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## HAWAI'I COUNTY FIRE COMMISSION

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### **REGULAR SESSION - MINUTES** **February 9, 2005** **Liquor Control Conference Room** **Hilo Lagoon Centre**

#### **CALL TO ORDER**

The meeting was called to order by Commissioner Fergerstrom at 10:00 a.m.

#### **ROLL CALL**

##### **PRESENT:**

Stephen Bowles  
Neil Brazier  
Dale Fergerstrom  
Rudolph Hart  
Karen Maedo  
Laura Ward

Excused: Glen Matsuda

A quorum was present.

##### **ALSO PRESENT:**

Aaron Arbles	Gerald Kosaki
Adele Arraujo	Ty Mederios
Jamie Arraujo	William Morris
Ray Arraujo	Diane Noda, Deputy Corporation Counsel
Kaycie Carter	Ramona Nordlof
Mark Ignacio	Darryl Oliveira, Fire Chief
Laurie Kaneta	Noni Sanford
Garret Komatsu	Desmond Wery, Deputy Fire Chief

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Commissioners: Stephen Bowles, Neil Brazier, Dale Fergerstrom, Rudolph Hart, Karen Maedo,  
Glen Matsuda, Laura Ward

## **STATEMENTS ON AGENDA ITEMS** (Open to the Public)

Mr. Ray Arraujo stated that his family's complaints were submitted to the Hawai'i Fire Commission. His hope is that no one will experience what he went through.

## **APPROVAL OF MINUTES**

Commissioner Maedo moved to accept the January 12, 2005, regular session minutes. The motion was seconded by Commissioner Ward and unanimously carried.

## **APPROVAL OF WRITTEN COMMUNICATIONS**

Commissioner Maedo moved to accept communication numbers 05-001 through 05-005. The motion was seconded by Commissioner Hart and unanimously carried.

Chief Darryl Oliveira suggested that the HFC consider allowing the Arraujo family to present their complaint. The Arraujo family had driven a long distance and Mr. Arraujo has health problems.

Commissioner Maedo asked Deputy Corporation Counsel Diane Noda if the meeting should go to an executive (closed) session to hear the complainants' testimony.

Deputy Corporation Counsel Noda stated that the complainants and other members of the public would be able to decide if they want their statements heard publicly or privately. She recommended that before the Commission considers the Arraujo's complaint, they decide what their general procedures would be regarding all complaints from the public.

Commissioner Maedo asked if a motion would be necessary to deviate from the agenda.

Deputy Corporation Counsel Noda answered that a motion to consider that request would be favorable.

Commissioner Maedo made a motion to hear the Arraujo's complaint. The motion was seconded by Commissioner Bowles and unanimously carried.

Commissioner Fergerstrom questioned whether the HFC should discuss its complaint procedures since it was not on the agenda, or if it could be discussed in conjunction with the Arraujo's complaint.

Deputy Corporation Counsel Noda answered that it could.

Commissioner Fergerstrom explained to the Arraujo family that the HFC needs to comply with the "Hawai'i Sunshine Law." Therefore, they would be discussing their complaint and establishing guidelines that will assist the HFC with future complaints.

Deputy Corporation Counsel Noda mentioned that the Hawai'i Police Commission has an independent investigator under contract.

Commissioner Fergerstrom asked if a complainant did not identify the employee in their complaint, could it still be considered for investigation.

Deputy Corporation Counsel Noda stated that the Arraujo family was present and the HFC would be allowed to ask them questions.

Commissioner Fergerstrom asked if the HFC was authorized to obtain an independent investigator.

Deputy Corporation Counsel Noda stated that at the present time the HFC does not have an independent investigator. There was no budget set up to provide for one. If the HFC would like to make that provision, they could make that request through the HFD's supplemental budget.

Commissioner Brazier suggested that the HFC should allow the Arraujo family to present their complaint and then leave the specifics for an executive session.

Deputy Corporation Counsel Noda agreed that that would be the appropriate time.

Commissioner Bowles commented that the HFC should not be bound by funds if they found it necessary to solicit an independent investigator.

