

**Approved**

COUNTY OF KAUAI  
Minutes of Meeting  
**OPEN SESSION**

Board/Commission	<b>Kaua'i Police Commission</b>	Meeting Date	<b>July 26, 2019</b>
Location	Mo'ikeha Building – Meeting Room 2A/B	Start of Meeting: 9:00 a.m.	End of Meeting: 10:14 a.m.
Present	Chair Mary K. Hertog; Commissioners: Catherine Adams, Gerald Bahouth and Kevin Mince. Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Ellen Ching; Office of the County Attorney: Deputy County Attorney Mark Bradbury; Police Department: Chief of Police Todd G. Raybuck; Assistant Chief Bryson Ponce; Captain Paul Applegate; Lieutenant Roderick Green; Officer of the Month David Phillips; Deputy County Attorney James Forrest and numerous rank and file officers in the Kaua'i Police Department. Public testimony: Mr. Jonah Kerr.		
Excused	Vice Chair Roy Morita and Commissioners Leina`ala Jardin and Dean Pigao		

SUBJECT	DISCUSSION	ACTION
<b>Call To Order</b>		Chair Hertog called the meeting to order at 9:00 a.m. with four (4) Commissioners present to conduct business.
<b>Chair's Announcements &amp; Pertinent Updates</b>	Next monthly meeting – Friday, August 23, 2019 at 9:00 a.m. at the Mō'ikeha Building, Meeting Room 2A/2B. Executive Session to follow.	
<b>Officer Of the Month for July Patrol Officer David Phillips</b>	Patrol Service Bureau, Captain Roderick Green read the commendation report for Officer of the Month David Phillips.  Officer Phillips was recognized for his quick action in the apprehension of a male suspect who unlawfully broke into a family's residence. Through the course of the investigation, Officer Phillips determined that the suspect while high on methamphetamine and armed with a kitchen knife entered into the children's bedroom which was occupied by four minor children and became to threaten all of the occupants and assaulted the owner of the residence.	

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	<p>Officer Phillips dedication to safe guarding his community put a dangerous person in jail for the following criminal offenses:</p> <ul style="list-style-type: none"> <li>• Burglary first</li> <li>• Terroristic threatening first</li> <li>• Criminal property damage third</li> <li>• Assault third</li> <li>• Resisting arrest</li> <li>• Escape second</li> <li>• Assault on a police officer second</li> </ul> <p>Chief Raybuck invited Jonah Kerr to deliver his comments. Mr. Kerr stated that it has been an interesting experience for him and his family to have gone through such a terrifying ordeal. He expressed his heartfelt appreciation to Officer Phillips and Sergeant Eric Caspillo for the way they responded to help his family.</p> <p>Following Mr. Kerr comments, Chief Raybuck presented Officer Phillips with a certificate of exemplary service for the apprehension of a male suspect. His efforts are a true reflection of his dedication and commitment to keeping the community safe.</p> <p>In a separate recognition, Chief Raybuck presented Officer Phillips with a Drug Enforcement Star Medal for his exemplary service. His proactive approach in doing his investigations to suppress drug related activities took him beyond his normal duties in which he initiated a total of seven warrants resulting in the seizure of multiple drugs and drug paraphernalia.</p> <p>Officer Phillips credited Jonah Kerr, his wife and kids for their acts of bravery to secure the male suspect. He expressed his appreciation to Sergeant Eric Caspillo for being with him during the entire incident up to the apprehension of the suspect. With regard to being the recipient of the Drug Enforcement Medal, Officer Phillips credited his Sergeant Shane Sokei for guiding him to the point where he could have done it on his own. He pointed out that without Sergeant Sokei's guidance, he wouldn't have been able to start the warrant process.</p>	

