

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission	Kaua'i Police Commission	Meeting Date	June 28, 2019
Location	Mo`ikeha Building – Meeting Room 2A/B	Start of Meeting: 9:00 a.m.	End of Meeting: 10:27 a.m.
Present	<p>Vice Chair Roy Morita; Commissioners: Catherine Adams, Gerald Bahouth, Leina`ala Jardin, Kevin Mince 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 Mark Ishmael. Kaua'i Police Department: Office of the Chief: Chief Todd Raybuck and Captain Elliott Ke; Office of Professional Standards Lt. Scott Williamson; Administrative & Technical Bureau: Assistant Chief Roy Asher; Research & Development: Acting Lieutenant Darla Nonaka; Investigative Services Bureau: Assistant Chief Bryson Ponce; Patrol Services Bureau: Assistant Chief Mark Begley, Captain Roderick Green and Lt. Kennison Nagahisa, including bureau commanders and officers in the Kaua'i Police Department.</p>		
Excused	Chair Mary K. Hertog		

SUBJECT	DISCUSSION	ACTION
Call To Order	After the meeting was called to order, Vice Chair Morita asked if there was anyone in the audience who wanted to testify on any of the items listed on the agenda. There was no public testimony.	Vice Chair Morita called the meeting to order at 9:00 a.m. with six Commissioners present to conduct business. He noted that Chair Hertog was off-island and will be excused from the meeting.
Chair's Announcements	Next regular monthly meeting – Friday, July 26, 2019 at 9:00 a.m. Mō`ikeha Building, Meeting Room 2A/2B. Executive Session to follow.	
Approval of the Meeting Minutes	<p><u>Regular Open Session Minutes of May 25, 2019 and Special Open Session Meeting Minutes of May 31, 2019.</u></p> <p>Ms. Adams requested that the meeting minutes of May 25, 2019 be amended to reflect that it was Commissioner Pigao and not her who volunteered to be a member of the permitted interaction group to investigate requirements of the Kaua'i Police Commission Rules on Administrative</p>	Mr. Mince moved to approve the minutes of May 24, 2019 as amended and the minutes of May 31, 2019 as circulated. Ms. Adams seconded, and the motion carried 6:0.

SUBJECT	DISCUSSION	ACTION
	<p>Practice and Procedures with regard to Charter Section 11.03 C concerning the receipt, consideration, and investigation of charges brought by the public and against the conduct of the department or any of its members. Staff acknowledged Ms. Adams request and would make the necessary correction.</p>	
<p>Chief's Monthly Reports as of May 2019. Announcements and Pertinent Updates</p>	<ol style="list-style-type: none"> 1. Administrative and Technical Bureau Reports for the period of May 2019 2. Fiscal Report 3. Investigative Services Bureau 4. Summary Reports: Calls for Service and Incident, Collision, Traffic Enforcement, Arrest, Offense by Severity, Warrant/Warrant Type and Legal Services <p>Vice Chair Morita asked the Commissioners if they had any comments or questions for Chief Raybuck regarding his monthly reports.</p> <p>Mr. Mince commented that he was offended by some of the comments in the letters to the editor of the Garden Island Newspaper regarding an article involving certain officers in the Kaua'i Police Department. But there was one particular comment that was directed at Chief Raybuck that offended him the most because at time, he was not a resident of Kaua'i nor was he the Chief of Police for the Kaua'i Police Department.</p> <p>Mr. Pigao stated that in light of the controversy over the overtime usage and shortage of manpower, if it would be possible for the Commission to receive periodic updates on the progress the Administration has made to resolve those issues. He then suggested that the Department implement a Reserve Officers Program similar to the Maui Police Department which he believes would help to solve the problem. In response to Mr. Pigao's concerns, Chief Raybuck stated that members of his executive staff have already begun to brainstorm on what needs to be done to resolve the overtime issues and that he would be presenting their solution to the problem later in his report.</p> <p>With no further comments or questions by the Commissioners, Vice Chair Morita invited Chief Raybuck to deliver his monthly reports.</p>	