Commissioner Fergerstrom asked the Arraujo family to come forward and make their statement.

Mrs. Adele Arraujo introduced herself as Mr. Ray Arraujo's wife. They are residents of Waipio Valley. They have no telephone service. At approximately 2:00 a.m., on October 15, 2004, her husband experienced severe abdominal pains. She and her son Jamie Arraujo, decided to drive her husband to the hospital because it would take several hours for a helicopter to be flown in. Her husband's pain became more intense, so they instead drove to the Honokaa Fire Station. The employees on duty were not in uniform due to the early morning hour. Mrs. Arraujo advised one of the firemen that her husband had recently been released from the hospital. Another employee who approached her husband began to rudely question him regarding his bodily functions. Her

husband asked him to help because he was experiencing pain every two to three minutes. This employee then told her husband, "You know what brah, we need to assess the situation first." Mrs. Arraujo again asked this employee to help her husband. The employee abruptly asked her, "What do you want us to do?" She told him that she did not know. They were there for assistance from the fire personnel. She then asked him to check her husband, or take him to the hospital. The employee then told her that they are not a "taxi service."

Mrs. Arraujo emotionally explained that she understood that these employees needed to assess the situation. But they did not offer any medical assistance. They did not even get him out of the truck. Finally, her son told her that they should leave because they were not going to be helped. The Arraujo's drove to the Emergency Room in Waimea. The ER immediately administered an I.V. The employees there noticed that she was very upset. She explained to them their experience at the Honokaa Fire Station. The Emergency Room employee said that the Honokaa Fire Station had called to say that a gentleman would be arriving with extreme abdominal pains, but they could not offer any information to the hospital because they did not know his name, age, or vitals.

At approximately 10:00 a.m., her older son drove to the Honokaa Fire Station to file a complaint. He spoke to Mr. Felix Asia who stated that he could not release the names of the personnel on duty. Her son insisted and told Mr. Asia that he would either file a complaint against the one rude firefighter or the entire Fire Station. Mr. Asia did provide her son with the names of the employees on duty. In November, she spoke to Chief Oliveira and learned that he was not aware of the complaint or the incident.

Mrs. Arraujo commented that these were individuals they should have been able to trust. This incident should not be swept under the rug.

Ms. Ramona Nordlof introduced herself as Mr. Arraujo's sister and stated that her brother's experience was unacceptable and the system needs to be reevaluated. In her complaint filed, she was able to name the acting Captain during that particular shift. She feels the Captain's negligence could have cost her brother his life.

Commissioner Fergstrom asked Ms. Nordlof if she was present at the time of the incident and if her complaint was separate from Mrs. Arraujo's.

Ms. Nordlof stated that she was not present and that their complaints were filed separately.

Commissioner Bowles thanked the Arraujo family for coming forward with their complaint.

Mr. Ray Arraujo repeated his earlier statement that he is in great need of the HFC's assistance, and he would like to be reassured that this problem will not happen again.

Commissioner Fergstrom asked Deputy Corporation Counsel Noda if the HFC could go to an executive session, because he is concerned that the complaints are being filed as two separate complaints.

Deputy Corporation Counsel Noda stated that it could be discussed in an executive session. She asked the Arraujo's if their complaint was against the Acting Captain or the entire shift.

Mrs. Arraujo stated that when she filed her complaint it was against the Acting Captain, but as she thought about it, she has an issue with the others because they did not speak up or do something.

Deputy Corporation Counsel Noda asked Mrs. Arraujo if it was later disclosed that the person described in her complaint as a man in command, a large man, with dark hair, and maybe of Portuguese descent was the Acting Captain.

Mrs. Arraujo answered that that was correct.

Deputy Corporation Counsel Noda asked if that is why Ms. Nordlof named Hal Takayama as the Acting Captain.

Mrs. Arraujo agreed.

Commissioner Maedo stated that she was confused because Acting Captain Hal Takayama is not a large Portuguese man.

Mrs. Arraujo stated that she could identify this individual in person.

Deputy Corporation Counsel Noda asked if the Arraujo's would like to lodge their complaint against the entire shift.

