

COUNTY OF KAUAI



OPEN SESSION MEETING MINUTES

Board/Commission	Kauai Police Commission	Meeting Date	September 24, 2021	
Location	Microsoft Teams Teleconference Meeting	Start of Meeting: 9:00 a.m.	12:23 p.m.	
Present	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 Chris Donahoe; Kauai Police Department: Chief of Police Todd G. Raybuck; Deputy Police Chief Stan Olsen; Assistant Chiefs Bryson Ponce and Elliott Ke; Captain Roderick Green; Lieutenant Christian Jenkins; Sergeants Darla Abbatiello and Ginny Pia; Employee of the Month Officer Bruce Nance; Chief’s Secretary Gayle Kuboyama and Councilmember Felicia Cowden. Public Testimony: Mr. Kamealoha Hanohano Pa-Smith.			
Excused				
Absent				



SUBJECT	DISCUSSION	ACTION
Call To Order		At 9:00 a.m. Chair Adams called the meeting to order.
Roll Call to Ascertain Quorum	Chair Adams called for a roll call to ascertain quorum.	A roll call ensued with all seven (7) Commissioners present, including staff to conduct business.
Approval of Agenda	<p>Chair Adams called for a motion to approve the agenda as written.</p> <p>Boards and Commissions Administrator Ching pointed out that correct motion would be to defer item KPC 2021-032. Chair Adams called on Vice Chair Bahouth to withdraw his motion and for Mr. Morita to withdraw his second.</p> <p>Chair Adams called for a motion to defer item KPC 2021-32.</p>	<p>Vice Chair Bahouth moved to approve the agenda as written. Mr. Morita seconded.</p> <p>Vice Chair Bahouth withdrew his motion. Mr. Morita withdrew his second.</p>

SUBJECT	DISCUSSION	ACTION
	<p>Mr. Donahoe explained that because the item is to solely announce the Commission’s decision the proper motion is to defer item KPC 2021-32 until after the completion of Executive Session. Chair Adams asked Ms. Hertog to amend her motion as stated by Mr. Donahoe.</p>	<p>Ms. Hertog moved to defer item KPC 2021-32. Vice Chair Bahouth seconded.</p> <p><u>Amended Motion</u> Ms. Hertog moved to defer item KPC 2021-32 until after the completion of Executive Session. Vice Chair Bahouth seconded. Hearing no objections from the Commissioners, Chair Adams called for a roll call vote. A roll call ensued and all seven (7) Commissioners voted in favor of the motion.</p>
<p>Announcements</p>	<p>Next Regular Scheduled Teleconference Teams Meeting – 9:00 a.m., Friday, October 22, 2021. Executive Session to follow.</p>	
<p>Public Testimony</p>	<p>None at this juncture.</p>	
<p>Employee of the Month for September 2021</p>	<p>Chief Raybuck called on Sergeant Darla Abbatiello to read the Commendation Report for Employee of the Month Officer Bruce Nance.</p> <p>Waimea District Officer Bruce Nance recently took on the challenge of becoming a Field Training Officer for two new police recruits. In his new position, he served as a positive role model and instilled the importance of being proactive, professional and having compassion for the public.</p>	

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	<p>Officer Nance exhibits great communication skills with his fellow officers and by far is a team player and leader amongst his peers. His motto is “one purpose, one goal, one department, and working together to make Kauai better.”</p> <p>He and his recruits are often busy with traffic enforcement, investigating cases and making routine beat checks. During the month of July, he and his recruits issued a combined total of 202 traffic citations, responded to 405 services calls and made a total of 72 arrests of which seven were felonies. Also, in the same month, Officer Nance and his recruits and beat partners, arrested 21 individuals for outstanding bench warrants valued at approximately 1.4 million dollars. Some of those individuals were difficult to apprehend; however, with intel gathered by Officer Nance, those subjects were located and arrested without incident.</p> <p>Sergeant Abbatiello stated that Officer Nance’s commitment to the community and his fellow officers is commendable therefore she believes that he is truly worthy of receiving this special recognition for his dedication to serving the citizens of Kauai. She also recognized Officer Nance’s family and commended them for their unwavering support, patience and understanding.</p> <p>Sergeant Abbatiello called on Officer Nance to say a few words.</p> <p>First and foremost, Officer Nance thanked God for protecting and keeping his family, new recruits and his fellow beat officers safe. He also thanked Sergeant Abbatiello for recognizing them for their hard work. Chief Raybuck stated that he had the pleasure of meeting Officer Nance when he worked in the vice unit and got to see how hard he worked to carry out drug investigations. He mentioned how excited and motivated Officer Nance was to return back to patrol where he shared his knowledge on what he learned through his experience with the new recruits to help move them forward.</p>	

