

**MINUTES OF THE MEETING OF THE MAUI POLICE COMMISSION
WEDNESDAY, AUGUST 12, 2009 AT 10:00 A.M.
CHIEF'S CONFERENCE ROOM, WAILUKU, MAUI, HAWAII**

- PRESENT** Doreen N. Gomes, Chair
Keone Ball, Vice-Chair
David Jorgensen, Member
Kirk Tanaka, Member
Ron Vaught, Member
Jeff Ueoka, Deputy Corporation Counsel
- ALSO PRESENT** Gary Yabuta, Chief of Police
Clayton Tom, Deputy Chief of Police
Sydney Kikuchi, Assistant Chief Investigative Services
Wayne Ribao, Assistant Chief Uniformed Services
Danny Matsuura, Assistant Chief Support Services
Mr. Greg Takahashi, Business Manager
- DELAYED** Tina Gomes, Member
- EXCUSED** Sean Connolly, Member (Weather)
Leil Koch, Member (Vacation)
John Ornellas, Member (Weather)
- CALL/
QUORUM** Chair Gomes called the meeting to order at 10:00 a.m. A quorum was ascertained with five Commissioners present to conduct business.
- OPENING PRAYER** The opening prayer was offered by Chaplain Jeffrey Soga of the Kahului Hongwanji Mission
- PRESENTATION** By the Public of Oral or Written Testimony on Agenda Items of the Commission:

None
- APPROVAL OF AGENDA** A motion was made by Vice-Chair Ball to approve the agenda. The motion was seconded by Commissioner Tanaka and carried unanimously.
- APPROVAL OF MINUTES** A motion to approve the minutes of July 15, 2009 was made by Commissioner Tanaka and seconded by Commissioner Jorgensen. The motion carried unanimously.

LETTERS OF COMMENDATION (20)

Lieutenant D. Rickard; Sergeants J. Fletcher, L. Kanaele, M. Joaquin, J Perkett, R. Rodrigues; Officers T. Dods, M. Kaya, N. Krau, O. Martin Del Campo, K. Masse, B. Rodrigues, S. Singh (2); Ms. H. Helm, Ms. S. McPherson, Ms. K. Paz, Ms. M. Prince, Ms. S. Rawlins-Len-Wai, Ms. W. Tancayo-Mebille,

**MINUTES OF THE MEETING OF THE MAUI POLICE COMMISSION ON
WEDNESDAY, AUGUST 12, 2009
PAGE 2**

A motion to file the Letters of Commendation was made by Vice-Chair Ball and seconded by Commissioner Vaught. The motion carried unanimously.

CHIEF'S REPORT Chief Yabuta started his report with a presentation by Assistant Chief Wayne Ribao on Hurricane Preparation & Response.

(10:12 a.m.) Commissioner Tina Gomes entered the meeting.

Chief Yabuta reminded the Commissioners that HSLEOA will be held at the Ritz-Carlton, Kapalua on September 23-25, 2009. He announced the Employee Recognition Luncheons will be held September 18th on Lanai and September 30th on Molokai. The Mayor, her administration and members of the Police Department will be participating in FY2011 Budget Community Meetings where input from the public will be received. The Department's budget preparations will begin the second week of September.

Chief Yabuta reported a savings of \$3.3 million from FY 2009 was given back to the County, a significant increase over the anticipated return of \$1.9 million. In FY 2010, there will be 25 fewer funded positions for a six month period, so we probably won't be giving back nearly as much from the current budget. Recruitment is working well and Chief Yabuta commended Mr. Takahashi and his staff for doing such a good job with the staffing process.

Chief Yabuta announced that since the promotion of Danny Matsuura to Assistant Chief, Captain Victor Ramos of Wailuku Patrol has been assigned as Commander of Internal Affairs and Captain Jody Singsank, formerly assigned to Molokai, will be Wailuku Patrol Commander. Chief Yabuta reminded the Commission that Honolulu Police Chief Boisse Correa will be retiring at the end of this month.

Chief Yabuta reported that construction on the new morgue should begin in September and the permit process for the Kihei station continues.

Deputy Chief Tom provided an update on the Enhanced Wireless 9-1-1. The funds for a new recorder will be from the present FY 2010 Repair and Maintenance Fund. The Department will seek reimbursement from the E 9-1-1 Board during this fiscal year.

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

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

Officers of the Month were:

District 1 – Officer Melvin Johnson
District 4 – Officer Jonathan Kaneshiro

**MINUTES OF THE MEETING OF THE MAUI POLICE COMMISSION ON
WEDNESDAY, AUGUST 12, 2009
PAGE 3**

District 5 – Officer Reginald Tanaka
District 6 – Officer Asbel Polanco

Commissioner Jorgensen commended Officers John Surina and Ryan Saribay for the compassionate way they handled a Burglary case involving a member of his family.

Assistant Chief Danny Matsuura gave the report for the Support Services Bureau.

The 72nd Recruit Class is scheduled to begin on November 16, 2009.

FINANCIAL BUDGET Mr. Takahashi handed out the General Fund Expenditures for FY 2009 which reflects a carryover savings of around \$3.4 million, and expenditures of about \$44 million, the same amount we have in the FY 2010 budget. Overtime in FY 2009 was about \$5.8 million, and the overtime budget for FY 2010 is \$4.8 million so there will be a challenge. There was no report available for the first month of FY 2010.

PERSONNEL Mr. Takahashi handed out the Staffing Report which reflects 44 sworn vacancies with 46 conditional offers made; and 21 civilian vacancies, with 9 conditional offers made. The Department is at its all time highest level of staffing for both sworn and civilian.