Mrs. Arraujo stated that the other personnel on duty should have offered assistance.

Deputy Corporation Counsel Noda asked Ms. Nordlof if Mrs. Arraujo informed her of the identity of the individual that made the rude comment.

Ms. Nordlof answered that Chief Oliveira informed her of the Acting Captain's identity.

Deputy Corporation Counsel Noda asked Ms. Nordlof if she assumed that the accused individual was the Acting Captain because he appeared to be the person in charge.

Ms. Nordlof agreed.

Deputy Corporation Counsel Noda asked if she could concede that, if Acting Captain Hal Takayama did not meet with Mrs. Arraujo's description, that there could be a mistake in who appeared to be in charge.

Ms. Nordlof stated that Chief Oliveira informed her of the identities of the four individuals on duty. There was an Acting Captain, the second-in-command, and the Emergency Medical Technicians.

Deputy Corporation Counsel Noda stated that the Arraujo's medical release form listed the North Hawai'i Community Hospital and the Hamakua Health Center. The Hamakua Health Center records have not been obtained because the patient did not sign the waiver. She asked them if they felt that the Hamakua Health Center's records were relevant to their complaint.

Mrs. Arraujo stated that the reason she named the Hamakua Health Center was because her husband's hospital stays would be documented in their records.

Deputy Corporation Counsel Noda asked if they would feel comfortable if the HFC proceeded without the Hamakua Health Center records.

Mrs. Arraujo answered that they would sign another waiver.

Deputy Corporation Counsel Noda asked if they would prefer that the HFC wait until that records were obtained.

Commissioner Fergstrom stated that the HFC already has sufficient information.

Deputy Corporation Counsel Noda stated that she wants the HFC to cover all necessary information to eliminate any doubts on how they based their decision.

Mrs. Arraujo stated that the hospital records would provide further documentation of her husband's medical history.

Commissioner Bowles asked how the Arraujo family would like the HFC to resolve this issue.

Ms. Nordlof commented that the accused individual should apologize in person.

Mrs. Arraujo agreed that she would like the opportunity to meet with him.

Commissioner Bowles stated that the HFC was not authorized to grant that request.

Ms. Nordlof stated that she understands that this individual has union rights and does not have to be present. But he should be held accountable for his actions.

Commissioner Maedo stated that there may be a case of mistaken identity in Ms. Nordlof's complaint. As she compares both complaints, it does not seem that it is the same person.

Commissioner Ward commented that she would like the Arraujo family to know that the HFC and Chief Oliveira do not want the Hawai'i Fire Department represented in this manner.

Mrs. Arraujo and Ms. Nordlof stated that they do not blame the entire Fire Department.

Commissioner Ward asked if there was any way the HFC could restore their faith in the Hawai'i Fire Department.

The Arraujo's explained that they want to make sure that these firefighters do their job and remain compassionate towards people's needs.

Commissioner Ward thanked the Arraujo's for coming forward and presenting their complaint in a positive way.

Commissioner Hart commented that he was disappointed that this happened in his district.

### **MOTION TO GO INTO EXECUTIVE SESSION**

Commissioner Fergstrom explained to the Arraujo Family that the HFC would proceed with an executive (closed) session to meet with their attorney. The HFC would then reconvene in an open session and conclude with a vote.

Commissioner Maedo moved to go to an executive session to consider disciplinary charges against employees of the Hawai'i County Fire Department where consideration of matters affecting privacy would be involved and a closed session was requested. Commissioner Bowles seconded the motion and it was unanimously carried.

The regular session ended at 10:55 a.m. and a recess of 11 minutes was taken.

Executive Session started at 11:06 a.m.

Regular session resumed at 11:20 a.m.

### **ACTION ON EXECUTIVE SESSION MATTER**

Commissioner Fergerstrom explained to the Arraujo family that the HFC would separate both complaints. Mrs. Adele Arraujo's complaint would be designated as HFC 04-03A, and Ms. Ramona Nordlof's complaint would be designated as HFC 04-03B.

Commissioner Bowles made a motion to dismiss complaint HFC 04-03B.

