

COUNTY OF KAUAI OPEN SESSION MEETING MINUTES

Board/Commission	Kauai Police Commission	Meeting Date	May 28, 2021
Location	Microsoft Teleconference Meeting	Start of Meeting: 9:00 a.m.	10:28 a.m.
Present	<p>Vice Chair Gerald Bahouth; Commissioners: Mary K. Hertog, Kevin Mince, Roy Morita and Dean Pigao.</p> <p>Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Ellen Ching; Office of the County Attorney: Deputy County Attorney Chris Donahoe; Police Department: Assistant Chief Bryson Ponce: Lieutenant Anthony Morita; Acting Lieutenant Jason Overmyer; Office of Professional Standard Lieutenant Scott William and Sergeant Ginny Pia: Officers of the Month: Officer Bobilee Silva and Officer Johnathan Anderson. Also present were senior members of the Department’s executive level; Public Information Officer Coco Zickos and Chief’s Secretary Gayle Kuboyama.</p>		
Excused	Chair Catherine Adams and Commissioner Leina`ala Jardin		
Absent			



SUBJECT	DISCUSSION	ACTION
Call To Order		Vice Chair Bahouth called the open session meeting to order at 9:00 a.m.
Roll Call		A roll call ensued with all five (5) commissioners present and ready to conduct business.
Announcements	Next Regular Teleconference Meeting 9:00 a.m. Friday, June 25, 2021. Executive Session to follow.	
Public Testimony	None.	
Officer of the Month for April	Vice Chair Bahouth called on Assistant Chief Bryson Ponce to introduce the Officers’ Of the Month. A/C Ponce acknowledged the commissioners, and then introduced the Officer Bobilee Silva.	

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	<p>Reading the Commendation Report for Officer Silva was Lieutenant Anthony Morita. Officer Silva was recognized for her special accomplishments as the officer in charge of the Covid-19 special operations at the Līhu‘e Airport quarantine screening checkpoint. She serves under six (6) supervisors and Acting Sergeant Bobby Thompson. Officer Silva is responsible for managing the dynamic operations and assists with the screening of thousands of visiting travelers and essential workers arriving weekly. Through her dedicated efforts the overall safety and effectiveness of the Covid-19 operations and the related quarantine checks island wide is the reason why Kauai has the lowest Covid cases in the state. In addition to her normal work duties she also works with KPD’s logistics section to help coordinate the ordering and pick-up of essential supplies needed at the checkpoint. Officer Silva’s display of integrity, excellent communication and organizational skills, great customer service and commitment to the health and safety of the community earned her the honor to be selected as the Kauai Police Department Officer of the Month for April 2021.</p> <p>In recognition of outstanding and exemplary service to the community, A/C Ponce presented Officer Silva with a Certificate of Exemplary Service for her efforts and valued assistance during the Covid-19 special operations at the Līhu‘e Airport. Her work is a true reflection and dedication of her professional commitment in keeping the island safe.</p> <p>Commissioners Morita and Hertog expressed their heartfelt appreciation for Officer Silva for her dedication and commitment in keeping the island and the community safe.</p> <p>Councilmember Cowden conveyed her appreciation for Officer Silva and stated how proud she was to see her being honored by the Department as Officer of the Month. Ms. Cowden noted that although she never seen Officer Silva working at the Līhu‘e Airport her interactions with Officer Silva in the community have always been great.</p>	

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	<p>Vice Chair Bahouth stated that Officer Silva’s professional approached to her normal duties as a patrol officer has resonated in her performance as the officer in charge of the Covid-19 special operations at the Līhu‘e Airport. He knows that because he had the opportunity to do a ride-along with her in the Kōloa area and witness first hand her exemplary display of professionalism.</p> <p>Officer Silva thanked KPD for recognizing her as Officer of the Month. She commended her Covid team at the Līhu‘e Airport for all of their hard work and dedication especially, Lt. Morita for his unwavering support.</p>	
<p>Officer of the Month for May</p>	<p>Reading the Commendation Report for Officer Johnathan Anderson was Acting Lieutenant Jason Overmyer. Officer Anderson was recognized for his sustained superior performance for an on-going criminal investigation. On April 22, 2021 while enjoying his day off walking with his wife in an area properly known as the old “Slaughter House” in Wailua, he observed a wanted fugitive with warrants totaling over \$161,500 hiding in the bushes. Officer Anderson’s quick action enabled him to take the man into custody without incident and notify the on-duty beat officers to transport the man to KPD’s cellblock. Officer Anderson’s display of self-motivation, courage, dedication to police service, commitment to the community and to the core values of the Kauai Police Department earned him the honor to be selected as the Kauai Police Department Officer of the Month for May 2021.</p> <p>In recognition of his outstanding and exemplary service to the community, A/C Ponce presented Officer Anderson with a Certificate of Appreciation for the being instrumental in the apprehension of a wanted fugitive. His work is a true reflection of his profession, dedication and commitment in keeping the community safe.</p> <p>Ms. Hertog stated that what Officer Anderson did last month goes to show that being an police officer is a 24/7 job. She expressed her appreciation for all of his hard work and dedication and thanked A/C Ponce and Chief Raybuck for bringing the Officer of the Month recognition.</p>	

