

**HAWAII COUNTY POLICE COMMISSION  
REGULAR SESSION MINUTES  
JANUARY 20, 2006  
HAWAII NANILOA RESORT, PALM LOUNGE**

**CALL TO ORDER**

Chair Pudding Lassiter called the meeting to order at 9:10 a.m.

**ROLL CALL**

Present: Pudding Lassiter, Chair  
Melvin S. Morimoto, Vice Chair  
John M. Bertsch, Member  
James A. Frazier, Member  
Louis Kaoiwi, Member  
Karolyn P. Lundkvist, Member  
Betsy Mitchell, Member  
Anita Politano Steckel, Member

Also Present: Lawrence K. Mahuna Police Chief  
Harry S. Kubojiri, Deputy Chief  
Ronald Nakamichi, Assistant Chief  
Elroy Osorio, Assistant Chief  
Derek Pacheco, Major  
Kay Nishibayashi, Accountant  
Lincoln S. Ashida, Corporation Counsel  
Josie Pelayo, Secretary

Absent: Kaloa R. N. Robinson

A quorum was present.

**APPROVAL OF AGENDA**

Commissioner Frazier moved and Commissioner Bertsch seconded to approve the agenda. The motion carried unanimously.

**EXECUTIVE SESSION** (closed to the public)

Commissioner Bertsch moved and Commissioner Lundkvist seconded to meet in executive session to consider charges against officers of the Hawaii County Police Department where consideration of matters affecting privacy would be involved and a closed session is requested and to consult with Corporation Counsel on questions and issues pertaining to the commission's powers, duties, privileges, immunities, and liabilities pursuant to HRS 92-5 (2) and Hawaii County Charter Section 13-20 (b). In order to hear from officers' attorney regarding request for legal counsel. The motion carried unanimously. Executive session convened at 9: 15 a.m. for: Correspondence 05-58, request for legal counsel by Officers Lorenzo Artienda, Robert Pule, and David Reis in Civil No. 05-1-0392.

Regular session reconvened at 9:35 a.m.

**STATEMENTS ON AGENDA ITEMS** – None.

**APPROVAL OF MINUTES**

Commissioner Politano Steckel moved and Commissioner Lundkvist seconded to approve the minutes of December 16, 2005, regular and executive sessions, as amended. The motion carried unanimously.

### **PERSONNEL ORDERS**

Nos. 2005-134 to 2005-141 and 2006-001 to 2006-005 (*Including but not limited to work assignments, training assignments, promotions, reallocations, severance from service, automobile allowances, and appointments.*)

Commissioner Frazier moved and Commissioner Lundkvist seconded to accept the Personnel Orders. The motion carried unanimously.

### **COMMUNICATIONS**

- Commissioner Kaiwi moved and Commissioner Lundkvist seconded to accept the communications as listed. The motion carried unanimously.

### **COMMITTEE REPORTS**

- Budget and Finance (Frazier): No report.
- Office Management and Staffing (Robinson/Mitchell): No report.
- Rules and Policies (Bertsch/Lundkvist): No report.
- Contractual Services (Frazier): No report.
- Public Relations (Bertsch/Lassiter): No report.
  
- Committee appointments for 2006: Chair Lassiter made the following appointments:
  - Budget/Finance: Frazier/Morimoto
  - Office Management and Staffing: Lundkvist/Mitchell
  - Rules and Policies: Kaiwi/Bertsch
  - Contractual Services: Robinson
  - Public Relations: Lassiter/Politano Steckel

### **CHIEF'S REPORT**

Including:

- **Crime:** Major Derek Pacheco summarized the written report.
  
- **Traffic:** Assistant Chief Ronald Nakamichi summarized the written report. Commissioner Frazier expressed concern that the public is under the impression that suspects are "let go." The public needs to be educated that an investigation needs to be completed before someone is arrested.

Corporation Counsel Ashida stated that the laws provide that someone in custody has to be charged within 48 hours. Drug analyses and autopsies take longer than 48 hours. Someone held in jail could file a wrongful arrest lawsuit. The big variable is that the police has no control over the prosecutors.