Deputy Corporation Counsel Noda suggested that HFC complaint 04-03A be discussed first to establish a cleaner record.

Commissioner Bowles agreed and withdrew his motion.

Commissioner Ward made a motion to accept HFC complaint 04-03A for further investigation and request HFC secretary Kaycie Carter send a notice to the entire shift allowing them an opportunity to attend and make a statement. This discussion would be deferred to the March 9, 2005, meeting, held in Kona. She asked the Arraujo family if they were able to attend the meeting.

The Arraujo family agreed to attend the March meeting.

Commissioner Maedo seconded the motion and it was unanimously carried.

Commissioner Bowles made a motion to dismiss HFC complaint 04-03B and find that it was unfounded as a matter of indirect information and hearsay. Commissioner Ward seconded the motion and it was unanimously carried.

Commissioner Ward explained to Ms. Nordlof that the HFC dismissed her complaint to clarify and determine the identities of the employees on duty.

### **CHIEF'S REPORT**

#### Budget

- FY 2005/06: Met with the Department of Finance staff on January 13, 2005. A request and an agreement was made to establish guidelines on how to address an issue of understanding line items in the budget.

The Capital Improvement Project's budget will be heard before the County Council on March 29, 2005, at 1:30 p.m., in the County Council Conference Room. All commissioners were invited to attend.

#### Alternative Funding & Grants

- USFA Grant: No new updates.

#### Capital Improvement Projects

- Puna Public Safety Complex: No new updates
- Pahoa Fire Station: Draft of the Environmental Assessment has been received and submitted to the State. Working on obtaining a special permit regarding zoning issues. Presently reviewing the latest design matrix received from Architects Hawai'i. The cost for the station is in the excess of 3.2 million dollars. The Mayor's Office and the Department of Finance are researching the need to accommodate the increase in cost.

Commissioner Brazier asked if the HFD was still considering incorporating the Police Department within that complex.

Chief Oliveira stated that it was offered to the Police Department. The property was acquired through an executive order and is in excess of 17 acres. The Police Department is pursuing their own station.

- Kalaoa Fire Station: Retired Captain Nick AhYo continues to maintain the communication between Bolton Construction, State Highways, and the Department of Public Works. Concerns being addressed are the sight distance and clearance issues. This may involve a request of installing flashing lights and lowering the speed limit.
- Central Fire Station: Written correspondence was sent to the Department of Public Works in support of acquiring Ululani Street to be dedicated to the County of Hawai'i.

#### Promotions and Hiring

- Fire Radio Dispatcher III Promotions: Re-posting of internal recruitment was postponed.
- Fire Radio Dispatch I: Interviews scheduled for February 14 - 16, 2005. Commissioners are invited to observe with a condition of participating with the entire process.
- FEO/ Promotions/Assessment Center: Assessment Center was completed on January 25, 2005. Interviews were completed on January 28, 2005. Results are currently being mailed to all prospective candidates.

- Fire Fighter Recruit: Deputy Chief Desmond Wery is working with Personnel Management Specialist Ann Ignacio on scheduling the COMPASS tests. Interviews will be conducted on February 10 -18, 2005.

Commissioner Maedo asked if the COMPASS test was administered at the Hawai'i Community College.

Chief Oliveira answered that it was administered at the Hawai'i Community College and is also part of the requirements for EMT training.

- Fire Captain Promotions: Five Fire Equipment Operator's were promoted to Captain's effective February 1, 2005:
  1. Dennis Iyo, North Kohala A
  2. Noel Aoki, North Kohala B
  3. Marshall Luke, North Kohala C
  4. Jerry Lum, Honokaa B
  5. Theodore Van Gelder, Pahala B

All Captain vacancies are filled.