CORRESPONDENCE

- a. PC 09-28 Honolulu Police Commission Meeting Minutes of 06/03/09

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

NEW BUSINESS

- a. Asia-Pacific Homeland Security Summit November 9-10, 2009

A motion to send Commissioner John Ornellas to this conference was made by Commissioner Tanaka and seconded by Vice-Chair Ball. The motion carried unanimously.

OLD BUSINESS

- a. Discussion to Change Commission Rules and Change Date of Monthly Commission Meeting

Commissioner Jorgensen requested this item be deferred to the September meeting.

**MINUTES OF THE MEETING OF THE MAUI POLICE COMMISSION ON
WEDNESDAY, AUGUST 12, 2009
PAGE 4**

b. Review of Process on Requests for Legal Representation

Deputy Corporation Counsel Jeff Ueoka read Maui Police Commission Rule 13-101-52 with regard to a Request for Legal Representation.

Vice-Chair Ball stated he asked for this item to be put onto the agenda because the Commission needs to confirm the process as far as how the Commission receives information. On two occasions the Commission has had to ask for additional documentation. There's a breakdown somewhere between the Chief's office and the Commission because they are not receiving all the pertinent documents, they're only receiving a copy of the lawsuit and the To/From requesting representation. Also, the Commission receives the request from the Chief's office rather than from the officer, and according to the rules it needs to come directly to the Police Commission.

Chief Yabuta stated the normal course of action has been that Corporation Counsel receives notification of the lawsuit. They contact the officer and a Deputy Corporation Counsel will go so far as to prepare the To/From request for the officer. They send the lawsuit and the To/From to the officer and it goes up through the Chain of Command. He then reviews it on his own, writes his comments on it, either recommending approval or, if he does not recommend approval, he would justify that at the Commission hearing. He then forwards the To/From and the lawsuit to the Police Commission.

Henceforth, once the Commission receives the request for representation, the Commission secretary, as his designee, can go ahead and request the police reports from Records. If the Commission requires additional information, the Chair can submit a formal request to him and he will address it.

He does not attach the information he has gathered when he sends it to the Police Commission because that would be a conflict of interest with the Commission. The police reports the Commission receives from Records will be redacted, but the police reports he reviews have not been. Chair Doreen Gomes asked if it is within the purview of the Commission to receive the police reports before they are redacted. Chief Yabuta answered it is not within the scope of the Commission to see everything in a police report because of privacy issues.

Vice-Chair Ball asked to return to the question he and Commissioner Tina Gomes have with regard to the rules stating the Commission needs to be informed by the officer. Corporation Counsel said the Commission is technically receiving the request from the officer as the officer is signing it and he doesn't believe there are any alterations being done to the document as it comes up through the Chain of Command.

Vice-Chair Ball said one of the problems he has with the current system is that when it comes back to the Commission, it has notes from everyone in the Chain of Command, kind of telling the Commission what they should do. He acknowledges they are

**MINUTES OF THE MEETING OF THE MAUI POLICE COMMISSION ON
WEDNESDAY, AUGUST 12, 2009
PAGE 5**

supposed to get a letter from the Chief recommending approval or denial, but receiving it this way taints the Commission when they're already getting the answer from the Chain of Command. The Commission is supposed to be the oversight committee making the determination. The letter from the Chief with his recommendation, as stated in the rules, should come at a later time, not with the original To/From.

He asked that when Corporation Counsel writes the To/From for the officer, should it go to the Commission at the same time? He does not want to encounter a problem if someone accuses the Commission of not following their own rules. Corporation Counsel stated he doesn't believe they'd be an objection for the Commission to get a copy at the same time that it goes through the Chain of Command. He's not familiar with the whole process, but he's sure there's a reason why the Department has done it this way for so long. They obviously thought it through before this process was decided upon. The rules do state it should be done a little differently, but it sounds like the request is coming from the officer to the Commission within 30 calendar days, even if it is going in a roundabout fashion through the Chain of Command.

Commissioner Jorgensen suggested that since Corporation Counsel is the attorney for the officer for the initial period, Corporation Counsel could send the request to the officer for it to go through the Chain of Command and at the same time, send it to the Commission. Then they would be complying with the rule. When Corporation Counsel asked if this would be possible, Chief Yabuta answered it would be, but Corporation counsel would have to be instructed to route the request two ways.

Deputy Corporation Counsel Ueoka confirmed that from now on the procedure to follow will be for Corporation Counsel to notify the Police Commission of a pending lawsuit by sending a copy of the lawsuit and the To/From directly to the Police Commission at the same time one goes to the officer to go through the Chain of Command. Once the Police Commission receives the Request for Legal Representation, the Commission secretary, as the Chief's designee, will pull the police reports. The To/From, the lawsuit and police reports will be given to the Chair for review and eventual dissemination to the Commission. If additional information is required, the Chair will submit a formal request directly to the Chief.

Vice-Chair Ball made a motion to have Chair Doreen Gomes write a letter to Corporation Counsel requesting that Corporation Counsel notify the Police Commission of a pending lawsuit at the same time they notify the officer involved and provide the Police Commission with the same information provided to the officer as it pertains to the lawsuit. The motion was seconded by Commissioner Jorgensen and carried unanimously.

**MINUTES OF THE MEETING OF THE MAUI POLICE COMMISSION ON
WEDNESDAY, AUGUST 12, 2009
PAGE 6**

ADJOURN (11:25 a.m.) A motion to adjourn was made by Commissioner Tina Gomes and seconded by Commissioner Jorgensen. The motion carried unanimously.

SUBMITTED BY

Jeanne Berrigan, Police Commission Secretary

APPROVED

Doreen N. Gomes Chair