

**HAWAI'I COUNTY POLICE COMMISSION  
MINUTES – REGULAR SESSION  
OCTOBER 25, 2002  
HAPUNA BEACH PRINCE HOTEL**

**CALL TO ORDER**

Chair Wilfred Okabe called the meeting to order at 10:00 a.m.

**ROLL CALL**

Present:	Wilfred M. Okabe, Chair	Also Present:	Lawrence Mahuna, Acting Chief
	Horace S. Hara, Vice Chair		Thomas Hickcox, Assistant Chief
	John M. Bertsch, Member (arrived 10:27 a.m.)		Lincoln Ashida, Corporation Counsel
	Peter Hendricks, Member		Josie Pelayo, Secretary
	Daniel C. Kama, Member		
	Phoebe M. Lambeth, Member		
	Dwight K. Manago, Member		
	Peter P. Muller, Member	Absent:	Walter Moe, Member

**APPROVAL OF AGENDA**

Commissioner Lambeth moved to approve the agenda. Commissioner Muller seconded the motion, and it carried unanimously.

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

Corporation Counsel explained the difference between open and closed sessions. He cautioned the public about making statements that may be slanderous or libelous.

RHONDA ROBISON presented testimony regarding Complaints HPC 02-36 and 02-37 of when she was arrested, and her medical marijuana was taken away by vice officers (Attachment A). She showed a brief videotape of the incident.

JOHN ROBISON spoke regarding Complaints HPC 02-38 and 02-39 of when he was arrested, and his medical marijuana was taken away by vice officers (Attachment B).

KEALOHA WELLS spoke regarding Complaints HPC 02-40 and 02-41 of when she was arrested, and her medical marijuana was taken away by vice officers (Attachment C).

BRENDA FORD stated that her mother died of cancer and suffered excruciating side effects of chemotherapy. Although her mother would not have considered medical marijuana for treatment, she does not want anyone who is carrying a medical marijuana card to suffer as her mother did.

**STATEMENTS ON AGENDA ITEMS (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)).

The commission convened into executive session at 10:33 a.m., and reconvened back into open session at 2:30 p.m.

### **APPROVAL OF MINUTES**

Commissioner Lambeth moved to approve the minutes of August 30 and September 13, 2002, regular and executive sessions. Commissioner Muller seconded the motion, and it carried unanimously.

### **PERSONNEL ORDERS**

Commissioner Manago moved to accept Personnel Orders Nos. 2002-136 to 2002-151. Commissioner Lambeth seconded the motion, and it carried unanimously.

### **COMMUNICATIONS**

Commissioner Lambeth moved to accept the communications as listed. Commissioner Manago seconded the motion, and it carried unanimously.

### **COMMITTEE REPORTS**

- Budget and Finance (Manago/Okabe) - Review of FY 2003-04 Budget  
The committee had no report.
- Office Management and Staff (Hara/Muller): The committee had no report.
- Rules and Policies (Moe/Bertsch): The committee had no report.
- Contractual Services (Kama): The committee had no report.
- Public Relations (Lambeth/Okabe): Commissioner Lambeth announced that the recruit graduation would be on November 15 at Nani Mau Gardens.

### **CHIEF'S REPORT**

- Crime: Assistant Chief Hickcox summarized the written report.
- Traffic: Assistant Chief Hickcox summarized the written report.
- Personnel: Acting Chief Mahuna reported having 18 sworn and 12 civilian vacancies and summarized the written report. He has asked the Mayor for 10 funded "trained positions." The Assistant Chief for West Hawaii has been approved. They now need to meet with the union and change the General Orders. The Business Manager position has been reclassified to Accountant IV because this person only handles finances, not personnel. He will be asking the Mayor for more than the status quo budget for equipment.
- Finance: Acting Chief Mahuna summarized the written report.
- Commendations: Acting Chief Mahuna reported receiving 22 commendations.

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:** None

**ACTION ON EXECUTIVE SESSION MATTERS**

- **Correspondence 65, request for legal counsel by Officer Mark Farias in Civil No. 02-1-0149.** Commissioner Manago moved to approve legal counsel as the officer acted within the course and scope of his duties. Vice Chair Hara seconded the motion, and it carried unanimously.

