



### **APPROVAL OF MINUTES**

Commissioner Hara motioned to approve the minutes of December 10, 2004, regular and executive sessions with noted changes. Commissioner Manago seconded the motion, and it carried unanimously.

### **PERSONNEL ORDERS**

Commissioner Frazier motioned to accept Personnel Orders Nos. 2004-152 to 2004-160 and 2005-001 to 2005-005. Commissioner Manago seconded the motion, and it carried unanimously.

### **COMMUNICATIONS**

Commissioner Mitchell motioned to accept the communications as listed. Commissioner Manago seconded the motion. Discussion: Commissioner Frazier stated the he would like to comment on Correspondence 05-05 during the Chief's Report. The motion carried unanimously.

### **COMMITTEE REPORTS**

Chair Bertsch made the following committee appointments:

- Budget and Finance: Frazier/Manago
- Office Management and Staffing: Bertsch/Mitchell
- Rules and Policies: Bertsch/Lundkvist
- Contractual Services: Frazier. Will add on when new commissioners come on.
- Public Relations: Bertsch/Lassiter

He stated that he might make reallocations when the new commissioners come on board.

Commissioner Hara recommended that the Chair also sit on the budget committee because he needs to be on top of things and would be meeting with the Mayor and other county officials. Chair Bertsch asked Commissioner Manago to work with Commissioner Frazier on the budget committee, and he would take over at the end of Commissioner Manago's term.

Commissioner Manago inquired whether three of them could meet on the budget committee. Corporation Counsel stated that having three people meeting on a committee would create a three-step process. At the first meeting, they would be given their assignment and objectives. At the second meeting, they would report their findings. At the third meeting, they would decide and vote. It would be a three-meeting process.

- Budget and Finance (Hara/Manago) – Commissioner Manago stated that they would discuss this under the Chief's Report.
- Office Management and Staffing (Muller/Mitchell) – No report
- Rules and Policies (Bertsch) – Chair Bertsch stated that they are still waiting for Corporation Counsel's input on terminology of dispositions.

- Contractual Services (Frazier) – No report.
- Public Relations (Hara/Lassiter) – No report

### **CHIEF'S REPORT**

Including:

- **Crime:** Assistant Chief Day entertained questions to the written report. He explained the reason for the high number of thefts. Sixty stolen checks would result in sixty cases. Promotions have been made in the upper ranks of captains, majors, and assistant chiefs (as noted in the Personal Orders).

Commissioner Frazier asked that the commissioners be notified as soon as there is a change in the district command.

- **Traffic:** Assistant Chief Nakamichi entertained questions to the written report. He stated that the Chief is emphasizing professionalism. They are trying to dispel the thought that Kona and Hilo are separate and are working as one department.

Commissioner Manago stated that regarding the recent fatality of a promising young girl on the Queen K Highway, the newspaper reported that the lab report of the truck driver had not yet come back, and he inquired whether that was normal. Assistant Chief Nakamichi stated that the information is still at the laboratory, and he didn't know if the information would be made public.

- **Personnel:** Assistant Chief Osorio reported that they still have 68 sworn vacancies. Out of approximately 140 applicants, they hope to have 14-15 people in the next recruit class. They have not been very successful in recruiting officers from other jurisdictions. He's not sure if the Chief wants to go in the direction of directly recruiting from other police departments. The cadet program has been designated to Major Ferreira.

Commissioner Hara stated that in Correspondence 05-02, the writer (Richard Fuller) stated that the police reports were not made available to Myna Bird. The man's claim of secrecy in the police department bothers him. Assistant Chief Osorio stated that their computer system was designed and paid for so that the police department could get the information, not to accommodate the press. The press should be able to get the arrest report, but not in the same format as they did previously.

- **Finance:** Accountant Kay Nishibayashi entertained questions to the financial report. She reported that they are still working on glitches to the County's new accounting system. Commissioner Manago stated that they would be reviewing the budget under New Business.
- **Commendations:** Chair Bertsch stated that with regards to commendations, he would like input from the commissioners about an end-of-the-year report similar to what the Police Department does for disciplinary actions. Has asked that the Chief's Office put

together a year-end report of commendations, and the Police Commission would issue a press release.