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	<p>Mr. Morita congratulated Officer Anderson for being instrumental in the apprehension of a wanted fugitive. He noted that he could have easily turn the other way, but choose to do what he did which speaks volumes on how much he has pride in being a police officer.</p> <p>Councilmember Cowden stated that Officer Anderson’s courageous actions is a reflection of what the county needs in its police force. She expressed her appreciation for Officer Anderson for taking the initiative while on his day off to successfully take a wanted fugitive into custody without problems.</p> <p>Vice Chair Bahouth expressed his appreciation for Officer Anderson for upholding the standards of a police officer even while being off duty; it is those type of things that make him very special to the Kauai Police Department.</p> <p>Officer Anderson thanked his wife Taeru for her unwavering support, understanding and patience to have to put up with the struggles of his job especially while being off duty and on a date.</p> <p>On a side note, Mr. Morita acknowledged Lt. Scott Williamson for his years of dedicated service as a police officer in the Kauai Police Department. Lt. Williamson’s last day on the job will be on June 15, 2021 and he would remiss if he did not thank him personally for all that he has done for the Department. KPD’s loss is another department’s gain. Lt. Williamson and his family will be moving to Missouri where he has accepted the job as the new Police Chief of the Kirksville Police Department. His tenure begins on July 15, 2021.</p>	

SUBJECT	DISCUSSION	ACTION
Approval of Open Session Meeting Minutes	<ul style="list-style-type: none">• February 25, 2021• March 9, 2021• March 25, 2021• March 31, 2021• April 22, 2021	<p>Mr. Morita moved to approve the minutes of February 25, 2021 special meeting as circulated. Ms. Hertog seconded. A roll call ensued with all five (5) commissioners present voting unanimously in favor of the motion.</p> <p>Ms. Hertog moved to approve the minutes of March 9, 2021 special meeting as circulated. Mr. Morita seconded. A roll call ensued with all five (5) commissioners present voting unanimously in favor of the motion.</p> <p>Mr. Pigao moved to approve the regular monthly minutes of March 25, 2021 meeting as circulated. Mr. Morita seconded. A roll call ensued with all five (5) commissioners present voting unanimously in favor of the motion.</p>

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	<p>Ms. Hertog requested that a correction be made on page 4 fourth paragraph of the April 22, 2021 open session minutes under business number KPC 2020-7. It should state that Ms. Hertog does <i>not</i> agree instead of Ms. Hertog agreed. Staff acknowledged Ms. Hertog's request and would make the necessary correction. With no further corrections to be made, Vice Chair Bahouth called for a motion.</p>	<p>Mr. Pigao moved to approve the minutes of March 31, 2021 special meeting as circulated. Ms. Hertog seconded. A roll call ensued with all five (5) commissioners present voting unanimously in favor of the motion.</p> <p>Ms. Hertog moved to approve the regular monthly minutes of April 22, 2021 meeting as amended. Mr. Pigao seconded. A roll call ensued with all five (5) commissioners present voting unanimously in favor of the motion.</p>
<p>Chief's Monthly Reports</p>	<p>a) Administrative & Technical Bureau b) Investigative Bureau c) Patrol Bureau d) Pertinent Announcements and Updates</p> <p>Assistant Chief Ponce made the following announcements and updates:</p> <ul style="list-style-type: none"> • May 9 – 15 was National Police Week. Due to the pandemic, KPD held a small gathering to honor law enforcement officers across the nation and in Hawai'i who lost their laws in the line of duty. • KPD's 94th Recruit Class comprised of six (6) new police recruits is set to graduate on Thursday, June 24, 2021. The graduation ceremony will be held at Līhu'e Headquarters Breezeway. ATB bureau administrative staff will be sending will be sending notifications out. 	

