau including the front section of the control command and clerical area. The Department also tried to utilize the existing space to maximize capacity. A/C Ponce stated that members of the individual bureaus, both sworn and civilian worked diligently to prepare and submit the Department's fiscal year 2022 budget to the Mayor's administration in the second week in March for review, and then on to the County Council on April 5, 2021 for review. As expected because of the pandemic all the Department's asks would have to be taken into consideration.</p> <p>Additionally, A/C Ponce reported that the Kauai Police Department played a major role to assist other first responders after a night of heavy rain specifically on Kauai's north shore that caused a massive landslide on Kūhiō Highway cutting off access to Kauai's north shore. Kudos went out to all of the KPD's police officers, particularly the officers assigned to north shore as well as Acting Lt. Jason Overmyer, Assistant Chief Mark Begley, medics, firefighters, lifeguards, community volunteers and the</p>	

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	<p>entire north shore community for coming together during this time of need. He also commended Acting Captain Paul Applegate for all of his great work he has done to assist KEMA. Captain Applegate is assigned to KEMA Operations as the incident commander for Rain21.</p> <p>Lastly, A/C Ponce commended the rest of KPD's sworn civilian staff for their unwavering commitment, without expecting any praise and with humble hearts for doing such a great job in the Department and for the community to keep Kauai safe and healthy.</p> <p>With nothing further to report, Chair Adams opened the floor for questions and comments.</p> <p>Mr. Morita wanted an update at the next commission meeting on the Department's promotions that was put on hold until October or November of this year, including filling the vacant positions as a result of those promotions. Additionally, Mr. Morita wanted to know if Captain Mark Ozaki could prove the commission with an update on the DELPOE (Darany Entry Level Police Officer Examination) exam the Department implemented back in January 2021 on whether there were any improvements as far as people passing the written test.</p> <p>A/C Ponce replied yes.</p> <p>As far as 2021/2022 budget, Vice Chair Bahouth wanted to know if the Department is staying flat to the current year's actuals and the number the Department is targeting as far as its expenditures and if the Department is expected to fill all of its vacant positions going forward or is the Department going to be held to its current staffing as far the budget.</p>	

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	<p>A/C Ponce stated that operational wise the Department did submit a flat budget. There is a short term dollar funded positions but there is a commitment by county's administration that would allow the Department to move forward with filling its vacancies as a result of attrition and people retiring.</p> <p>Chair Adams asked staff if it was okay for Captain Ozaki to address Mr. Morita's inquiry about the DELPOE exam and its pass and failure rate or would the commission have to agenda the item for next month's meeting to which staff replied the matter can be address under the Chief's Monthly Reports item (d).</p> <p>Administrative and Technical Bureau Captain Mark Ozaki reported that the Department was very pleased with the test results and are currently conducting background checks. The overall pass rate is at 75% (15% increase) as compared to the past two year where the pass rate was at 50% or lower.</p> <p>Ms. Hertog stated that according to the news report the Honolulu Police Department has been taking heat for the way they spent the CARES Act funds. She asked if the Department could provide a written report on a list of purchases it made with the CARES Act funding and the exact amount of funding the Department received from the government at the next commission meeting. A/C Ponce replied sure.</p> <p>With no further questions or comments, Chair Adams moved on to item KPC 2021-6.</p>	
<p>Business KPC 2021-6</p>	<p><u>Presentation by the Permitted Interaction Group on amending the Kauai Police Commission Rules on Administrative Practice and Procedure for Rule 1.</u></p>	

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	<p>Ms. Hertog gave the report on behalf of the PIG, which also consisted of Commissioners Morita and Pigao. Ms. Hertog provided the commissioners with a copy of the PIG’s proposed changes to Rule 1. She reminded the commissioners that the proposed recommendations have not changed since the last time it was presented to the commission where the commission voted to accept the proposed recommendations by the two-member working group that consisted by Mr. Mince and herself. However, what did change was language before the definitions paragraph. The PIG added information to make it easier for new commissioners to understand the mission of the Police Commission, the authority of the Mayor and the Police Commission and the responsibilities of the Police Commission.</p> <p>Chair Adams pointed out that the proposed recommendations are written in blue.</p> <p>Ms. Hertog asked the commissioners to review the proposed recommendations one last time and if they had any changes they feel were needed or if they want to just comments to say so now, so at the next meeting (April) the commission can vote to accept the PIG’s recommendations on Rule1, and then after the PIG can present their recommendations for Rule 2 once Mr. Morita and Pigao has met with her over ZOOM.</p> <p>Deputy County Attorney Teresa Tumbaga reminded the commissioners that per Hawai’i Revised Statute 92-2.5 (c) deliberation and decision-making on the matter can only occur at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations were presented to the board. Therefore, she would ask that the discussion take place at the next commission meeting.</p> <p>Chair Adams thanked the PIG for moving the rules along.</p>	