Commissioner Manago stated that in line with that, several weeks ago he was very privileged to go on a ride-along, and they were involved in a Rave party. He commended the officers on their treatment of the young people. They had pretty much everybody locked in. Rather than starting a riot, they found key people to inform others of what was going on. They investigated every vehicle and tested every driver. Drivers who were not able to drive had to get an alternate driver. For those who were violating curfew, their parents were called to pick them up. The officers acted very professionally in treating the people and did a very good job. It all comes down to their core values. The ride along policy is covered in the General Orders, and a waiver has to be signed and notarized.

- Commanders' meeting minutes – No report.
- Other departmental activities – No report.
- Chief's goals and objectives – The commission received the Chiefs written report.

### **UNFINISHED BUSINESS**

- Commission's input into the Chief and Deputy Chief's salary and compensation, including Correspondence 04-92, from the Salary Commission.

Commissioner Manago stated that the Salary Commission invited them to a subcommittee meeting today to discuss this matter. Ms. Pelayo stated that she informed the commission's secretary that none of them would be able to attend the meeting, and she was told that additional meetings would be scheduled. At the last meeting the commission accepted his proposal of 10% for the Deputy and 15% for the Chief above the highest paid employee and retroactive to July because the EMs received it retroactively.

Corporation Counsel Ashida pointed out that the Salary Commission requested information on the duties, authority, and scope of responsibilities for the Chief. He reminded the commissioners that the County has fiscal restrictions.

Chair Bertsch stated that the Salary Commission is better suited to determine what the Chief's salary should be. He asked for directions on where to go.

Corporation Counsel Ashida read the County Charter, Section 13-28, (d), regarding the Salary Commission. He stated that the commission needed to focus on the relationship between compensation and duties.

Commissioner Hara requested that Assistant Chief Osorio send them a copy of the Chief's and Deputy Chief's duties and responsibilities. He suggested that the commission send their previously approved recommendation to the Salary Commission

and preface it with the Chief's and Deputy Chief's duties and responsibilities. However, they need more information on the issue of longevity.

Corporation Counsel stated that Michael Ben, Civil Service Director, calls himself a career executive, unlike department heads who are appointed by the Mayor. Theoretically, Mr. Ben could be in the position for 20 years. Mr. Ben, who is an ex-officio and non-voting member of the Salary Commission, contends that commission appointed department heads should be compensated higher than non-appointed heads because they could be in the position much longer.

Chair Bertsch stated they would request an explanation from the Salary Commission on "recognizing longevity."

Commissioner Frazier recommended that they request information from the Honolulu Police Commission on their chief's five-year term. Chair Bertsch stated that they need to work on matters at hand but could bring this up at a later date.

### **NEW BUSINESS**

- Correspondence 04-87, from Roy Ledward requesting the commission's assistance in locating his missing money following his arrest. Commissioner Manago motioned to ask the Chief to look into this matter and give the commission a follow-up status report. Commissioner Hara seconded the motion, and it carried unanimously.
- Review of Police Department's Budget, including:
  - Correspondence 04-93, Budget Narrative
  - Correspondence 05-05, Budget for 2005-06
  - Correspondence 05-06, County Council Budget Review Schedule

Commissioner Manago stated that he went over the budget and has recommendations.

Assistant Chief Osorio reported that the budget has since been updated. They were directed by County Finance to exclude new positions and reduce items. They would like to see all their long-lying vacancies filled. The Chief wants to fill the promoted positions, but has to take from the lower positions. Right now, they are not staffed to provide service to the County. They have had to revise their approach to the budget process and have come to view the supplemental budget as a Christmas catalog.

Commissioner Hara stated that they should have a prioritized list and should be consistent with their prioritized requests.

Commissioner Frazier suggested that they look at the revised supplemental budget after the recommendations from Finance. He will meet with Police Finance this coming Tuesday.

- Review and Approval of 2005 Meeting Schedule.  
Ms. Pelayo informed that the next monthly meeting would be on February 11 instead of February 18, the third Friday of the month, because the recruit graduation will be on that day. Commissioner Hara encouraged all the commissioners to attend the graduation that honors the new recruits. Commissioner Frazier suggested that they also take time to meet with the rank.
- Meeting Format – suggestions and changes.  
Chair Bertsch stated that the meetings now start at 9:00, and they need to make a rule change. He would like to cover all administrative functions from 9:00 a.m. to 10:15 a.m. and recess from 10:15 a.m. to 10:30 a.m. From 10:30 a.m. to 12:30 p.m. they will handle complaints. The officers and complainants will be notified that they will be heard at 10:30 a.m. By this schedule, the Chief and his staff would not have to stand around during the complaint session. He asked that Captain Tavares or a represent be available during the 10:30 session. Complainants will be allowed to give a statement in open session, but he strongly suggested that any questions be done in executive session. He asked if the County would be open to liability if a complainant made allegations in open session and the newspapers printed it.