Assistant Chief Ronald Nakamichi stated that in all fairness to all parties, they have to do a complete investigation.

Chair Lassiter suggested that news releases state "Pending completion of an investigation, an arrest could occur."

- **Personnel:** Assistant Chief Elroy Osorio entertained questions to the written report. He stated that the Managing Director approves filling vacancies of retired officers.

- **Finance:** Accountant Kay Nishibayashi entertained questions to the written report; there were none. Commissioner Frazier commended Chief Mahuna and his staff for managing their personnel and staying on top of their budget.
- **Commendations:** Chief Mahuna reported receiving nine commendations in the past month. He stated that their report of discipline to the legislature was printed in the newspaper, but what the newspaper failed to mention was that they had 115 commendations of officers who acted above and beyond their duty. All of this has to do with their core values. They have been putting emphasis on 90-day cases because they need to serve the community. When someone reports a case, it should go somewhere, and that is why a lot of individuals have been disciplined for that infraction. When someone is suspended for more than 15 days, they are doing it over and over again. It all comes down to their core values and mission statement. They try to monitor this. Unfortunately, some of the discipline involved a criminal act.

Chair Lassiter stated that she would work with Commissioner Politano Steckel to get the commendations in the newspaper. Commissioner Politano Steckel stated that it's feasible for people to work together as "Friends of Hawaii County Police Department" to raise funds for media releases. The Police Department can't do it all by themselves.

- **Commander's meeting minutes of December 21, 2005:** No discussion.
- **Other departmental activities:** Chief Mahuna reported that they are working on the records management with Honolulu, the Mayor's office, and the West Coast. A lot of their crimes involve property crimes, and a lot of the property ends up in Honolulu, California, and Washington. They will soon start a pilot program of wireless RMS.

Commissioner Mitchell reported that the Volcano substation would be ready in a week.

### **UNFINISHED BUSINESS**

**Selection of Vice Chair for 2006:** Commissioner Kaoiwi nominated Commissioner Melvin Morimoto as Vice Chair. Commissioner Morimoto accepted the nomination. Commissioner Kaoiwi stated that this would allow them to have representation in both East and West Hawaii. A roll call vote was unanimous for Morimoto as Vice Chair.

Recess was called at 10:40 p.m. The meeting reconvened at 10:50 a.m.

### **INVESTIGATION AND DELIBERATION OF COMPLAINTS**

ERROL HELENIHI (Complaint HPC 05-07) stated that he just wants to know why the officer did what he did. While driving home from a church outing, he approached a flare on the roadway. An officer waved his flashlight, so he went forward. He assumed the officer was waving him on. The officer threw the flashlight at his windshield and it broke. They went to the Laupahoehoe station, but no one was there. So, they went to the Hilo station. He spoke to the desk sergeant who told him that all police officers were busy, no one was there, and to come back the next day. Broken glass cut one of the children who was sitting in the front seat. His girlfriend, who was in a separate car, took the child to the hospital. He went home. Officers showed up at his home about two hours later. His complaint is

that he has not had any response from the Police Department and does not know what happened to the officer.

TERI NAPEAHI (Complaint HPC 05-07) stated that she wrote up both complaints. She wants justification for what happened to her family. Mel Yamamoto of Internal Affairs came over to access the damage to her car. She was given an option to either do the report at the station or at home. She was told that she would be taped. She chose not to be taped and gave a written report. She has had a couple of calls from the Criminal Investigation Department, but she didn't want the detective to speak to her children. The Prosecutor's Office sent them a letter saying they closed the case and would not prosecute because the officer did not intentionally damage the car. They were told that they would have to go to small claims court for damages. She wants restitution for her vehicle. She feels that no one is listening to her.

Corporation Counsel Ashida stated that the Prosecutor probably closed the case. She can get reimbursed for the windshield, and his office will handle all claims, including the medical costs.