**Consideration and Investigation of Complaints**

**Complaint HPC 01-51:** Review of Akal's investigation of complainant's allegations that police officers refused to take his report and always hang up on him.

Commissioner Manago moved to exonerate Officer #1 on the charges of Standard of Conduct, Performance of Duty, and Duty to Report all Offenses. Vice Chair Hara seconded the motion, and it carried unanimously.

Commissioner Manago moved to exonerate Officer #2 on the charges of Standard of Conduct, Performance of Duty, and Duty to Report all Offenses. Commissioner Muller seconded the motion, and it unanimously carried.

Commissioner Lambeth moved to exonerate Officer #3 on the charges of Standard of Conduct, Performance of Duty, and Duty to Report all Offenses. Commissioner Manago seconded the motion, and it carried unanimously.

**Complaint HPC 02-34:** Complainant alleged that an officer scolded and blamed her for her son's bad behavior. She also alleged that he yelled at her. Vice Chair Hara moved to refer the complaint to the Chief because it concerns administrative matters. Commissioner Lambeth seconded the motion, and it carried unanimously.

**Complaint HPC 02-35:** Complainant alleged that while directing traffic, an officer spoke to her in an arrogant and unprofessional manner. Commissioner Lambeth moved to refer the complaint to the Chief because it concerns administrative matters. The motion was seconded by Vice Chair Hara and unanimously carried.

**Complaint HPC 02-36:** Complainant alleged that an officer should not have sought a search warrant for their medical marijuana and violated many departmental rules during the arrest.

**Complaint HPC 02-37:** (Same incident as HPC 02-36.) Complainant alleged that the officer is responsible for the conduct of his subordinate; and that during their arrest, he did not show professionalism and was overbearing.

**Complaint HPC 02-38:** (Same incident as HPC 02-36.) Complainant alleged that an officer violated many department rules during their arrest.

**Complaint HPC 02-39:** (Same incident as HPC 02-36.) Complainant alleged that the officer is responsible for the conduct of his subordinate; and that during their arrest, the officer did not show professionalism, was overbearing, and mistreated them.

**Complaint HPC 02-40:** (Same incident as HPC 02-36.) Complainant alleged that during their arrest, an officer was not impartial, criticized her medical treatment, and violated many department rules.

**Complaint HPC 02-41:** (Same incident as HPC 02-36.) Complainant alleged that the officer is responsible for the conduct of his subordinate, and that during their arrest, he threatened their family pet.

Commissioner Bertsch moved to defer the Complaints HPC 02-36, 37, 38, 39, 40, and 41 until the criminal and civil cases are completed. Commissioner Muller seconded the motion, but it died when no other votes were called in favor of the motion.

Commissioner Manago moved to accept Complaints HPC 02-36, 37, 38, 39, 40, and 41 for further investigation. Vice Chair Hara seconded the motion, and it carried unanimously.

**Complaint HPC 02-42:** Complainant alleged that an officer came into her place of employment to complain about his bill and yelled and intimidated her. He claimed to be off-duty, but was in uniform and had his hand on his weapon during the incident.

Commissioner Bertsch moved to accept the complaint for further investigation. Commissioner Kama seconded the motion. Discussion: Commissioner Manago stated that the complaint was received more than 60 days from the incident. The motion died when no other votes were called in favor of the motion.

Commissioner Muller moved to refer the complaint to the Chief. Commissioner Manago seconded the motion, and it carried unanimously.

**Complaint HPC 02-43:** Complainant alleged that while directing traffic, an officer yelled at her in a demeaning manner. Commissioner Lambeth moved to refer the complaint to the Chief because it concerns administrative matters. Vice Chair Hara seconded the motion, and it carried unanimously.

**Complaint HPC 02-44:** Complainant alleged that two officers spoke to him in an overbearing manner. When he asked for their badge numbers, one of the officers told him to get it himself and that they would not give it to him. Commissioner Lambeth moved to exonerate the officers. Commissioner Manago seconded the motion, and it carried unanimously.

