

**MINUTES OF THE MEETING OF THE MAUI POLICE COMMISSION
WEDNESDAY, FEBRUARY 18, 2009, 10:00 A.M.
CHIEF'S CONFERENCE ROOM, WAILUKU, MAUI, HAWAII**

PRESENT Doreen Gomes, Chair
Keone Ball, Vice-Chair
Verna Boonstra, Member
Sean Connolly, Member
Tina Gomes, Member
David Jorgensen, Member
John Ornellas, Member
Kirk Tanaka, Member
Adrienne Heely, Deputy Corporation Counsel

ALSO PRESENT Thomas M. Phillips, Chief of Police
Gary Yabuta, Deputy Chief of Police
Sydney Kikuchi, Assistant Chief Investigative Services
Wayne Ribao, Assistant Chief Uniformed Services
Clayton Tom, Assistant Chief Support Services
Mr. Greg Takahashi, Business Manager
Milton Matsuoka, Captain, Criminal Investigation Division
Michael Callinan, Detective, Criminal Investigation Division
Robert Hill, Lieutenant, Traffic Section
M. Greer Prince, Research Analyst
Lila Fujimoto, Reporter, The Maui News
Sarah Ruppenthal, Reporter, Hawaii Publications Inc.

EXCUSED Leil Koch, Member (Vacation)

**CALL/
QUORUM** Chair Gomes called the meeting to order at 10:00 a.m. A quorum was ascertained with eight Commissioners present to conduct business.

OPENING PRAYER The opening prayer was offered by Chaplain Paul Kaneshiro

PRESENTATION **By the Public of Oral or Written Testimony on Agenda Items of the Commission:**

Ms. Judy Jarvie, Ms. Kaitee Lusk and Mr. Dennis Jarvie gave a testimony on behalf of Jessie Jarvie, victim of the December 24, 2008, Polipoli incident.

APPROVAL OF AGENDA **A motion to approve the agenda as circulated was made by Commissioner Jorgensen. The motion was seconded by Commissioner Connolly and carried unanimously.**

Chair Gomes wished to add New Business Item (a) Discussion of Commission Rules; and in Executive Session, add Item (d) Meeting with Chief Phillips

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Commissioner Ornellas wished to amend next schedule meeting to read March 18, 2009 instead of February 18, 2009.

A motion to accept the agenda as amended was made Commission Jorgensen and seconded by Commissioner Connolly. The motion carried unanimously.

APPROVAL OF MINUTES **A motion was made by Vice-Chair Ball to approve the minutes of January 21, 2009. The motion was seconded by Commission Connolly.**

Counselor Heely made a correction on Page 6, of Section 12-101-23 which should read 13-101-23. Also on Page 7 the same section should be corrected. On Page 2 of Executive Section Minutes, Vice-Chair Ball made reference to the County Charter when actually it is state law that requires the first deputy of every department to make not more than 95% of the department head. (HRS 46-24) The motion to approve the minutes then carried unanimously.

LETTERS OF COMMENDATION (20)

The following personnel received Letters of Commendation during the month of February: Captain V. Ramos; Detectives B. Kaya, M. Kaaa; Sergeants J. Gapero, K. Kikuchi, D. Poepoe; Officers S. Ah Loo, D. Arnds, C. Bajadali, J. Casio, D. Devine, L. Freeman, L. Galario, H. Gilroy, E. Grace, N. Krau, C. Kusunoki, K. Nagano, R. Saribay, C. Schmidt

A motion to accept and file the Letters of Commendation was made by Commissioner Jorgensen and seconded by Commissioner Tanaka. The motion carried unanimously.

CHIEF'S REPORT Chief Phillips introduced Greer Prince, Research Analyst who did an interesting presentation on Use of Force.

Chief Phillips informed the Commissioners the passing of Former Police Commissioner Mr. Edwin Ige Sr. He was a Police Commissioner from 1964 to 1975, and served three terms as chair.

Assistant Chief Kikuchi gave the report for the Investigative Services Bureau.

Assistant Chief Wayne Ribao gave the report for the Uniformed Services Bureau.

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Officers of the Month were:

District 1 – Officer Dennis Arnds
District 4 – Officer Walter Ahuna
District 5 – Officer Kyle Bishaw-Juario
District 6 – Officer Asbel Polanco

Assistant Chief Clayton Tom gave the report for the Support Services Bureau

The Live scan has been implemented in the Wailuku and Kihei Stations.

FINANCIAL Mr. Takahashi stated there is no financial report for this month.

PERSONNEL Mr. Takahashi handed out the Staffing Report which reflects 37 sworn vacancies and 25 civilian vacancies. There are 39 conditional offers of employment pending for sworn personnel.

CORRESPONDENCE

- a. PC 09-09 Honolulu Police Commission Meeting Minutes of 12/03/08
- b. PC 09-10 Hawaii County Police Commission Minutes of 12/03/08
- c. PC 09-11 Hawaii County Police Commission Minutes of 12/19/08
- d. PC 09-12 Hawaii County Police Commission Minutes of 12/30/08
- e. PC 09-13 Honolulu County Police Commission Minutes of 12/17/08

A motion to file the correspondence was made by Commissioner Tanaka and seconded by Commissioner Jorgensen. The motion carried unanimously.