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	<p>In addition to his Monthly Reports, Chief Raybuck reported on his travels to the neighbor islands where he had the opportunity to meet and talk story with each individual police chief. Some of the highpoints of his visit was his meeting with Honolulu Police Chief Susan Ballard regarding the memo of agreement between the state and the Honolulu Police Department in which Chief Ballard was gracious to provide him with a copy of their memo of agreement for KPD to use as a template; the Maui Police Department’s newly re-instated Reserve Officer Program which provides an opportunity for recent retirees from the Department or police officers who separated in good standing to volunteer as law enforcement officers; and his tour of the one of Hawai’i Island Police Department’s substation to see its layout and to find out what worked and did not work and perhaps use it as a model to build the new Kawaihau substation in the Kapa’a district.</p> <p>Other Department activities included:</p> <ul style="list-style-type: none"> • A Meet & Greet has been planned for this afternoon at the Lihu’e Headquarters for the eight new police officers and their families. Chief Raybuck acknowledged Sergeant Darla Nonaka from the Research and Development Bureau for coordinating the event; • The newly hired criminalist has reported to work as of 7:45 a.m. morning; • Three new police officers are in their final phase of being deemed fit for solo duty ; • 16 applications have been received for the public information officer position of which 11 are being pre-screened; • A candidate to fill the IT’s position has been identified for employment; • A SHOPO sponsored recruitment video is being aired on OC16 and features Chief Raybuck and SHOPO Representative Kaua’i District Lt. Chris Calio. <p>Mr. Bahouth asked Chief Raybuck if he would be willing to provide the Commission with periodic updates on things that he talked in visit with the other police chiefs to which Chief Raybuck replied yes, and shared that he’s been elected to serve as the new Chair for the State Law Enforcement Board to establish training and certification standards for all law enforcement across the state.</p> <p>Lastly, Chief Raybuck addressed the media’s over characterization of the opening of the road leading up to the Hā’ena beach park. He acknowledged Captains Paul Applegate and Roderick Green and the responding officers for their professionalism in dealing with the public when</p>	

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	<p>emotions were at its peak. He shared that Captain Green is in the process of creating a template to use to train and equip vetted community members to write parking tickets - a program which proved to be highly successful on the mainland and on O‘ahu.</p> <p>Vice Chair Morita asked whether the Department received the \$40,000 from the Hawai‘i Visitors Bureau to cover expenses relating to parking enforcement at the Hā‘ena Beach Park to which Chief Raybuck replied yes, then proceeded to distribute copies of the Department’s 2019 and 2020 Fiscal Year Goals dated June 27, 2019 for the Commissioners to review. He explained that out of the seven 2019 fiscal year goals only goal number three (increase OVUII enforcement by 10% over fiscal year 2018) was not met, as for Goal number four (Conduct a departmental morale climate assessment) it’s still in progress. With no further questions on the Chief’s Monthly Reports, Vice Chair Morita called for a motion to receive the reports.</p> <p>Chief Raybuck reported that he did not define the 2020 fiscal year goals as Department <u>Bureau level</u> goals but as Bureau level Department goals.</p> <p>Goal #1 (All KPD): Review/Revise/Establish Department Mission, Vision and Strategic Goals, Identify Bureau Tasks, Enhance Long-Term Department Performance. Metric: Complete 3-Year Strategic Plan for Department. Chief Raybuck reported that to achieve this goal, he will be meeting with the entire organization, specifically his bureau commanders, members of the community and the commission to get their input as to what they feel the strategic plan should look like in the future.</p> <p>Goal #2: Enhance Community Policing and Community Engagement Efforts: Metric: 1) Establish a Chief’s Community Advisory Council; 2) Conduct Quarterly “Chat with the Chief” and “Coffee with a Cop” community meetings; and 3) Conduct 8 Kupuna’s Crime Prevention Seminars.</p> <p>Goal #3: Enhance Recruitment and Retention Efforts: Metric: Establish Department Recruitment and Retention Committee to: 1) Evaluate current trends, processes and standards; 2) Identify “Best Practices”; and 3) Identify opportunities and make recommendations. This process will include working with the County’s Public Information Officers to increase the</p>	<p><u>Motion No. 1</u> Ms. Adams moved to receive the Chief’s Monthly Reports as presented. Mr. Mince seconded the motion. The motion carried 6:0.</p>