**Complaint HPC 02-45:** Complainant's car was stolen, and he filed a theft report. He alleged that an officer located his car, but then cited him for abandoning his vehicle. Before he could retrieve his vehicle, it was stolen again, but he still received the citation. Commissioner Manago moved to accept the complaint for further investigation. Commissioner Lambeth seconded the motion, and it carried unanimously.

**Complaint HPC 02-46:** Complainant alleged that when he complained to an officer about his vehicle being parked in a manner that was causing a driving hazard, the officer responded in a vulgar manner and threatened to issue parking tickets to him and the others with him if their cars were parked on the street. Commissioner Manago moved to defer the complaint to the next meeting in Hilo. Commissioner Bertsch seconded the motion, and it carried unanimously.

### **ANNOUNCEMENTS**

Chair Okabe announced that the next meeting is scheduled for November 8, 2002, at the Hilo Police Station, at which time they would be interviewing the semi-finalists for chief of police.

The next monthly meeting is scheduled for November 29, 2002, at the Keauhou Beach Resort.

### **EXECUTIVE SESSION**

Commissioner Manago moved to meet in executive session to consider the hire of an employee where consideration of matters affecting privacy will be involved and to consult with Corporation Counsel on questions and issues pertaining to the commission's powers, duties, and privileges, immunities, and liabilities. Commissioner Muller seconded the motion, and it carried unanimously.

- Chief of Police Selection Process
  - Review applications for chief of police
  - Modeling of questions for interviews of semi-finalists

The commission convened into executive session at 3:30 p.m., and reconvened back into open session at 4:17 p.m.

### **SELECTION OF SEMI-FINALISTS FOR CHIEF OF POLICE**

The commission voted on each applicant that met the minimum requirements. Applicants who did not meet the minimum requirements or submitted an incomplete application were not considered as semi-finalists for interviews.

**Applicant #2:** Commissioner Manago moved to eliminate Applicant #2 as a semi-finalist for an interview. Commissioner Lambeth seconded the motion. Discussion: Commissioner Manago stated that the applicant last worked as a police officer twelve years ago, and that should be considered. Vice Chair Hara expressed concern over the applicant's lack of administrative experience. The motion carried unanimously.

**Applicant #3:** Vice Chair Hara moved to accept the applicant as a semi-finalist for an interview. Commissioner Lambeth seconded the motion. Discussion: Commissioner Manago stated that the applicant works in a very small area. He doesn't believe a lieutenant is qualified to be the chief. Commissioner Hendricks pointed out that he has an MBA. Vice Chair Hara stated that he met the minimum requirements. The motion carried with Commissioner Manago casting a nay vote.

**Applicant #4:** Commissioner Lambeth moved to accept Applicant #4 as a semi-finalist for interview. Commissioner Muller seconded the motion. Discussion: Commissioner Muller stated that the applicant has quite a resume and is up for the position of Major in the National Guard. A person who goes to ranger school comes out a leader. Commissioner Manago stated that even though the applicant has military experience, he would not consider a sergeant to lead the department. Vice Chair Hara stated that he met the minimum requirements. The motion carried with Commissioner Manago casting a nay vote.

**Applicant #7:** Commissioner Lambeth moved to accept Applicant #7 as a semi-finalist for interview. Vice Chair Hara seconded the motion. Discussion: Commissioner Muller expressed concern that if he were selected, they would probably be going through this process in a few years. Commissioner Kama stated that he believes the applicant has a bad back, and all he needs is an incident. It was pointed out that the person selected must pass a medical examination. The motion carried with Commissioner Kama casting a nay vote.

**Applicant #8:** Commissioner Manago moved to accept Applicant #8 as a semi-finalist for interview. Commissioner Hara seconded the motion, and it carried unanimously.

**Applicant #9:** Commissioner Manago moved to accept Applicant #9 as a semi-finalist for interview. Commissioner Kama seconded the motion, and it carried unanimously.

To recap, Ms. Pelayo stated that Applicants #3, #4, #7, #8, and #9 would be interviewed.

#### **ADDITIONAL ANNOUNCEMENTS**

None.

#### **ADJOURNMENT**

The meeting was adjourned at 4:40 p.m.

SUBMITTED:

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JOSIE PELAYO, SECRETARY

APPROVED:

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WILFRED M. OKABE, CHAIR