#### Operations Division

- Ocean View Fire Station: Continuing to operate with County funds. Written correspondence will be sent to the State to inquire on the current status.
- OfficeMax Fire: Inspector Yagi was unable to determine the probable cause of the fire. The investigation has been turned over to the Police Department.
- EOC Activation: Emergency Operator Center activated on February 4, 2005, due to flooding conditions.
- Hazard Evaluation & Emergency Response Sampling Class: One-day training held on January 25, 2005. A total of 26 Hazardous Material personnel attended.
- ODP WMD Radiological/Nuclear Awareness/Responder Operations Class: Firefighters Michel Uchida and Jacob Van Kralingen are currently attending class, February 7 - 10, 2005, in Nevada.
- National Fire Academy: FEO George Allen is scheduled to attend Hazardous Material Operating Site Practices training, between February 28 - March 11, 2005. Captain Gerald Kosaki and FRS Don Teramoto will attend the Hazardous Material Incident Management class, between February 20 - 25, 2005.

#### Prevention Division

- National Fire Academy: Inspector Jack Pacleb will be attending Plans Review for Inspectors training, between February 28 through March 11, 2005.

#### Training Division

- 31<sup>st</sup> Recruit Class Update: Recruits are continuing the transitional period with their assigned Fire Stations. EMT class is scheduled to follow and is tentatively scheduled for March 21, 2005.

Commissioner Hart asked who would be instructing the EMT class.

Chief Oliveira stated that James Gray would be transitioning his MICT class over to a trainer on Oahu. He will stay and teach the EMT class. The HFD has offered and committed MICT Chris Honda to assist him in training the EMT class.

#### Volunteer Division

- National Fire Academy Applications: Received a total of six applicants for the National Fire Academy to participate in the Volunteer Firefighter Incentive Program. No response received if any individuals were accepted.
- Volunteer Fire Chiefs Meeting: To be held on February 26, 2005, at 10:00 a.m., at the Waiki'i Club House.

#### Emergency Medical Service Division

- MICT Class Update: MICT Training Stipend was approved and is back paying former participants, and paying the current participants who are enrolled in the class.
- MICT Refresher: In the process of conducting a two-week training in February 2005.
- Medical Director: Currently working on revising the contract to expand the responsibility and duties of the medical director. The HFD is interested in two physicians, one for each side of the island.

#### New Projects/Business

- Public Speaking/Media Relations Classes: Postponed to March 2005, due to various recruitment and training.
- Fire Science 151 & 152 Classes: A total of 63 applicants currently completing the class. The Hawai'i Community College was impressed with the participation and will be looking into expanding these classes.
- Sunshine Law Workshop – West Hawaii: To be held on March 22, 2005, at the Liquor Control Conference Room, in the Kona Center Building.

- HFFA Interest Arbitration: Will be attending on Maui, between February 14 - 18, 2005. An update will be given regarding contract changes, salary and wage increases, and budget issues.
- Hawaii Fire Chief's Association Conference: Met with the Board of Directors. All commissioners are encouraged to participate with this event. An update will be given with the progress of this conference.
- Employee Quarterly Newsletter: Anticipating a quarterly newsletter. This will improve communications within the department.

#### Public relations

- American Heart Association's Hawaii Heart Walk 2005: To be held on February 12, 2005, starting at 8:00 a.m., at Liliuokalani Gardens in Hilo.
- Third Annual Employees Award and Recognition Dinner: To be held April 9, 2005, at the Hawaii Naniloa Hotel's, Crown Room.

Commissioner Hart asked when the Honokaa Fire Station would be built.

Chief Oliveira stated that this project was linked to land issues between the State, County and Bishop Estates. He spoke with the Department of Parks and Recreation's Director Pat Engelhard, who advised him that the County was considering turning over the Honokaa Sports Complex to the State Department of Education. The State would then exchange with Kamehameha Schools the property located across the Bradley Center.

#### **UNFINISHED BUSINESS**

- Update on Salary Commissions subcommittee meeting.

Commissioner Ward stated that she and Commissioner Maedo attended the Salary Commission's meeting. She explained that the Salary Commission was interested in knowing if the HFC was satisfied with the Salary Commission and if there was a need to change the tier structure set up for the Chief's salary. The Salary Commission requested that the HFC be responsible for the Chief's salary. An issue that is still being resolved is that the Chief and Deputy do not get paid overtime. Therefore, overtime schedules and vacant positions allow individuals to accumulate higher pay. The HFC needs to monitor this issue. The Chief's salary should remain five percent higher than the highest paid employee.