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	<ul style="list-style-type: none"> • KPD's 95th Recruit Class comprised of seven (7) new police recruits is scheduled to start on July 1, 2021. • In a joint operation with the US Marshall Task Force KPD and the Marshalls conducted a sex-offender compliance check that consisted of 131 registered sex offenders earlier in the week. 126 were in compliance, 14 are pending further verification and one person not in compliance which will be referred to the prosecutor's office for further action. In addition, both agencies are in the process of conducting a fugitive sweep for outstanding warrants of which five (5) individuals were arrested or five (5) outstanding warrants. Day 2 of the sweep resulted in two (2) arrests for outstanding warrants. Day 3 is pending completion of sweep. • The Fifth circuit court found Peter Greer, age 65 formerly of Ōma'ō guilty of murder in the 2nd degree for killing his landlord a retire school teacher Joella Hartman. A/C commended Lead Investigator, Lt. Chris Calio, of the Investigative Services Bureau for doing an outstanding job along with Prosecutors Trego and Arakawa who presented the case. • Congratulations, best wishes and farewell went out to Lt. Scott Williamson who will be leaving the Department because he was recently selected to be the new Chief of Police for the City of Kirksville Police Department in Missouri. His last day of work will be on June 15, 2021 and his date of employment with Kirksville PD will begin on July 15, 2021. <p>Vice Chair Bahouth thanked A/C Ponce for providing the commission with updates.</p>	
<p>KPC 2021-11</p>	<p><u>Discussion and decision-making on recommendations for Revision of Rule 2 of the Kauai Police Commission Rules on Administrative Practice and Procedure.</u></p> <p>Vice Chair Bahouth called on Ms. Hertog to address the commission.</p>	

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	<p>Ms. Hertog reported that the Group met with Ms. Ching and Deputy County Attorney Donahoe earlier in the week to address certain language that needed more clarification. At this time, she would like to request that a motion to approve the recommendations for Revision of Rule 2 of the Kauai Police Commission Rules on Administrative Practice and Procedure be made. Vice Chair Bahouth called for the motion.</p>	<p>Ms. Hertog moved to approve the recommendations for Revision of Rule 2 of the Kauai Police Commission Rules on Administrative Practice and Procedure as presented on April 22, 2021. Mr. Pigao seconded. A roll call ensued with all five (5) commissioners present voting unanimously in favor of the motion</p>
<p>KPC 2021-12</p>	<p><u>Presentation by the Permitted Interaction Group on recommendations for Revision of Rule 3 of the Kauai Police Commission Rules on Administrative Practice and Procedure.</u></p> <p>Ms. Hertog reported that in addition to the proposed rule recommendation for Rule 3 that was provided to the commissioners, Mr. Donahoe would also be providing recommendations for legal representation. She reminded the commissioners that the intent of the agenda item was for the PIG to present its recommendations and at a subsequent meeting the commission would vote to accept the Group’s recommendations or not.</p> <p>Ms. Hertog stated that the Group is recommending making a change by putting the legal representation paragraphs in Rule 3 versus Rule 5 that was originally planned.</p> <p>Mr. Donahoe stated that in reviewing the proposed language 3.1 f the reason for his recommended to keep it in Rule 3 is because it falls under the specific powers, duties and responsibilities as to whether or not representation is warranted. And if it is, then it can go on to Rule 5 which addresses the contested case hearing. Also, as presented sections 7 and 8 in his review the possibility is to move those two sections</p>	

