

**HAWAII COUNTY POLICE COMMISSION  
SPECIAL MEETING MINUTES – REGULAR SESSION  
OCTOBER 15, 2004  
OHANA KEAUHOU BEACH RESORT**

**CALL TO ORDER**

Chair Horace Hara called the meeting to order at 9:25 a.m. after the arrival of Commissioner Lundkvist.

**ROLL CALL**

Present:	Horace S. Hara, Chair	Also Present:	Lawrence K. Mahuna, Police Chief
	Dwight K. Manago, Vice Chair		Harry S. Kubojiri, Deputy Chief
	Pudding Lassiter, Commissioner		James Day, Major
	Betsy Mitchell, Commissioner		John Dawrs, Major
	Karolyn P. Lundkvist, Commissioner		Henry Tavares, Captain
	John M Bertsch, Commissioner		Lincoln Ashida, Corporation Counsel
			Josie Pelayo, Secretary

Absent: James A. Frazier, Commissioner  
Peter P. Muller, Commissioner

A quorum was present.

**APPROVAL OF AGENDA**

Commissioner Lassiter motioned to approve the agenda. Vice Chair Manago seconded the motion, and it carried unanimously.

**STATEMENTS ON AGENDA ITEMS** (Open to the public.)

Corporation Counsel Ashida explained the difference between open and executive sessions. Members of the public only have the right to make a statement in public, but police officers are allowed to give testimony in executive session. They need six votes to meet in executive session.

MICHAEL PESTANA, COMPLAINT HPC 04-37: Stated that his complaint is related to the last complaint he filed. A couple of months ago he went to Kona to buy a truck. While he was at the Lanihau Shopping Center, one of his friends from before punched and kicked him. A couple of minutes later Officer Vickery came by and said he was watching but did nothing. Several people at the shopping center saw the whole thing. Officer Vickery told him that he would be arrested if he didn't shut up. A couple of days later the officer told him that he was Caucasian drug dealer, and his name was all over town. The other guy got away with assault.

RICK HABEIN, CORRESPONDENCE 04-71: Stated that he is the President of the Sheep Producer's Association. After writing his letter to the commission, he found out that the commission might not be the body to come to. He read his letter, expressing concern over flocks of sheep in Waimea being taken out at night by dog packs and their need for help.

Commissioner Bertsch arrived at 9:50 a.m.

MR. JOHN BOOR, CORRESPONDENCE 04-71: Stated that he has been raising sheep for over 25 years. The problem with wild and domestic dogs killing sheep has gotten worse. He would like to know if some ranchers could be deputized agents so that they could take care of the problem on the spot without getting in trouble with the police. He would like to have stiffer laws and penalties -- three strikes, and you can't own a dog in Hawaii. They need to enforce the leash law and owners abandoning their dogs.

Chair Hara suggested that they speak with Chief Mahuna when the commission goes into executive session.

### **STATEMENTS ON AGENDA ITEMS (EXECUTIVE SESSION)**

Vice Chair Manago motioned to meet in executive session to consider discipline and charges against officers or employees of the Hawai'i County Police Department where consideration of matters affecting privacy will 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 Hawai'i County Charter Section 13-20 (b). Commissioner Lundkvist seconded the motion, and it carried unanimously. The commission convened into executive session at 10:03 a.m., and then reconvened back into regular session at 10:28 a.m.

### **APPROVAL OF MINUTES**

Vice Manago motioned to approve the minutes of August 26 and September 10, 2004. Commissioner Lassiter seconded the motion, and it carried unanimously.

### **PERSONNEL ORDERS**

Vice Chair Manago motioned to approve Personnel Orders Nos. 2004-105 to 2004-121. Commissioner Mitchell seconded the motion, and it carried unanimously.

### **COMMUNICATIONS**

Vice Manago motioned to accept the communications as listed. Commissioner Bertsch seconded the motion.