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	<p>Chair Adams along members of the Commission expressed their appreciation and gratitude for Officer Nance for his hard work and inspiring leadership to nurture a climate of care, concern and civility.</p> <p>Public Safety Committee Chair/Councilmember Cowden congratulated Officer Nance for his accomplishments and thanked him for his hard work. She shared that as a parent of a new recruit how good it is that the new recruits are given an opportunity to work alongside officers who inspire them and who are making a difference in the community.</p> <p>Chair Adams thanked everyone for their comments, and then moved on to the approval of the minutes.</p>	
<p>Approval of Open Session Minutes</p>	<ul style="list-style-type: none"> • August 27, 2021 Regular Monthly Meeting <p>Chair Adams called for a motion to approve or amend the minutes of August 27, 2021 Meeting.</p>	<p>Mr. Morita moved to approve the Open Session Minutes of August 27, 2021 Meeting. Ms. Jardin seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion.</p>
<p>Chief's Monthly Reports</p>	<ul style="list-style-type: none"> • Administrative & Technical Reports • Investigative Bureau Reports • Patrol Bureau Reports • Pertinent Announcements and or updates <p>Chief Raybuck noted that he would like to defer his Monthly Reports to give Mr. Kamealoha Hanohano Pa-Smith the opportunity to provide testimony on the proposed Kapa'a police substation.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Adams called on Mr. Smith to address the Commission.</p> <p>Mr. Smith began by thanking Chair Adams and the Commissioners for the opportunity to share his thoughts on the proposed police substation. He shared that he is a native Hawaiian and an Aloha Aina Educator and graduated from Hawaii Pacific University and has a professional diploma in teaching and is licensed to teach in the Hawai'i public school system.</p> <p>Mr. Smith testified that he is here today to provide testimony in support of the Kapa'a police substation. He does not have an issue with building a police substation at Mahelona because he knows that KPD has been looking for a place and because of climate change relocating the building up on the hill is a great idea. He stated that he is very familiar with the area above the Kaiākea fire station because it is a significant cultural site.</p> <p>With regard to the police substation, as part of the discussion, it would be great if everyone could get together and figure out a way on how to incorporate Hawaiian chivalry and traditional Hawaiian knowledge into the building. He stated that building resiliency in the community will detour any negative interactions between law enforcement, Hawaiian people as well as others and will allow conversations to take place.</p> <p>He shared that he grew up in a time where his father was engaged in all kinds of political activities (Hawaiian activists) and police presence was always part of their lives and the interactions have not always been positive. As a take away from lessons learned from his childhood days, he asked how we as a community can do things better and forge new and better relationships. He suggested working with Hawaiian practitioners to build an Ahu (altar) somewhere on the property so that native Hawaiians can come to practice their cultural protocol and honor their native</p>	

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	<p>Hawaiian history of the area. He shared that they are doing something similar in Hanalei near the landslide to dedicate and recognize the secret cultural sites within the area. He feels doing something similar at Mahelona will forge new and better relationships.</p> <p>Chair Adams thanked Mr. Pa-Smith for his testimony, and then asked if anybody wanted to make a comment or ask questions.</p> <p>Chief Raybuck thanked Mr. Pa-Smith for taking the time, not just to be here today, but more importantly for reaching out to his office, public works to share his mana'o and passion for the Hawaiian culture, and for asking the county if it would consider incorporating Hawaiian history into the project. He pointed out that because he has first-hand knowledge about the culture and history of the land, he looks forward to having more conversations with him and with others and together they can find ways to embody the rich Hawaiian culture as they move forward.</p> <p>With no further comments, Chair Adams moved on to the Chief's Monthly Reports.</p> <p>In addition to his Monthly Reports, Chief Raybuck highlighted that during the month of August, the patrol bureau have been vigorously conducting traffic enforcement operations resulting in 291 citations from just a small number of officers involved in those traffic enforcement operations. He stated that their goal is to issue no tickets and having the patrol vehicle blue lights on at all times will help to keep the roadways safe to travel on because people are obeying the speed limits, and with the public's continued support to drive with Aloha it will reduce problems in the community. He then highlighted the partnership between ISB and PSB to increase community engagement as an annual goal. He shared that Detective Hanson Hsu went out and made contact with the properties along the Coconut Coast and initiated relationships. Also, ISB detectives along with patrol have been scheduling walks on the Kapa'a bath</p>	