Corporation Counsel suggested that they look into how the City and County of Honolulu conducts their investigations. Complaints are immediately referred to their investigator. The Hawaii Police Commission could have its investigator investigate every complaint.

Ms. Pelayo stated that the Honolulu Police Commission holds a regular meeting every other month and twice a month they have executive session meetings for complaints. At one time the Hawaii Police Commission sent every complaint to its investigator, and its investigative budget went up to \$60,000. Currently, it's at \$30,000.

Chair Bertsch stated that he would like to try the new meeting format at the next meeting—police business at 9:00 a.m. and complaints at 10:30 a.m. Commissioner Manago stated that he would like to give it a shot if it makes them more efficient and subject to less criticism. Chair Bertsch stated that they would change the format of the next meeting.

Lunch recess was called at 12:28 p.m. The meeting reconvened at 1:35 p.m.

### **EXECUTIVE SESSION**

Commissioner Mitchell motioned 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 will be involved and a closed session is requested; 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); and to do the Chief of Police annual evaluation pursuant to HRS 92-5 (a) (2) and Hawaii County Charter Section 13-20 (b). Commissioner Lundkvist seconded the motion, and it carried unanimously.

Executive session convened at 1:36 p.m. Regular session reconvened at 2:20 p.m.

**ACTION ON EXECUTIVE SESSION MATTERS**

- Requests for Reconsideration of Complaint.

Complaint HPC 04-06: Complainant requests a reconsideration of the commission's decision to exonerate the officers in his complaint about the manner in which he was treated while high on ice. (Second request.) Commissioner Hara motioned to file this correspondence. Commissioner Manago seconded the motion, and it carried unanimously. (No motion to reconsider; previous decision stands.)

Complaint HPC 04-07: Complainant requests a reconsideration of the commission's decision to exonerate the officer in his complaint about the manner in which he was treated while high on ice. He also requests compensation. (Second request.) Commissioner Lundkvist motioned to file this correspondence. Commissioner Frazier seconded the motion, and it carried unanimously. (No motion to reconsider; previous decision stands.)

Complaint HPC 04-39: Complainant requests a reconsideration of the commission's decision to exonerate the officer in her complaint about the manner in which she was treated during her arrest. (Second request.) Commissioner Frazier motioned to file this correspondence. Commissioner Manago seconded the motion, and it carried unanimously. (No motion reconsider; previous decision stands.)

- Complainant requests information on Complaint HPC 04-29 and criminal case. Commissioner Frazier motioned to refer the complainant to the prosecutor and to file this correspondence. Commissioner Manago seconded the motion, and it carried unanimously.

- Investigation and Deliberation of Complaints.

Complaint HPC 04-48: Complainant was cited for going 73 mph in a 55 mph zone. He alleged that the officer was rude and was either wrong or lying. Commissioner Frazier motioned to exonerate the officer. Commissioner Mango seconded the motion, and it carried unanimously.

Complaint HPC 04-51: Complainant stated that HI-PAL conducted a basketball tournament. He alleged that those who attended took all the parking, and when he complained, the announcer brushed him off by saying that it was public parking. Being that the commission could not find any misconduct, Commissioner Lundkvist motioned to refer the complaint to the Chief for his review and for informational purposes. Commissioner Manago seconded the motion, and it carried unanimously.

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

**ANNOUNCEMENTS**

- Chair Bertsch reminded the members to submit their financial disclosure statement.
- Collection of files and documents – Done.
- Chair Bertsch announced that the next monthly meeting would be held on February 11, at 9:00 a.m. at the Hawaii Naniloa Resort in Hilo.
- Chair Bertsch stated that he would like to implement a community outreach program whereby each commissioner would attend a community meeting of an organization that he or she doesn't belong to and to invite the Captain, Deputy, or Chief. They could just sit and listen, answer questions, or participate.
- Commissioner Frazier suggested a police department orientation.

**ADJOURNMENT**

The meeting was adjourned at 3:40 p.m.

SUBMITTED:

APPROVED:

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JOSIE PELAYO, SECRETARY

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JOHN M. BERTSCH, CHAIR