Commissioner Hart commented that when he served on the Water Board, there was a suggestion that the Manager have his salary five percent higher than the highest paid employee and the Deputy have his salary two percent higher than the highest paid employee.

Commissioner Ward stated that the problem is with overtime. The overtime is very unpredictable. The HFC can now approach the Salary Commission at anytime with their concerns regarding salaries. A Salary Commissioner mentioned to her that the County of Hawai'i encounters different issues than other islands because of the size of the island. There is a feeling that our Chief should be making a salary similar to the Oahu Fire Chief. Oahu has fewer stations, less personnel, no volunteers and no EMS, and yet the Oahu Fire Chief makes \$18,000 more than the County of Hawai'i Fire Chief.

Commissioner Fergerstrom asked when the HFC should start to review this issue.

Commissioner Ward suggested that the HFC should start in February 2005. The report should be reviewed after the completed year because it is based on calendar year.

Commissioner Brazier asked what administrative personnel were not union members.

Commissioner Ward answered that the Chief and Deputy were not union members.

## **COMMITTEE REPORTS**

- Budget & Finance (Bowles/Hart)  
Commissioner Bowles suggested that he and Commissioner Hart meet with Chief Oliveira to review the budget that will be submitted to the County Council.
- Office Management and Staffing (Fegerstrom) None
- Rules and Policies (Maedo) None
- Public Relations (Ward)  
Commissioner Ward mentioned that there would be Alert Alarm Seminar on February 15, 2005.

## **NEW BUSINESS**

- Fire Equipment Operator Mark Ignacio's presentation regarding employees who were disappointed with recent transfers.

FEO Ignacio distributed a handout to the Hawai'i Fire Commission. He stated that he was at the meeting to make a presentation regarding a transfer request dated December 28, 2004. In that transfer, all but one of the Captains was promoted, and a couple of them had been in their current position for only three months. A lot of personnel were upset about the

transfers. Many personnel did not know that there were vacancies to these particular positions, and therefore did not apply for them. The transfers were dated prior to a memo announcing the vacancies. Normally, when a memo is released from the administration showing an opening at a Fire Station on a certain shift, personnel then have the opportunity to apply for it. Ignacio stated that he is a member of the Hawai'i Firefighters Association, and he would like to inform the commission that he has heard a lot of dissatisfaction from the members of the Fire Department. Therefore, he took it upon himself to bring this issue to the attention of the HFC. He is asking that the current administration follows its outline policies, and be fair and standard in granting transfer request. He has spoken to Chief Oliveira in regards to these recent transfers and was told it was an administrative prerogative and will not be rescinded or changed. He advised Chief Oliveira that he would be addressing this issue with the Hawai'i Fire Commission.

Commissioner Brazier stated that two employees who were concerned about this issue and confronted him on two occasions.

FEO Ignacio stated that he would not take anything away from this current administration; they are doing a great job. But these issues "blew away" a lot of people. Usually a memo is put out notifying personnel that there is an opening at a platoon in a particular Fire Station. Personnel would then be allowed to put in a transfer request. Seniority, qualifications and reassigning of personnel would follow. This did not occur with these transfers.

Commissioner Bowles asked if he was suggesting that Chief Oliveira does not hear him.

FEO Ignacio stated that Chief Oliveira felt he had his reasons for doing what he did, what Mr. Ignacio is saying is that the administration has always talked about being fair and open in their communications with the members of the department. This last transfer in January, personnel were unaware of the retirements and vacancies. This has affected the morale in the department.

Commissioner Ward stated that the HFC has a report that they receive monthly from Chief Oliveira that lists the vacancies. Chief Oliveira advised her that it was posted at all stations.

FEO Ignacio stated that it was not posted at the Honokaa Fire Station. He explained that each shift receives emails, and if someone from that shift deletes it, the report does not get posted.

Commissioner Ward stated that anyone who is concerned with vacancies could call the Chief's office and obtain a copy of the listing. If this report is not

being posted at the Honokaa Fire Station, someone should find out why, because it is normal practice to post it at all stations.