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	<p>(reconsideration and appeal) to Rule 5 because it deals specifically with the results of the contested case.</p> <p>Ms. Hertog thanked Mr. Donahoe for his input, and then asked her fellow commissioners to review the recommendations and be prepared to have more discussion and a decision at the commission’s next meeting on June 25, 2021.</p>	
<p>KPC 2021-13</p>	<p><u>Presentation by the Permitted Interaction Group on recommendations regarding the Climate Assessment Survey.</u></p> <p>*The commissioners were provided with the Group’s recommendations prior to the meeting.</p> <p>Vice Chair Bahouth reported that the Group met extensively along with Mr. Donahoe and Ms. Ching to put together a proposal/recommendations for the Climate Assessment which is being presented today. Like, Ms. Hertog, Vice Chair Bahouth asked his fellow commissioners to review the proposed recommendations and be prepare to discuss it and make a decision at the commission’s June 25, 2021 meeting to move the assessment forward.</p> <p>Vice Chair Bahouth asked Ms. Ching if she wanted to address the commissioners on anything concerning the climate assessment. Ms. Ching stated that she would like to reserve her comments to the June 25, 2021 meeting and advised the commissioners to review the recommendations and be prepare to discuss it at the commission’s next meeting in June.</p> <p>Ms. Hertog stated that she had a few questions and would email her questions to Ms. Omo for the Group to address at the June meeting. Ms. Ching responded that would be very helpful for the Group.</p>	

SUBJECT	DISCUSSION	ACTION
KPC 2021-14	<p>General update by Deputy County Attorney Chris Donahoe regarding <u>Case No. 5CC 191-00113 Darryl D. Perry versus the County of Kauai, etal.</u></p> <p>Mr. Donahoe gave a brief update on the case. According to outside counsel David Minkin a trial date has been set for November 2021; however, the pervisal is the discovery process is still on-going which may delay the trial even further.</p>	
Executive Session	<p>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:</p>	<p>At 9:35 a.m., Mr. Donahoe began to cite the Hawai'i Revised Statutes to take the meeting into executive session.</p>
ES KPC 2021-001	<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>	
ES KPC 2021-002	<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>	
ES KPC 2021-003	<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 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. (Deferred on April 22, 2021)</u></p>	

SUBJECT	DISCUSSION	ACTION
ES KPC 2021-007	<u>New citizen complaint no. KPC 2021-001 received on April 20, 2021. The complainant alleges two officers assaulted and kidnapped the complainant, violated the complainant’s right to due process while acting under the color of law, not once, but twice placing the complainant in double jeopardy.</u>	
ES KPC 2021-008	<u>New citizen complaint no. KPC 2021-002 received on April 20, 2021. The complainant alleges that an officer came to the complainant’s house, pounded on the complainant’s bedroom door, and shouted personal questions, and then refused to read the Miranda rights to the complainant.</u>	
ES KPC 2021-009	<u>New citizen complaint no. KPC 2021-003 received on April 28, 2021. The complainant alleges that an officer came to the complainant’s house at an inappropriate hour and should have waited until later the next morning to conduct the investigation.</u>	
ES KPC 2021-010	<u>New citizen complaint no. KPC 2021-004 received on May 11, 2021. The complainant alleges an officer falsely accused the complainant of harassment and failed to cite the complainant’s assailant.</u>	
ES KPC 2021-011	<u>New citizen complaint no. KPC 2021-005 received on May 20, 2021. The complainant alleges excessive harassment and demoralizing comments by two officers in the Kauai Police Department.</u>	
ES KPC 2021-012	<u>Pursuant to Hawai’i Revised Statutes §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to discuss Chief Raybuck’s fiscal year evaluation due on June 30, 2021 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 this item.</u>	

SUBJECT	DISCUSSION	ACTION
ES KPC 2021-013	<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 April 22, 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>	Mr. Morita moved to enter into executive session. Mr. Pigao seconded. A roll call ensued with all five (5) commissioners present voting unanimously in favor of the motion. The meeting entered into executive session at 9:40 a.m.
Return to Open Session	At 10:25 a.m. the commissioners return to open session. Vice Chair Bahouth called for a motion to ratify the actions taken in executive session.	Ms. Hertog moved to ratify the actions taken in executive session. Mr. Morita seconded. A roll call ensued with all five (5) commissioners present voting unanimously in favor of the motion.
Adjournment	With no further business to conduct, Vice Chair Bahouth called for a motion to adjourn the meeting.	Ms. Hertog moved to adjourn. Mr. Pigao seconded. A roll call ensued with all five (5) commissioners present voting unanimously in favor of the motion. The meeting adjourned at 10: 28 a.m.

Submitted by: _____

Mercedes Omo, Staff Support Clerk

Catherine Adams, Chair

Reviewed and Approved by: _____

Approved as circulated on June 25, 2021

Approved as amended. See minutes of _____ meeting.