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	<p>Chair Hertog along with Commissioners Adams, Bahouth and Mince commended Officer Phillips for his outstanding service, commitment and dedication to keeping the community safe.</p>	
<p><b>Approval of Meeting Minutes June 28, 2019</b></p>	<p>The Commission reviewed the minutes. Police Chief Raybuck requested that the minutes be amended to reflect that he did not define the 2020 Fiscal Year goals as Bureau level goals, but as Department goals. With no further corrections to the minutes, Chair Hertog called for a motion to approve the minutes as amended.</p>	<p>Ms. Adams moved to approve the meeting minutes as amended. Mr. Mince seconded the motion. The motion carried 4:0.</p>
<p><b>Chief's Monthly Reports/ Announcements and Pertinent Updates</b></p>	<ol style="list-style-type: none"> <li>1. Administrative and Technical Bureau Reports for the period of June 2019</li> <li>2. Investigative Services Bureau</li> <li>3. Summary Reports: Calls for Service and Incident, Collision, Traffic Enforcement, Arrest, Offense by Severity, Warrant/Warrant Type and Legal Services</li> </ol> <p>Chief Raybuck asked the Commissioners for feedback on the Department's 2020 Fiscal Year Goals to which the Commissioners replied they had none. Chief Raybuck then moved to report on his monthly activities and announcements:</p> <ul style="list-style-type: none"> <li>• Chief Raybuck coordinated a community between Mayor Kawakami, some councilmembers, himself and TMT opponents to hear their concerns, discuss TMT issues and to ensure that all protest remain peaceful.</li> <li>• A massive march to support protesters of the Thirty Meter Telescope at Mauna Kea is planned for Sunday, July 28<sup>th</sup> in Līhu'e and should start roughly around 12:30 p.m. The march will go up Rice Street and end with a community gathering at the Old Kaua'i Historic Building until 5:30 p.m. KPD will be conducting traffic enforcement in the area and will be reopening Rice Street around 2:00 p.m. Requests have been made to the Sheriff's Department and the Department of Land and Natural Resources Law Enforcement to be present. The Sheriff's Department has will be sending two of their officers to help assist, but due to the lack of manpower DLNR would be sending any of their officers.</li> <li>• Chief Raybuck announced that he did not receive any request for assistance nor did he send any of his officers to Hawai'i island to help with enforcement efforts at the base of Mauna Kea. But if asked to do so in the future, he would consider it because providing support in all major events is critical between the chiefs and the police departments. But he would have to know what is expected of his officers in</li> </ul>	

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	<p>term of responsibilities if they did go.</p> <ul style="list-style-type: none"> <li>• Chief Raybuck commended his officers for all their hard work and their professionalism during a series of protests and demonstrations that were held throughout the island.</li> </ul> <p>Mr. Bahouth asked Chief Raybuck if he did send his officers to Hawai‘i island would the Hawai‘i County reimburse KPD for time and travel or would KPD bear the entire expense. Chief Raybuck said that he was not part of any of the decision-making in the past so, he cannot answer the question. Traditionally speaking, he would probably have to cover the initial time and travel costs for his officers and then Hawai‘i County would cover any subsequent expenses after that. He noted that he along with his executive staff are working with the County Attorney to have a mutual aid agreement in place that would identify those type of issues.</p> <p>Chair Hertog commented that it is known that Chief Ballard took a lot of criticism for sending her officers to the Hawai‘i island so it is her hope that Chief Raybuck would give it a lot of thought in terms of any detrimental effect it might have on KPD because of the lack of manpower. To address Chair Hertog’s concerns, Chief Raybuck stated that he spoke to Hawai‘i County Police Chief, Paul Ferreira and he’s well aware of KPD’s manpower issues and was not considering asking KPD for aid.</p> <p><b><u>Chief’s updates</u></b></p> <ul style="list-style-type: none"> <li>▪ As a retraction to his report at the Commission’s last meeting about the Department’s wide survey, Chief Raybuck reported that several attempts were made to circulate the survey within the Department, however, the surveys kept coming back and after troubleshooting, they later learned that it would only be considered a free survey if it was less than five questions and their survey contained 25 to 30 questions which came with a fee. So they had to wait for the new fiscal year to kick in to cover the cost. On July 22<sup>nd</sup> the survey was distributed and as of yesterday 65 responses were received and majority of the responses were positive.</li> </ul>	