#### **Discussion:**

Correspondence 04-64: Corporation Counsel Ashida stated that this is a personnel matter, and the Chief should be given a copy. He will send Ms. Baker a letter stating that this deals with civil service laws.

Correspondence 04-73, Chief Mahuna's recommendation on terminology to use for disposition of complaints: Vice Chair Manago motioned to add this to the agenda. Commissioner, Lassiter seconded the motion, and it carried unanimously. Vice Chair Manago motioned to refer this to the Rules and Policies Committee. Commissioner Lassiter seconded the motion. Discussion: Chair Hara stated that they would have to have a public hearing for any rule change. Corporation Counsel Ashida stated that they could coincide the public hearing with the monthly meeting. The motion carried unanimously.

Correspondence 04-63: Vice Chair Manago asked for Chief Mahuna's input. Chief Mahuna stated that this would incur more costs. They would have an even tougher time getting officers. They like the fleet system. Even the Honolulu Police Department doesn't have a 100% fleet. Corporation Counsel Ashida stated that this resolution does not mandate a fleet. It just says that the County Council will put up \$20,000 to study this further. He believes that the cost of a fleet would be substantial, and the county's only real revenue would come from increased property taxes. The County Council cannot tell the Chief what to do. In his opinion, the subsidize fleet is more progressive.

### **COMMITTEE REPORT**

- **Budget and Finance** (Hara/Manago): Vice Chair Manago stated that they should be looking for someone to assist with reviewing the budget. Commissioner Frazier is very interested in this. Chair Hara stated that he would ask Commissioner Frazier to be on the committee. The Chair should be the other person on the committee.
- **Office Management and Staffing** (Muller/Mitchell): The committee had no report.
- **Rules and Policies** (Bertsch): The committee had no report.
- **Contractual Services** (Frazier)
  - Option to renew Legal Eyes' Contract: Chair Hara stated that the contract is up for renewal in February. Vice Chair Manago stated that Dan Boe's reports are exactly what they wanted, but he is concerned about his timeliness.

Commissioner Bertsch stated that he is still an advocate for sending investigations to Internal Affairs first and to only have their investigator look at complaints that they have concerns about after IA's investigation.

Chair Hara stated that he feels strongly that they should have an independent body. He likes being able to tell the public that they have an independent body to conduct investigations.

- **Public Relations** (Hara/Lassiter): Commissioner Lassiter stated that she sent out a news release of the HSLEOA Conference, and the story and photo is in today's Hawaii Tribune Herald.

### **CHIEF'S REPORT**

Including:

- **Crime:** Major Day summarized the written report. Regarding Mr. Miyose who was reported missing, he was found within a mile of his home. A psychic from Honolulu directed the family on where to find him.

Three people were arrested in East Hawaii with 3 pounds of ice. Commissioner Lassiter asked for an opportunity to see what ice looked like, and Major Day suggested that she call the vice department.

- **Traffic:** Major Dawrs summarized the written report. They have been tasked with assigning officers to areas that they don't normally patrol with radar such as the Manuka boundary, Queen K Highway, and the mauka road. In response to Vice Chair Manago stating that Area II has a large amount of auto thefts, Major Dawrs stated that Kona has a lot of tourists that people prey on. Oftentimes tourists are observed putting all their valuables in their trunk before they leave the car. The department does periodic stakeouts. The visitor industry does not want to put out large signs that might scare tourists.
- **Personnel:** Chief Mahuna stated that they hope to have the two Assistant Chiefs by December.

Vice Chair Manago stated that with the new rookies in West Hawaii, he now sees more police officers patrolling the streets.

In response to Corporation Counsel Ashida's inquired into whether there were minimum requirements for majors and assistance chiefs and whether the department had flexibility. Chief Mahuna stated that a captain has to have been a captain for one year before becoming a major, but they do have flexibility. Corporation Counsel Ashida stated that in his department, he has seen some requirements in the MQs that are outdated. He would like the chief to have flexibility in selecting people he trusts and needs.