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	<p>Ms. Hertog stated that to her understanding the commission could vote on the PIG’s recommendation at its April meeting to which Ms. Tumbaga replied that is correct. Ms. Hertog asked the commissioners if they had any discussion about the PIG’s recommendation to Rule 1. Ms. Ching pointed out that the purpose of having the item on the agenda is for the PIG to present its recommendations and any discussion and deliberation would have to take place at the commission’s subsequent meeting in April. Ms. Hertog replied it would only delay the commission even more, and then she asked the commissioners to hold all discussions until next month and if there are problems, the commission can vote to accept the PIG’s recommendations noting that in the April meeting packet the commission will have a copy of the PIG’s recommendations on Rule 2.</p> <p>Mr. Morita asked if a motion is needed today to accept the PIG’s presentation to which staff replied no, today is only for the PIG to present its recommendations.</p> <p>With no further discussion, Chair Adams moved on to the executive session items.</p>	
<p>Executive Session</p>	<p><u>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (2) and (4). The purpose of this Executive Session is for the Commission to review and discuss charges brought against an officer in the Kaua‘i Police Department, where consideration of matters affecting privacy will be involved, provided that if the individual requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission’s powers, duties, privileges, immunities, and or liabilities as they may relate to the following agenda items:</u></p>	<p>At 9:27 a.m., Deputy County Attorney Tumbaga cited the following Hawai‘i Revised Statutes to take the meeting into executive session.</p>

SUBJECT	DISCUSSION	ACTION
<p>ES KPC 2021-001</p>	<p><u>Monthly update by Scott Williamson, Lieutenant, Office of Professional Standards on the status of the Department’s disposition on formal notarized complaints that were filed with the Kaua’i Police Department and with the Kauai Police Commission and referred to the Office of the Chief for further review.</u></p>	
<p>ES KPC 2021-002</p>	<p><u>Monthly update by Todd G. Raybuck, Chief of Police, Kaua’i Police Department or his designated representative on any significant adverse incidents/events involving personnel in the Kaua’i Police Department that could potentially impact the County, the Police Commission and the Kaua’i Police Department.</u></p>	
<p>ES KPC 2021-004</p>	<p><u>Office of the County Attorney requests an Executive Session with the Police Commission to provide the Commission with a briefing on the case of William Denis vs. David Ige, Derek Kawakami, et al.; Civil Action No. 21-00011-JMS-RT.</u></p>	
<p>ES KPC 2021-005</p>	<p><u>Communication dated March 5, 2021 from Maui Police Commission Chair Frank R. Rego Jr. to Kauai Police Commission Chair Catherine Adams. The Maui Police Commission is requesting assistance from the Kauai Police Commission to conduct an investigation as to whether the Maui Police Department or any of its officers engaged in any misconduct during an incident and the arrests of the individuals.</u></p>	
<p>ES KPC 2021-021</p>	<p><u>Monthly update on an investigation alleging that a supervisor in the Kaua’i Police Department violated Title 7, Chapter 76-1 and the County of Kaua’i Policy against Discrimination, Harassment, and Retaliation.</u></p>	
<p>ES KPC 2021-022</p>	<p><u>Pursuant to Hawai’i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve or amend the regular Executive Session minutes of January 28, 2021 and to consult with its attorney on issues pertaining to the Commission’s powers, privileges, immunities, and or liabilities as they may relate to this item.</u></p>	

SUBJECT	DISCUSSION	ACTION
ES KPC 2021-003	<u>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve or amend the regular Executive Session minutes of August 27, 2020, September 8, 2020, September 22, 2020 and to consult with its attorney on issues pertaining to the Commission’s powers, privileges, immunities, and or liabilities as they may relate to this item.</u>	
ES KPC 2020-028	<u>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve or amend the regular Executive Session minutes of October 22, 2020 meeting and to consult with its attorney on issues pertaining to the Commission’s powers, privileges, immunities, and or liabilities as they may relate to this item. (Deferred on 12/17/2020)</u>	Chair Adams called for a motion to enter into executive session. Ms. Hertog moved. Mr. Morita seconded. Hearing no objections. A roll call ensued with all seven (7) Commissioners present voting unanimously in favor of the motion. The Commission entered into executive session at 9:31 a.m.
Return to Open Session to ratify the actions taken in Executive Session	The Commission returned to open session at 10:26 a.m. With all seven (7) Commissioners present, Chair Adams called for a motion to ratify the actions taken in executive session.	Mr. Morita moved. Mr. Pigao seconded. Hearing no objections. A roll call ensued with all seven (7) Commissioners present voting unanimously in favor of the motion.
Adjournment	With no further business to conduct, Chair Adams called for a motion to adjourn the meeting.	Vice Chair Bahouth moved. Ms. Hertog seconded. Hearing no objections. A roll call ensued with all seven (7) Commissioners present voting unanimously in favor of the motion. The meeting adjourned at 10:28 a.m.

Submitted by: _____
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
Catherine Adams, Chair

- Approved as circulated on May 28, 2021
- Approved as amended. See minutes of _____ meeting.