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	<p>Department’s social media presence; boost communication efforts; and hopefully create KPD’s own webpage aside from the County’s webpage.</p> <p>Mr. Pigao thanked Chief Raybuck for his presentation and noted that he was glad to see that he tailored the goals down to three sections most specifically Goal #3 because as a former KPD police officer Community Policing was the best-known style of law enforcement.</p> <p>Chief Raybuck stated that Community Policing is a culture that resonates throughout the Department, so much so that a recommendation was made by the officers in the patrol bureau to have each individual district commander host quarterly community events in their respective districts. Mr. Bahouth asked whether the Community Policing is addressed in his strategic plan to which Chief Raybuck replied that both the Community Policing and Community Engagement are part of the strategic plan and will be addressed individually as they continue to move forward. With no further questions, Vice Chair Morita called for a motion to receive Chief Raybuck’s 2019/2020 Fiscal Year goals.</p>	<p><u>Motion No. 2</u> Ms. Adams moved to receive Chief Raybuck’s Fiscal Year 2019 and 2020 Fiscal year Goals as presented. Mr. Mince seconded. The motion carried 6:0.</p> <p><i>(Copies of the Department’s 2019 and 2020 fiscal year goals are on file with the Office of Boards and Commissions.)</i></p>
<p>KPC 2019-16</p>	<p><u>Discussion and decision-making on the Permitted Interaction Group recommendations relating to the study and formulation of a memo of understanding on the issues and problems related to the use of County and Kaua’i Police Department facilities, services and personnel in the service of the State Sheriff.</u></p> <p>Vice Chair Morita noted that at the May 24, 2019 meeting of the Commission, the permitted interaction group (Commissioners Bahouth and Pigao) made two recommendations. The first recommendation was to stop future meetings with Councilmember Cowden because the timeline to present a memo of understanding to proper individuals had already passed and because Ms. Cowden she had other matters she wanted to pursue which is outside of the Commission’s jurisdiction. With regard to the Group’s second recommendation they recommended that Chief Raybuck and his Executive Staff take the lead and work with the State Sheriff to find a solution without any assistance from the Police Commission. Mr. Mince requested that the Commission be provided with a six month update on the progress the Department has made to try to remedy the problem. Staff acknowledged Mr. Mince’s request and would place the item on the Commission’s December agenda.</p>	<p><u>Motion No. 1</u> Ms. Adams moved to accept the Group’s recommendations as presented. Mr. Mince seconded the motion. Motion carried 6:0.</p>

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	<p>With no further discussion or comments, Vice Chair Morita called for two motions, one to place a follow-up item on the agenda in six months and the second accept the Group’s recommendations.</p>	<p><u>Motion No.2</u> Mr. Mince move to have a progress report placed on the agenda in six months. Ms. Adams seconded the motion. Motion carried 6:0.</p>
<p>KPC 2019-17</p>	<p><u>Presentation by the Permitted Interaction Group on its findings and recommendations on amending Section 11.04, Chief of Police, of the Kaua‘i County Charter regarding the qualifications for the chief of police.</u></p> <p>Vice Chair Morita reminded the Commissioners that following the Group’s presentation, they would be allowed to ask clarifying questions, but per the Sunshine Law, any deliberation and decision-making cannot occur until the next meeting. He then invited members of Group - Commissioners Adams and Mince to deliver their recommendation.</p> <p>Mr. Mince explained that the purpose of the amendment would increase the minimum level of formal education, as well as experience levels in law enforcement and training, any candidate for Chief of Police must have in order to be considered for that position. It would also require the law enforcement and training experience be obtained in a full service, public sector, peace officer capacity. Background: Under the current charter there is no minimum educational level requirement for the Chief of Police. Additionally, as currently written, the charter requires that the Chief of Police only needs to have a minimum of five (5) years of training and experience in law enforcement, at least three (3) years of which shall be in a responsible, administrative capacity. Policing, and the corresponding police management skills, knowledge, and abilities required of a Chief of Police have changed significantly since this charter section was written. The integration of technology (less than lethal options, body worn cameras, DNA, computer crime), collective bargaining and compliance with research based training and policing techniques require a police leader with greater levels of education. A Bachelor’s Degree in Administration of Justice, Public Administration, Business Administration, or related field of study, and many more years of law enforcement and management experience at the rank of lieutenant equivalent or higher is needed.</p>	