MICHAEL AGUIAR (Complaint HPC 05-28) stated that he feels he was mistreated and a lot of his rights were violated during his arrest for DUI. Since the incident, he has had a lot of stress with work and school. He lost his license. Because of this ordeal, he had to sit out of school this semester. This situation was not handled correctly. He has never had a run-in with the officer before. He did not refuse to sign the check sheet. While at the station, Officer Weber grabbed him by the collar and pushed him. He fell backwards. He told Officer Weber he wanted to take the test, but the officer said, "Too bad, you refused." He did not refuse. After he clocked out at work, he had one pau-hana beer.

RADHA HARVEY (Complaint HPC 05-31) stated that while walking on her street, she was attacked by two pit bulls. Workers on the property came to her assistance. The fire department came. The man from the fire department stated that he was chased by the dog, too, but the officer brushed him off. She told the officer that both dogs bit her, but his report stated that one dog bit her. The officer didn't take it as a serious issue. A \$25 fine was given to only one dog. It should have been for each dog. There was a gate, but the dogs went under the fence. The other officer who gave her a ride home was compassionate and kind to her.

MICHAEL HARVEY (Complaint HPC 05-31) stated that he was the one who tried to redo the officer's report. He spoke to Captain Guillermo about making the correction in the report. Josie at the Humane Society said that the two dogs that attacked his wife were supposed to have been taken away. They go to court in February.

### **NEW BUSINESS**

#### **Annual performance evaluation of Police Chief Lawrence Mahuna.**

Chair Lassiter stated that they worked as a group on the Chief's annual performance evaluation the night before. Each person gave input, and the written report was given to Chief Mahuna prior to the meeting.

Chief Mahuna stated that the evaluation is also a reflection of his staff, his team, his family, the job they have done, the many hours they have spent away from their families. He thanked the commission for the difficult task. Without his staff behind him, this could not have happened. He believes he makes a good judgment on character and picks the best person for the job. He just happens to be the head of the organization. He thanked his staff. Their core values make their dream a reality.

Commissioner Kaiwi stated that Chief Mahuna has done an outstanding job. He is proud to have worked with the Chief in making the Police Department the best in the State of Hawaii.

Commissioner Frazier stated that the evaluation format is different this year. The intent of the commission was to communicate the good and things they would like to see. He is extremely pleased to see the responsiveness. The mid-term review was very clear and focused. The summary of goals for 2005 and the projection of goals for 2006 were marked, quantitative, and measurable. There was a lot of clarity. He thanked Chief Mahuna for a good job.

Commissioner Lundkvist thanked Chief Mahuna and stated that it was a pleasure being on the commission and having a Chief like him. She encouraged him to keep up with the good job and also his monthly radio forum.

Commissioner Politano Steckel stated that it has been an honor being on the commission. She is concerned that he may have been hampered by something he has nothing to do, which is the past. It is seen in the attitudes of some people, although he seems to handle it very well. It's been an honor to know him and work with him.

Commissioner Bertsch stated that it takes a super tanker six miles to stop in the open ocean. It takes eight miles to turn around or change course because the momentum of the course of that ship is not something that is easily navigated. Chief Mahuna is driving a super tanker. He has 600 people in his employ and has a \$42 million budget. Making changes and setting new courses take a tremendous amount of time and cooperation. They are now seeing those changes. A lot of what he instituted when he came on as Chief, the promises he made, the vision that they hired him on, the dream that they believed in, that the Police Department could achieve under his direction, is now becoming apparent. Chief Mahuna developed the mission statement and core values, and they are publicized in the stations. He orates it at almost every Police Commission meeting, and it's in everyone of his correspondence. It transcends the morale that transcends the professionalism that sets the tone for the department as a whole. Police Commission complaints have fallen off. The department's internal employee discipline program has elevated. The Police Commission has received letters from police officers, both in favor and disgruntled. The disgruntled ones are disgruntled primarily because they are being tasked with performing their duties, and the administrative staff is holding them to it; that's their complaint. It's not a bad thing; it's a good thing. On a personal note, as the past Chair of Police Commission, he very much enjoyed working with Chief Mahuna. He has demonstrated to be true and caring for his position and the department. He knows the Chief will pass the accolades down to the department about his performance review that they all deserve, and they will all follow him as the leaders. Today is Chief Mahuna's day

to relish in his leadership that caused that super tanker to change its course and to have all his lieutenants and his small army of police officers follow in his dream and vision. He applauded Chief Mahuna and thanked him for changing the course.