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	<p>path to increase police presence and he has received positive feedback. He thanked Lieutenant/District Commander Danny Oliveria for his leadership.</p> <p>Recruitment – Unfortunately, they lost two of the seven background checks for the January recruit class, both individuals withdrew due to some conditions of employment. The five remaining are still going through the background process and if successful all five will enter into the January recruit class to offset some of the attrition that will occur over the next several months.</p> <p>Community events – Chief Raybuck joined Assistant Chief Elliott Ke, former Deputy Chief Mike Contrades, KCC representatives and the Committee on Native Hawaiian Advancement to congratulate 17 graduates of the program.</p> <p>Chair Adams thanked Chief Raybuck for his reports, and the move on to item KPC 2021-28.</p>	
<p>Business KPC 2021-28</p>	<p><u>Discussion and decision-making on the permitted interaction group on recommendation for Revision of Rule 6 of the Kauai Police Commission Rules on Administrative Practice and Procedure.</u></p> <p>Chair Adams called on Ms. Hertog to address the Commission on the Group’s recommendation for revision of Rule 6 that was presented at the Commission’s last meeting.</p> <p>Ms. Hertog stated that at the last Commission meeting, the Group made a recommendation to remove the suite number of the address element because the Office of Boards and Commissions may have to relocate their office, but everything else in Rule 6 would remain the same. She asked the Commissioners if they were ready to make a decision to accept the Group’s recommendation or not. Chair Adams called for a motion.</p>	<p>Ms. Hertog moved to accept the Group’s recommendation. Mr. Morita seconded. Hearing no objections. Chair Adams called for a roll call vote. All seven (7) Commissioners voted in favor of the motion.</p>

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KPC 2021-29	<p><u>Discussion and decision-making on the permitted interaction group on recommendation for Rule 7 of the Kauai Police Commission Rules on Administrative Practice and Procedure.</u></p> <p>Chair Adams called on Ms. Hertog to address the Commission on the Group’s recommendation for revision of Rule 7 that was also presented at the Commission’s last meeting. Ms. Hertog stated that because there was no recommendation proposed for Rule 7, she would move to accept Rule 7 as is. Chair Adams called for a second.</p>	<p>Ms. Hertog moved to accept Rule 7 as is. Vice Chair Bahouth seconded. Hearing no objections. Chair Adams called for a roll call vote. All seven (7) Commissioners voted in favor of the motion.</p>
KPC 2021-30	<p><u>Presentation on by the permitted interaction group on recommendations for Revision of Rule 8 and Rule 9 of the Kauai Police Commission Rules on Administrative Practice and Procedure.</u></p> <p>Chair Adams called on Ms. Hertog to address the Commission on the Group’s recommendations for the revision of Rule 8 and Rule 9.</p> <p>Ms. Hertog pointed out that the Group made only one recommendation to correct an incorrect paragraph in Rule 8-5 that was published in the previous rules. As for Rule 9, no recommendations are being made for that rule.</p> <p>Chair Adams thanked Ms. Hertog and the Group for their work, and then noted that the decision would be made at the Commission’s next meeting in October.</p>	
KPC 2021-31	<p><u>Update by Police Chief Todd Raybuck regarding the proposed Kapa’a Police Substation.</u></p> <p>Chair Adams called on Chief Raybuck to provide an update on the proposed Kapa’a police substation.</p>	

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	<p>Chief Raybuck reported that the site for the proposed police substation is in the vicinity of the Mahelona Hospital in Kapa'a. He stated that they received public comments of support and in opposition of the project. He pointed out that the draft EA (Environmental Assessment) is in the final stages of preparation and once that is done Public Works will move forward to the next process.</p> <p>He thanked everyone in the community who came out to voice their support and concerns. He pointed that how important it is for KPD to hear from everyone who lives in the area, and then find ways to mitigate concerns that were brought forward by the community, and yet provide an increased availability and presence for their officers to serve that community.</p>	
<p>KPC 2021-32</p>	<p><u>Decision-making on a request for Legal Representation from Police Chief Todd Raybuck pursuant to HRS §52-D Determination of Scope of Duty to Chair Catherine Adams and the Kauai Police Commission in lawsuit, Civil No. 1:21-cv-364, that was filed by Plaintiff Paul N. Applegate versus County of Kauai; Kauai Police Department; Kauai Police Commission; Todd G. Raybuck, individually and in his capacity as Chief of Police for the Kauai Police Department; and DOE Defendants 1-100.</u></p>	<p>Item KPC 2021-32 was deferred until after the Commission returns from Executive Session.</p>
<p>Communication KPC 2021-33</p>	<p><u>Two communications received on September 7, 2021 and September 10, 2021 from the Occupied Forces of Hawai'i Army I Corps Kauai C.A. /M.G. /J.A.G. to the Kauai Police Commission Chair Catherine Adams regarding a military notice of protected property safeguards.</u></p> <p>Chair Adams called on Chief Raybuck to provide an update.</p> <p>Chief Raybuck stated that the Department received the same documentation. As he mentioned at the last Commission meeting, they have no information that would cause concerns on the safety of the community and their officers.</p>	