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	<p>In short, the charter needs to be amended to require that the Chief of Police possess a four year college degree and to increase the experience level to fifteen (15) years in training and law enforcement, at least three (3) years performing management level duties at the rank equivalent to lieutenant or higher.</p> <p>After his presentation, Mr. Mince explained to the Commission that the proposed changes will be presented to the Charter Review Commission for review and consideration to see if it's acceptable to place it on the election ballot. He requested that the Commissioners review the proposed amendments and submit any changes or comments to the Group by July 12, 2019.</p> <p>Ms. Jardin questioned whether amending the charter to require the Chief of Police to possess a four year degree was a good idea because it would prevent an officer who couldn't afford to go to college from applying for the police chief position later in their career can't because they didn't meet that requirement. Mr. Ishmael pointed out that the purpose for this session is for the Group to present their findings and recommendations, and unless the Commissioners has clarifying questions, any deliberation and decision-making on the Group's recommendation must done at the Commission's next meeting. Vice Chair Morita thanked Mr. Ishmael for clarifying the procedure, then the Commission moved to the next agenda item.</p>	
KPC 2019-18	<p>Presentation by the Permitted Interaction Group on its findings and recommendations on the requirements of the Rules on Administrative Practice and Procedure for the County of Kauai Police Commission with regard to charter Section 11.03(C) concerning the receipt, consideration, and investigation of charges brought by the public against the conduct of the department or any of its members.</p>	<p>The Group had nothing to report so the item was deferred to the Commission's meeting in July.</p>
KPC 2019-19	<p>Selection of three Commissioners to attend the 2019 Hawai'i State Law Enforcement Officials Association Conference at the Ritz-Carlton, Kapalua, Maui on September 18-20, 2019.</p>	<p>Hearing no objections from the Commissioners, Vice Chair Morita announced that Chair Hertog and Commissioners Adams and Bahouth will representing the Kaua'i Police Commission and the conference.</p>