Commissioner Mitchell stated that everything she's asked for, he has done, and done very well.

Vice Chair Morimoto reinforced a comment that Chief Mahuna made earlier. "You are only as successful as the people who surround you." He told Chief Mahuna that he has very good people surrounding him. They share in his excellent evaluation, and he commended the staff under him. One of the most important things he learned from Chief Mahuna this past year is that he is able to recognize change when change is needed, and he is not afraid to take that step toward the direction of change. He told Chief Mahuna to strive not to stand out, but to be outstanding, and outstanding is what he has been this year. He thanked the Chief for a job well done.

Chair Lassiter thanked Corporation Counsel Ashida for helping them move in the right direction and keeping things together. She also thanked Ms. Pelayo for her contribution and input.

Chief stated that he was glad the super tanker made it in the right direction and thanked the commissioners for their support.

#### **EXECUTIVE SESSION** (closed to the public)

Commissioner Bertsch moved and Commissioner Mitchell seconded to meet in executive session to consider discipline and charges against officers or employees of the Hawaii County Police Department where consideration of matters affecting privacy would be involved and a closed session is requested and to consult with Corporation Counsel on questions and issues pertaining to the commission's powers, duties, privileges, immunities, and liabilities pursuant to HRS 92-5 (2) and Hawaii County Charter Section 13-20 (b). The motion carried unanimously. Executive session convened at 12:24 p.m.

Regular session reconvened at 1:15 p.m.

#### **ACTION ON EXECUTIVE SESSION MATTERS**

- **Complaint HPC 05-07A, B, C:** Complainant alleged that an officer threw his flashlight at complainant's moving vehicle and broke his windshield. Commissioner Bertsch moved and Commissioner Frazier seconded that there is sufficient evidence to prove the complainant's allegations. The motion carried unanimously.
- **Complaint HPC 05-28:** Complaint alleged that when he was stopped for DUI, an officer did not read him his rights and did not give him a field sobriety test at the scene. He also complained about the manner in which he was treated at the police station. Commissioner Kaiwi moved and Commissioner Bertsch seconded that there is sufficient evidence to prove the complainant's allegations. The motion carried unanimously.

- **Complaint HPC 05-31:** Complainant alleged that an officer's report was incorrect and that the officer did not take her complaint seriously. Commissioner Lundkvist moved and Commissioner Bertsch seconded that there is sufficient evidence to prove the complainant's allegations. The motion carried unanimously.
- **Complaint HPC 05-33:** Complainant alleged that an officer was not impartial when he conducted his investigation. Commissioner Lundkvist moved and Commissioner Kaoiwi seconded that there is insufficient evidence to prove the complainant's allegations. The motion carried unanimously.
- **Complaint HPC 05-34:** Complainant alleged that an officer was disrespectful, rude, and intimidating when he questioned her and her husband about a complaint made by their neighbor. Commissioner Bertsch moved and Vice Chair Morimoto seconded to defer the complaint to the next meeting and ask both the complainant and the officer to attend in order for the commission to address some concerns.
- **Correspondence 05-58:** Request for legal counsel by Officers Lorenzo Artienda, Robert Pule, and David Reis in Civil No. 05-1-0392. Commissioner Kaoiwi moved and Commissioner Bertsch seconded to approve legal counsel. The motion carried unanimously.

**STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS** – None.

**ANNOUNCEMENTS**

- Chair Lassiter announced that the Police Commission's next monthly meeting would be on February 17, 2006, at 9:00 a.m., at the Kona Department of Liquor Control, 75-5722 Hanama Place, Suite 1107, Kailua-Kona.
- Collection of Files and Documents – Done.

**ADJOURNMENT**

The meeting adjourned at 1:25 p.m.

SUBMITTED:

APPROVED:

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JOSIE PELAYO, SECRETARY

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PUDDING LASSITER, CHAIR