FEO Ignacio stated that he would like to call attention to (ATTACHMENT "A", Exhibit "C" and Exhibit "H"). He would like to request that the administration advise personnel about vacancies with this format.

Commissioner Maedo stated that she understood that transfer requests are the responsibility of the individual Firefighter, and that each transfer is an ongoing affair. Anyone can put in for a transfer, and it is time stamped, and then it stays on file for six months, then becomes null and void if not resubmitted after the six months.

Chief Oliveira stated that there was a missing memo that superceded FEO Ignacio's ATTACHMENT "A", Exhibit "A". This memo was dated December 23, 2002. It established a transfer request policy and form. The instructions are that the candidates or anyone interested in requesting a transfer provide this form in paper or electronically. The form that is submitted has a preference of choices of assignment, and includes date of file and the promotion date. This form makes it easy for Deputy Wery to identify seniority. It is signed by the chain of command that the employee works under. This form is not taken from the file until the end of the calendar year. At the end of the calendar year, the Deputy then informs all personnel to resubmit their transfer request.

Commissioner Fergerstrom stated that if the administration is sending out memos, yet the files at the Honokaa Fire Station are incomplete, the issue should be directed to the supervisor.

Chief Oliveira stated that there is a lack of standard practice in the station on how they maintain their files. There is a committee working on setting up a policy on how each memo should be maintained in the station.

FEO Ignacio agreed with Chief Oliveira. He is aware that the files are not being maintained accurately.

Commissioner Hart stated that the problem is with the rotation of shifts.

Chief Oliveira stated the HFD will be training the personnel to take on these roles for the supervisory level.

FEO Ignacio suggested that each individual should have his own password and user name when accessing the computer. Currently, it is designated to each shift and not personalized.

Commissioner Fergerstrom stated that the responsibility of this issue needs to be placed with the personnel in that station. If Chief Oliveira were not sending out the information, then the HFC would have an issue.

FEO Ignacio acknowledged that the administration does send out an email and a hardcopy.

Commissioner Fergerstrom stated that it seems that the administration is addressing this issue.

The HFC thanked FEO Mark Ignacio for coming forward with his presentation.

- Meeting Format – changes and suggestions.

Kaycie Carter advised the HFC that the thank you letters forwarded from the Fire Administration would be marked as F.Y.I and would no longer be placed on the agenda. These letters are intended for informational purposes and not meant for any consideration. They will be distributed to the HFC and color coded yellow to differentiate them from other written correspondence.

## **PUBLIC STATEMENTS**

Mr. Ty Mederios introduced himself and stated that he would like to discuss the investigation of public complaints. He was concerned that it conflicts with the union's bargaining agreements.

Commissioner Fergerstrom stated that when the HFC interviews and investigates a complaint made against a firefighter, that individual's attendance is voluntarily.

Commissioner Ward stated that it is not an investigation.

Commissioner Fergerstrom stated that the HFC's conclusions do not result in disciplinary actions. The conclusion only results in a recommendation to the Administration that the issue be investigated further.

Mr. Mederios stated that the recommendation to Chief Oliveira could lead to disciplinary action.

Commissioner Fergerstrom stated that the disciplinary action does not come from the HFC.

Commissioner Maedo stated that this issue arose last month and everyone needs to be educated. When a firefighter does not like something that occurred, he approaches the HFC to have the issue overturned. These situations are

unacceptable. The HFC cannot act on these issues. As a rank and filer he must turn to his union as his first course of action. In the event there is anything that impacts him negatively, the union will take necessary action to defend its member. She thanked Mr. Mederios for coming forward and reminding the HFC of the union's responsibility to the rank and file.

Commissioner Fergerstrom clarified that any information obtained in the HFC's investigation cannot be used in the determination of disciplinary action. The HFC only recommends that the issue be looked into, and that is where it ends. Therefore, the HFC's decision does not result in disciplinary action.

Mr. Mederios asked if all investigations are held in closed session.