- **Finance:** There were no questions to the written report.
- **Commendations:** Chief Mahuna reported receiving 15 commendations since the last meeting. This shows a trend that people are becoming more and more satisfied with the services that the department is providing, and they are taking more ownership of the police department.
- **Commanders' meeting minutes:** Chief Mahuna reported that the commanders have been informed to proactively look at areas where people are dying on our streets. Speed has been determined to be the biggest cause. Commanders have been asked to come up with plans and areas for enforcement. They are having a difficult time with morning and afternoon traffic.

Commissioner Bertsch expressed concern over the article in the newspaper of the woman who passed another vehicle on the right shoulder. The newspaper vindicated her. He asked if they could file a complaint against her. Chief Mahuna stated that Commissioner Muller could file a complaint. Commissioner Bertsch asked if they could send out media releases stating that passing on the right is illegal.

In response to an ongoing complaint, Chief Mahuna stated that waiting on a case for 90 days is a very long time, especially if it's a small case. This was brought up with the commanders. GOs says that they are to contact people on the status of their

complaint. Hopefully, in the next few months, they won't be seeing anymore 90-day cases.

- **Other departmental activities:** Deputy Chief Kubojiri stated that through Civil Defense, they recently acquired a communications van. Communication is one of their biggest problems. The vehicle has the capability to allow their people to talk to each other. It has a cell phone, satellite site, three laptop computers, and a camera that goes up 40 ft.

### **UNFINISHED BUSINESS**

**Correspondence 04-49**, from Lisa J. Sims-Hulsey requesting that the commission reopen her complaint. Vice Chair Manago stated that this was deferred to that Kona meeting in order for Ms. Sims-Hulsey to attend. However, she did not show up. He motioned to file the correspondence. Commissioner Bertsch seconded the motion, and it carried unanimously.

### **NEW BUSINESS**

#### **Review of chief of police evaluation form for chief's evaluation in December:**

Chair Hara stated that normally they do a mid-year update in July, but he was not at that meeting, and it was not done. When they do the evaluation in December, they will draw up a matrix with ratings and comments and then generalize the comments. Chief Mahuna stated that they are finalizing their goals and objectives.

### **EXECUTIVE SESSION**

Vice Chair Manago motioned to meet in executive session to consider discipline and charges against officers or employees of the Hawai'i County Police Department where consideration of matters affecting privacy will 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 Hawai'i County Charter Section 13-20 (b). Commissioner Lassiter seconded the motion, and it carried unanimously. The commission convened into executive session at 11:37 a.m., and reconvened back into regular session at 11:48 a.m.

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

#### **Investigation and Deliberation of Complaints:**

**HPC 04-36:** Complainant alleged that when he called the police station, officers slammed the phone on him. Vice Chair Manago motioned to not sustain the complaint. Commissioner Bertsch seconded the motion, and it carried unanimously.

**HPC 04-37:** Complainant alleged that an officer told him he would be arrested for fighting and called him a drug dealer. Commissioner Bertsch motioned to defer the complaint until additional police reports are received. Vice Chair Manago seconded the motion, and it carried unanimously.

**HPC 04-38:** Complainant alleged that from 1988 to 2004, officers have failed to perform their duties when he made noise nuisance complaints. Vice Chair Manago motioned to

not sustain the complaint. Commissioner Bertsch seconded the motion, and it carried unanimously.

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

**ANNOUNCEMENTS**

- Collection of files and documents: Done.
- Chair Hara announced that the next monthly meeting is scheduled for November 19, 2004, 9:00 a.m., at the Waimea Civic Center, next to the police station.

**ADJOURNMENT**

The meeting was adjourned at 11:50 a.m.

SUBMITTED:

APPROVED:

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JOSIE PELAYO, SECRETARY

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HORACE S. HARA, CHAIR