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	<ul style="list-style-type: none"> <li>▪ <b>Personnel Status:</b> There are 27 vacant positions consisting of (1) Deputy Chief, (3) Lieutenants, (3) Detectives/Sergeants and 20 Officers of which 8 of those officers will be starting the police academy come Monday. Currently, there are 39 candidates undergoing background checks for 16 open positions of which 8 are for police officer positions, (3) dispatcher positions, (1) IT Coordinator position, (1) abandoned vehicle coordinator, (1) public information officer and (1) administrative assistant as well as other positons.</li> <li>▪ <b>Police Apprentice Program:</b> One of the hurdles they faced was covering the cost for college tuition for four part-time employees (19 hours or less a week) because it would consume 50% of the budgeted item so more work is being done to develop a better program which should be finalized by the end of next week.</li> <li>▪ <b>HPD, Sheriff and Hawai'i Status:</b> The meeting between the Office of the Attorney General and Honolulu Police Chief Susan Ballard regarding the memo of understanding between HPD and the State was put on hold due to the TMT events taking place at the base of Mauna Kea access road.</li> <li>▪ <b>Television premier of 'Murder in Paradise' will be featured on the show Breaking Homicide' focusing on Amber Jackson Cold Case:</b> Investigative Services Bureau, Assistant Chief, Bryson Ponce reported that with the permission of Ms. Jackson's family the case surrounding her murder will be aired nationwide on channel 1336 or 336 at 4 p.m. today. He stated that the show's Host Derrick Levasseur is a former Rhode Island Police Detective.</li> </ul>	
<p><b>KPC 2019-18</b></p>	<p><u>Presentation by the Permitted Interaction Group on its findings and recommendations on the requirements of the Rules on Administrative Practice and Procedure for the County of Kauai Police Commission with regard to charter Section 11.03(C) concerning the receipt, consideration, and investigation of charges brought by the public against the conduct of the department or any of its members. (Deferred on 6/28/2019)</u></p>	

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	<p>Chair Hertog reported that she received an email from Deputy County Attorney Mark Ishmael that he had met with PIG members - Commissioners Bahouth and Pigao to discuss the matter and that he had also received feedback from the Department and they will be coming up a MOU (Memo of Understanding) and will be presenting it to the Commission at its August 23, 2019 meeting. With no further discussion, Chair Hertog called for a motion to defer item KPC 2019-18.</p>	<p>Ms. Adams moved to defer item KPC 2019-18 for continued discussion at the Commission's August meeting. Mr. Bahouth seconded the motion. The motion carried 4:0.</p>
<p><b>KPC 2019-21</b></p>	<p><u>Discussion and decision-making on the Permitted Interaction Group findings and recommendations on amending Section 11.04, Chief of Police, of the Kaua'i County Charter regarding the qualifications for the chief of police.</u></p> <p>a) Communication dated July 3, 2019 from Jan TenBruggencate, Vice Chair, Charter Review Commission to Mary K. Hertog, Chair, Kaua'i Police Commission requesting for proposals to amend the Kaua'i County Charter.</p> <p>Chair Hertog stated that each of the Commissioners should have received a copy of Commissioner Pigao's feedback and a copy of the PIG's recommendation that was presented to the Commission at last month's meeting for consideration. Also, for consideration is Commissioner Jardin's concerns about an officer having to have a college degree in order to apply for the Chief of Police position. She noted that if the Commissioners agree she would like to invite Chief Raybuck to provide some of his own feedback if at all permissible at this point. With no further comments, Chair Hertog called for a motion to consider Commissioner Pigao's feedback for consideration and the letter dated July 3, 2019 from Charter Review Commission Chair Jan TenBruggencate.</p> <p>Chief Raybuck asked Chair Hertog if she would prefer he hold off on making any comments until the next meeting when Commissioners Morita, Jardin and Pigao are present to which Chair Hertog replied yes, then called for a motion to defer item KPC 2019-21 for continued discussion at the Commission's August meeting.</p>	<p><u>Motion No. 1</u> Ms. Adams moved to consider Commissioner Pigao's feedback and Charter Review Commission, Chair Jan TenBruggencate's request dated July 3, 2019 for proposals to amend the Charter. Mr. Bahouth seconded the motion and the motion carried 4:0.</p> <p><u>Motion No. 2</u> Ms. Adams moved to defer item KPC 2019-21 for continued discussion at the Commission's August meeting. Mr. Bahouth seconded the motion. The motion carried 4:0.</p>
<p><b>KPC 2019-22</b></p>	<p><u>Discussion and decision-making on Mayor Derek Kawakami's recommendation to defer any salary increases until the Department Head has completed one year of work and has received a favorable evaluation for their performance.</u></p>	