Commissioner Ward stated that with regards to the complaint made earlier, the HFC allows the complainants the option of speaking in front of the HFC. If the firefighters involved choose to speak to the HFC, they would be able to do so behind closed doors or in open session. The HFC does not subpoena the Firefighter involved. If the HFC does not offer the accused a chance to appear, it is not giving the firefighter equal benefit as the complainant.

Commissioner Fergerstrom stated that the HFC can sustain a complaint, and the Chief can do an investigation and determine that the HFC was not correct. The extent of the commission's role is to listen to the public's complaint and see if it has merit. If the Firefighter does not appear, it is not held against him/her. In that case, the commission can only base its decision on one side of the story.

Mr. Mederios stated that he was also concerned with a confrontation involving both sides.

Commissioner Ward stated that she would hope that there would be no confrontation.

Mr. Mederios asked, if a civil matter occurs with a Firefighter, could the HFC's executive session minutes be obtained by the Firefighter.

Commissioner Ward asked Deputy Corporation Counsel Noda if the executive session minutes were public knowledge.

Deputy Corporation Counsel Noda stated that there is a possibility that it could be public knowledge.

Commissioner Fergerstrom stated that is another issue that needs to be considered.

Mr. Mederios stated that the union's concern is if the public has a complaint and the HFC finds it legitimate to have an investigation done by the Chief, would the complaint be based on the public's complaint made to the Fire Commission and the employee's statement through the Commission.

Mr. Mederios asked if it was possible that the HFC only hear the firefighters in closed session.

Commissioner Ward stated that the request would be honored only if the firefighter chose to have it in closed session.

Commissioner Maedo stated that when dealing with confidential personnel matters, firefighter could choose to talk in public or decide to be heard in a closed session if they choose to speak at all. And when that individual receives the standard letter from the commission, they may contact their union representative.

Mr. Mederios stated that sometimes the personnel are unaware of that.

Commissioner Maedo stated that the employee is responsible for contacting his union representative. The HFC must remain sensitive to the public; it represents the public. At the same time, it is necessary to hear from the firefighter so that both sides of the complaint will be heard.

Commissioner Hart stated that the union representatives need to take the responsibility to educate its members.

Mr. Mederios agreed that is why he has brought this issue forward, to clarify all information to educate their members.

Mr. Medeiros asked if the union representatives also get a letter from the commission.

Commissioner Fergstrom stated that the HFC sends a letter to the employee involved, and he could choose to send it to the union.

Commissioner Ward stated that the agenda for the HFC meeting is posted a week before the meeting. The Union has a chance to review the agenda to see if a complaint has been made.

Mr. Mederios stated that the union would educate its members and inform them that it is their option to appear.

Commissioner Ward stated the union should let its members know that the HFC has no intention of interrogating them.

Commissioner Fergerstrom stated that there would probably be an increase in complaints in the future, because the public is slowly realizing that there is a place to complain.

Ms. Noni Sanford asked if there could be a standard letter from the commission for the firefighter to inform the Union if a complaint has been filed.

Commissioner Fergerstrom stated that the HFC will inform the individual about the complaint, and the employee can decide whether to contact the union.

Commissioner Fergerstrom suggested that the Union should meet with their attorneys and also get feedback from SHOPO regarding their procedures.

Commissioner Ward stated that the letter sent to the employee states, "You are not required to attend this meeting or make any statement. However, the Hawai'i Fire Commission may make a decision on whether to refer this case to the Chief for possible administration investigation based on the evidence and testimony presented at this meeting." It also states that if they are unable to attend this meeting, they may submit a written statement. The letter is very clear on what their choices are.

The HFC thanked Mr. Mederios for coming forward with his concerns.

### **ANNOUNCEMENTS**

- The next meeting is to be held on Wednesday, March 9, 2005, at 10:00 a.m., in the Liquor Control Conference Room, Kona Center Building, Kailua-Kona, Hawai'i.
- Set agenda for March 9, 2005 meeting.
  - HFC Complaint Procedures – changes and suggestions.

### **ADJOURNMENT**

Meeting was adjourned at 12:51 p.m.

SUBMITTED BY:

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KAYCIE A. I. CARTER  
Secretary