A motion to move into Executive Session was made by Commissioner Connolly and seconded by Commissioner Tanaka. The motion carried unanimously.

RECESS (11:30 a.m.)

RECONVENE (11:45 a.m.)

EXECUTIVE SESSION

- a. MPC 08-11

A motion was made by Commissioner Gomes that there is sufficient evidence to support the allegation of the complaint and grounds to justify a recommendation

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that remedial action be taken. The motion was seconded by Commissioner Connolly and carried unanimously.

Chair Gomes wished to swap Item (d) Meeting with Chief Phillips and Item (b) Discussion for the Process of Selecting the Chief of Police

- b. Meeting with Chief Phillips

Chief Phillips announced his retirement to the Commissioners.

(12:30) Commissioner Jorgensen exited the meeting.

- c. Discussion for the Process of Selecting the Chief of Police

Chair Gomes asked that the Commissioners review the June 1, 2006 Proposed Process for Selection of Chief for Maui County.

A motion was made by Commissioner Tanaka to form a sub-committee consisting of Chair Gomes, Vice-Chair Ball and Commissioner Connolly to review the Proposed Process for Selection of Chief. The motion was seconded by Commissioner Gomes and carried unanimously.

- d. Salary Commission Update

Chair Gomes, Vice-Chair Ball and Commissioner Tanaka attended the Salary Commission meeting on February 13, 2009. No decision was made regarding a raise for the Chief of Police and Deputy Chief of Police.

REGULAR SESSION A motion to return to Regular Session was made by Commissioner Connolly and seconded by Vice-Chair Ball. The motion carried unanimously.

RATIFY A motion to ratify the actions taken in Executive Session was made by Commissioner Connolly. The motion was seconded by Vice-Chair Ball and carried unanimously.

NEW BUSINESS

- a) Discussion on Commission Rules.

Vice-Chair Ball was reviewing the rules and had questions regarding three of them that need to be addressed and possibly changed.

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13-101-30 Presentation of oral or written testimony on agenda items of the commission. (1) Notice at least forty-eight hours prior to the scheduled meeting time identifying the agenda item for which testimony will be presented.

Vice-Chair Ball stated the way it is interpreted is only if it's on a complaint. Counselor Sloper told him that if people are proposing and testifying on an agenda item regarding charges against officers, then they need to comply with those requirements.

13-101-27 Hearing Procedure (a) The commission shall call all witnesses including the complainant and the accused party to testify on issues before the commission.

Vice Chair Ball suggested changing (a) "The commission **shall** call all witnesses including the complainant and the accused party to testify on issues before the commission" to: (a) "The commission **may** call all witnesses including the complainant and the accused party to testify on issues before the commission."

Deputy Corporation Counsel Heely said there is state law that governs proposed rule changes, notice, public hearing and publication of the changes. It's a complex process. Counselor Heely stated the current rules were last amended in 2004, so the Commission may want to work with Corporation Counsel or form a sub-committee to revamp the rules and suggest changes. It does require the posting of the proposed rules, which can be posted on line with at least 30 days notice, and calling a meeting to see if anyone wishes to come in and testify whether they have comments on the proposed changes. The Commission may also wish to revise the Police Commission Handbook.

13-101-53 Action by Commission (a) "Upon receipt of the police officer's written request, the Commission shall request that the chief or the chief's authorized designee prepare and submit a written report to the commission informing the Commission of the current status of the department's investigation of the matter with regard to which the police officer is seeking legal representation from the County. The written report shall include all relevant police report(s) and any other documents pertaining to the matter. The report shall be submitted to the commission within seven calendar days of the filing of the request. The commission may, in its discretion, extend the time for submittal of the report. "

Vice-Chair Ball stated that most of the time we don't get a written report from the Chief. We could change that portion of the rule or we could require a written report from the Chief or his representative providing their opinion that the officer followed the criteria so he should get representation or he did not follow criteria and should not be represented.

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Commissioner Ornellas made a motion to change “shall” to “may” and Commission Gomes seconded.

Counselor Heely suggested a motion be made to have Vice-Chair Ball draft an email to Deputy Corporation Counsel to make the proposed changes to the rules and review all rules for proposed changes.

Commissioner Ornellas withdrew the motion to change “shall” to “may” and Commission Gomes withdrew her second.

Commissioner Connolly made a motion to have Vice-Chair Ball draft a letter to Corporation Counsel to amend the Commission Rules, and change “shall” to “may” in 13-101-27. There was no second on this motion.

Counselor Heely suggested the Commission review all the rules at one time and see if there are other changes that need to be made.

Vice-Chair Ball asked Commissioner Connolly to rescind his motion. The item will be deferred to the March meeting with copies of the rules available.

ADJOURN (1:00 p.m.) A motion to adjourn was made by Chair Gomes and seconded by Commissioners Gomes. The motion carried unanimously.

SUBMITTED BY

Cynthia Sasada, Secretary Pro-Tem

APPROVED

Doreen N. Gomes, Chair