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	<p>Chair Hertog stated that according to the Police Commission rules, the Commission has to conduct a six month performance review on Chief Raybuck which is due in November 2019. So, she needs is someone to make a motion to conduct a six month performance evaluation or defer the Chief's evaluation to April 2020 which is his one year anniversary.</p> <p>Mr. Bahouth asked if the county employees' job performance reviews are conducted on their anniversary date or in a fiscal year. Chair Hertog stated that the performance reviews are conducted on the employee's anniversary date, but in the Commission's case, the Chief's review process is different because per the Commission's rules it requires the Commission to conduct a six performance review and if results are favorable, the Commission can increase his salary to the maximum cap set by the Salary Commission or an amount lower than the cap. And because the Commission is the appointing authority for the Chief it is not bound to any provisions and can allow the pay increase to occur at any time.</p> <p>Mr. Mince clarified further that the Chief's six month review would essentially roll into his one year evaluation and after that his performance review would coincide with the current fiscal year going forward.</p> <p>Mr. Bahouth stated that if that's case, then the Chief's performance review would have exceed his anniversary date because the new fiscal year starts on the first of July. Chair Hertog clarified that the Chief's performance review would take it to the end of June.</p> <p>With no further discussion, Chair Hertog moved on to discuss the Chief's pay increase. Ms. Adams commented that based on Mayor Kawakami's letter the Commission is forced to wait for a year. Chair Hertog disagreed and stated that Mayor Kawakami is not forcing the Commission to withhold the Chief's pay increase for a year, he's just asking the Commission to consider his request.</p> <p>Ms. Adams thanked Chair Hertog for clarifying and agreed that the Commission should hold off on giving any raises until after the Chief's six month performance review is completed and if the results are favorable, then the Commission can consider giving the</p>	<p>Ms. Adams moved to conduct a six month performance evaluation on Chief Raybuck and if the results are favorable, the Commission would consider giving the Chief the pay raise. Mr. Mince seconded the motion. The motion carried 4:0.</p>

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	Chief an increase in salary. Mr. Mince stated that's within reason to which Mr. Bahouth agreed. As a reminder, Chair Hertog stated that the Chief Raybuck's six month performance review is coming up in November 2019.	
<b>KPC 2019-23</b>	<u>Copy of a communication dated June 28, 2019 and received on July 3, 2019 from Punohu Nalimu Kekaulua III, Konohiki, Landlord of Waimea Ahupua`a Crown Lands, Kona, Kaua'i, Hawaiian Islands. Protected person under Geneva IV Jus Cogen Status.</u>	Ms. Adams moved to receive item KPC 2019-23 for record. Mr. Bahouth seconded the motion. The motion carried 4:0.
<b>Executive Session</b>	Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to review and discuss charges brought against an officer or employee in the Kaua'i Police Department, where consideration of matters affecting privacy will be involved, provided that if the individual requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission's powers, duties, privileges, immunities, and or liabilities as they may relate to the following agenda items:	At 9:43 a.m. Mr. Mince cited the Hawai'i Revised Statutes to bring the meeting into Executive Session.
<b>ES KPC 2019-001</b>	Monthly update by Scott Williamson, Lieutenant, Office of Professional Standards on the status of the Department's disposition on formal notarized complaints that were filed with the Kaua'i Police Department, and formal notarized complaints that were filed with the Police Commission and referred to the Office of the Chief for further review.	
<b>ES KPC 2019-002</b>	Monthly update by Todd G. Raybuck, Chief of Police, Kaua'i Police Department or his designated representative on any significant adverse incidents/events involving personnel in the Kaua'i Police Department that could potentially impact the County, the Police Commission and the Kaua'i Police Department.	
<b>ES KPC 2019-015</b>	Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve or amend the Executive Session meeting minutes of June 28, 2019 and to consult with its attorney on issues pertaining to the Commission's powers, privileges, immunities, and or liabilities as they may relate to this agenda item.	Ms. Adams moved to enter into Executive Session. Mr. Mince seconded the motion. The motion carried 4:0. At 9:45 a.m. the Commissioners entered in Executive Session.

SUBJECT	DISCUSSION	ACTION
<b>Return to Open Session &amp; Ratify the actions taken in Executive Session</b>	At 10:13 a.m. the Commissioners reconvened in Open Session. Chair Hertog called for a motion to ratify the actions taken in Executive Session.	ES KPC 2019-001: A motion carried 4:0 to receive Lt. Williamson's Monthly Reports.  ES KPC 2019-002: Police Chief Todd Raybuck had nothing significant to report.  ES KPC 2019-015: A motion carried 4:0 to approve the Executive Session meeting minutes of June 28, 2019 as circulated.
<b>Adjournment</b>	With no further business to conduct, Chair Hertog called for a motion to adjourn the meeting.	Ms. Adams moved to adjourn. Mr. Bahouth seconded the motion. The motion carried 4:0. At 10:14 a.m. the meeting adjourned.

Submitted by: \_\_\_\_\_  
 Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: \_\_\_\_\_  
 Mary K. Hertog, Chair

- (x) Approved as circulated on August 30, 2019
- ( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.