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	<p>Ms. Hertog pointed out that one of the documents dated January 17, 2021 declared war between Hawai'i and the United States of America and because of her background that is quite concerning to her. Chief Raybuck stated that they will continue to monitor the organization to identify any potential threats and will disseminate any information on particular threats that needs to be addressed. But at this time, they have not identified any threats. He thanked Ms. Hertog for sharing her concerns and reiterated that the Department would continue to monitor the situation to determine whether or not there are any active threats.</p> <p>With no further questions or comments from the Commissioners or Chief Raybuck, Chair Adams called for a motion to receive both communications for the record.</p>	<p>Mr. Pigao moved to receive the two communications for the record. Mr. Morita seconded. A roll call ensued with all seven (7) [six (6)] Commissioners present voting in favor of the motion. Ms. Hertog voted not receive the two communications for the record.</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 9:48 a.m. Deputy County Attorney Chris Donahoe cited the Hawai'i Revised Statutes to take the meeting into Executive Session.</p>
ES KPC 2021-001	<p><u>Monthly update by Christian Jenkins, 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 2021-002	<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>	

SUBJECT	DISCUSSION	ACTION
ES KPC 2021-021	<u>New citizen complaint no. KPC 2021-006 received on July 22, 2021. The complaint alleges officers allowed estranged spouse to remove firearms registered to the complainant from their residence. (Deferred on August 24, 2021)</u>	
ES KPC 2021-022	<u>New citizen complaint no. KPC 2021-007 received on July 22, 2021. The complaint alleges that an officer refused to stop a crime that occurred on Larsen’s Beach. (Deferred on August 24, 2021)</u>	
ES KPC 2021-023	<u>New citizen complaint no. KPC 2021-008 received on July 22, 2021. The complaint alleges that officers violated the Hawai’i turtle protection law, and then stalked the complainant who observed the violation. (Deferred on August 24, 2021)</u>	
ES KPC 2021-025	<u>New citizen complaint no. KPC 2021-008 received on July 22, 2021. The complaint alleges that officers violated the Hawai’i turtle protection law, and then stalked the complainant who observed the violation. (Deferred on August 24, 2021)</u>	
ES KPC 2021-025	<u>New citizen complaint no. KPC 2021-009 received on August 20, 2021 via email. The complaint alleges abuse of police power, harassment at complainant’s residence and illegally destroying complainant’s property.</u>	
ES KPC 2021-026	<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 24, 2021. Where consideration of matters affecting privacy will be involved 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>	

SUBJECT	DISCUSSION	ACTION
ES KPC 2021-027	<u>Pursuant to Hawai'i Revised Statute §92-5 (4), the purpose of this Executive Session is for the Commission to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on a request for Legal Representation from Police Chief Todd Raybuck to Chair Catherine Adams and the Kauai Police Commission in lawsuit, Civil No. 1:21-cv-364, that was filed by Plaintiff Paul N. Applegate versus County of Kauai; Kauai Police Department; Kauai Police Commission; Todd G. Raybuck, individually and in his capacity as Chief of Police for the Kauai Police Department; and DOE Defendants 1-100.</u>	Chair Adams called for a motion to enter into Executive Session. Vice Chair Bahouth moved. Mr. Pigao seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion. At 9:52 a.m. the Commissioners entered into Executive Session.
Return to Open Session	At 12:16 p.m. the Commissioners returned to Open Session.	
KPC 2021-32	<u>Decision-making on a request for Legal Representation from Police Chief Todd Raybuck pursuant to HRS §52-D Determination of Scope of Duty to Chair Catherine Adams and the Kauai Police Commission in lawsuit, Civil No. 1:21-cv-364, that was filed by Plaintiff Paul N. Applegate versus County of Kauai; Kauai Police Department; Kauai Police Commission; Todd G. Raybuck, individually and in his capacity as Chief of Police for the Kauai Police Department; and DOE Defendants 1-100.</u> Chair Adams called on Deputy County Attorney Donahoe to address item KPC 2021-23. Mr. Donahoe announced that Chief Raybuck's request for legal representation, pursuant to HRS 52D has been granted in Civil No. 1:21-cv-364.	
Ratify the actions taken in Executive Session	Chair Adams called for a motion to ratify the actions taken in Executive Session.	Vice Chair Bahouth moved to ratify the actions taken in Executive Session. Mr. Pigao seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion.

SUBJECT	DISCUSSION	ACTION
Adjournment	Being there were no further business to conduct, Chair Adams called for a motion to adjourn the meeting.	Vice Chair Bahouth moved. Ms. Hertog seconded. A roll call ensued with all seven (7) Commissioners present voting in favor of the motion. At 12:23 p.m. the meeting adjourned.

Submitted by: _____
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
Catherine Adams, Chair

- () Approved as circulated on
- (x) Approved as amended. See minutes of October 22, 2021 meeting.