SUBJECT	DISCUSSION	ACTION
<p>KPC 2019-20</p>	<p>Discussion on a communication dated May 7, 2019 from Mayor Derek Kawakami to Chair Mary K. Hertog regarding Salary Resolution 2019-1.</p> <p>Ms. Adams noted that the letter from Mayor Kawakami seemed very clear.</p> <p>Vice Chair Morita questioned whether the salary cap that was adopted by the Salary Commission on March 7, 2019 is the maximum salary cap the Commission can give the Police Chief to which Ms. Ching replied yes, and explained that the Commission has the discretion to either designate the maximum salary cap or an amount lower than the cap.</p> <p>Vice Chair Morita stated that he does not want to put words in Chair Hertog’s mouth, but he assumes that the Commission would need to conduct a performance evaluation first and then determine whether to give the current Chief a salary increase.</p> <p>Ms. Ching stated that she would recommend the Commission conduct a performance evaluation first, then determine whether to give the Chief a raise. She explained that it’s been a common practice that prior to giving raises, the appointing authority or department head would conduct a performance evaluation on their respective department head or subordinate, and as part of the process, HR would generally have then do a six month review followed by a twelve month performance evaluation. It was also her understanding that the Police Commission had revised its performance evaluation form for that purpose.</p> <p>Mr. Mince stated that to dovetail on Ms. Ching’s comments about the Chief’s performance evaluation form, both Commissioners Hertog and Adams and himself made some major revisions to the Chief’s appraisal form which was approved by the Commission and if any of the Commissioners recalls there is no probationary period for the Chief of Police, but there is a six Month performance evaluation followed by a twelve month annual performance evaluation.</p> <p>Ms. Adams noted that by conducting a six month evaluation, the Commission will be able to measure how much progress the Chief has made to achieve the goals. With no further comments, Vice Chair Morita called for a motion to receive item KPC 2019-20.</p>	<p>Ms. Adams moved to receive item KPC 2019-20. Ms. Jardin seconded the motion. The motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
EXECUTIVE SESSION	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 or employee 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.	At 9:52 a.m. Ms. Adams began to cite the Hawai‘i Revised Statutes to take the meeting into Executive Session.
ES KPC 2019-001	Monthly update by Office of Professional Standards Lieutenant Scott Williamson on the status of the Department’s disposition on formal notarized complaints that were filed with the Kaua‘i Police Department, and formal notarized complaints that were filed with the Police Commission and referred to the Office of the Chief for further review.	
ES KPC 2019-002	Monthly update by Police Chief Todd Raybuck 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.	
ES KPC 2019-010	Update on a complaint that was filed by a Sergeant in the Kaua‘i Police Department alleging workplace retaliation.	
ES KPC 2019-011	Notarized complaint received on May 8, 2019 filed against an employee in the Kaua‘i Police Department. The complainant alleges abuse of power and position to place the complainant under surveillance and bear false witness against the complainant. (Deferred on 05/24/19)	
ES KPC 2019-014	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 Executive Session meeting minutes of May 24, 2019 and May 31, 2019 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 agenda item.	Vice Chair Morita called for the motion to enter into Executive Session. Ms. Adams moved to enter into Executive Session and Mr. Pigao seconded. The motion carried 6:0. At 9:55 a.m. the Commissioners entered into Executive Session.
Return back to Open Session to ratify the actions taken in Executive	At 10:27 a.m. the Commissioners reconvened in Open Session. Ms. Adams called for a motion to ratify the actions taken in Executive Session.	Mr. Bahouth moved. Mr. Mince seconded the motion. Motion carried 4:0.

SUBJECT	DISCUSSION	ACTION
<p>Session.</p>		<p>ES KPC 2019-001: Motion carried 6:0 to receive Lt. Williamson's Monthly Reports.</p> <p>ES KPC 2019-002: No report by Chief Todd Raybuck.</p> <p>ES KPC 2019-014: Motion carried 4:0 to approve the Executive Session Meeting Minutes of May 24, 2019 and May 31, 2019 as circulated.</p> <p>ES KPC 2019-10: Administrator Ellen Ching briefed the Commissioners on the procurement process to hire an outside investigator. *Ms. Jardin was recused citing familial with the Sergeant filing the complaint. She later returned for item ES KPC 2019-011/notarized complaint KPC 2019-004.</p> <p>ES KPC 2019-011: Motion carried 4:0 to accept the Office of Professional Standards findings.</p>

SUBJECT	DISCUSSION	ACTION
		*Vice Chair Morita and Mr. Pigao were recused citing a working relationship with the individual who the complaint was filed against.
Adjournment	With no further business to conduct, Ms. Adams called for a motion to adjourn the meeting.	Mr. Mince moved to adjourn the meeting. Ms. Adams seconded the motion. The motion carried 4:0. At 10:27 a.m. the meeting adjourned.

Submitted by: _____
 Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
 Mary K. Hertog, Chair

- () Approved as circulated on
- (x) Approved as amended. See minutes of July 26, 2019 meeting.