

Approved

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

Board/Commission	Kaua'i Police Commission	Meeting Date	April 30, 2020
Location	Teleconference	Start of Meeting: 9:10 a.m.	11:36 a.m.
Present	Chair Roy Morita; Vice Chair Catherine Adams; Commissioners: Gerald Bahouth, Mary K. Hertog, Leina`ala Jardin, Kevin Mince and Dean Pigao. Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Ellen Ching; Office of the County Attorney: Deputy County Attorney's Mark Ishmael and Chris Donahoe.		
Excused			
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		The meeting was called to order by Chair Morita, who called for a roll call to establish quorum. <i>*Note – Commissioner Hertog was on not on line call at time roll call was made to ascertain a quorum. She rejoined the teleconference meeting after the minutes were approved.</i>
Chair's Comments/Announcements	Next Regular Monthly Teleconference Meeting 9:00 a.m. - Friday May 22, 2020. Executive Session to follow. Subject to change.	
Approval of Minutes of February 28, 2020 Meeting	Chair Morita called for a motion and a second to approve or amend the minutes of the February 28, 2020 meeting. Ms. Jardin moved to approve the minutes as submitted. Vice Chair Adams seconded. Chair Morita called for a roll call vote.	A roll call vote ensued with six (6) commissioners present voting to approve the minutes as submitted.

SUBJECT	DISCUSSION	ACTION
		<p><i>*Note – Commissioner Hertog was on not the teleconference call at the time roll call vote ensued to establish quorum. She rejoined the teleconference meeting shortly after.</i></p>
<p>Business KPC 2019-36</p>	<p><u>Discussion and decision-making on recommendations to amend the Police Commission Rules on Administrative Practice and Procedure in accordance to Hawai‘i Revised Statutes Section 92-2.5 (a). (On-going)</u></p> <p>Due to static and the conversation dropping in and out portion of the discussion could not be clearly heard.</p> <p>Both Ms. Hertog and Mr. Mince expressed their concerns that the proposed draft language that was presented to Deputy County Attorney Ishmael earlier is still being on worked and until everyone comes to an agreement on the language the discussion will continue.</p> <p>Chair Morita asked Mr. Donahoe as the new attorney assigned to the commission if he could commit to meeting with Ms. Hertog and Mr. Mince as soon as possible to which replied that yes, he would be more than happy to meet with Ms. Hertog and Mr. Mince, but first, he would like to meet with Mr. Ishmael to see what the issues with the rules are and try to break it down piece by piece and come up some suggestions.</p>	
<p>KPC 2020-6</p>	<p><u>Discussion and decision-making on hosting the 2021 State of Hawai‘i Police Commissioners’ Conference on Kaua‘i. Topics of discussion include but not limited to Conference dates and venue. (On-going)</u></p> <p>The discussion had to be put on due to COVID19 pandemic. Chair Morita called for a motion to defer item KPC 2020-6.</p>	<p>Mr. Pigao moved to defer item KPC 2020-6. Mr. Bahouth seconded the motion. A roll call ensued with six (6) commissioners present voting in favor of the motion. <i>*Note Vice Chair Adams could not be heard when the roll call vote ensued.</i></p>

SUBJECT	DISCUSSION	ACTION
KPC 2020-7	<p><u>Update on proposed changes to the Kaua‘i County Charter in regard to higher education and experience requirements for the Chief of Police position.</u></p> <p>Ms. Ching reported that the Charter Review Commission met and voted to place the proposed charter amendment on the 2020 election ballot and their next step is to work on language on educating the public.</p>	At 9:25 a.m. Vice Chair Adams rejoined the meeting.
Executive Session	<p>At 9:32 a.m. Boards and Commissions Administrator Ellen Ching began to cite the Hawai‘i Revised Statutes to bring the meeting into Executive Session.</p> <p><u>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 Chief Raybuck’s annual performance evaluation, and charges brought against an officer 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.</u></p> <p>Deputy County Attorney Ishmael cited the following Executive Session items for the record.</p>	
ES KPC 2020-001	<p>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.</p>	
ES KPC 2020-002	<p>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.</p>	

SUBJECT	DISCUSSION	ACTION
ES KPC 2020-005	The Office of the County Attorney requests an executive session with the Police Commission to provide the Commission with a briefing on the case of <i>Roy Gal v. County of Kauai, Kauai Police Department et al.</i>	
ES KPC 2020-006	Notarized complaint KPC 2020-001 received on February 25, 2020. The complaint alleges that an officer in the Kaua‘i Police Department wrongfully cited the complainant for harassment and threaten to arrest the complainant for using their cellphone to video the person who allegedly violated the law.	
ES KPC 2020-007	Notarized complaint KPC 2020-002 received on March 3, 2020. The complaint alleges that on an officer in the Kaua‘i Police Department and the Kaua‘i Police Department failed to file a criminal citation against a person with the Office of the Prosecuting Attorney for an incident that occurred back in November 26, 2016.	
ES KPC 2020-008	Discussion and decision-making on Police Chief Todd Raybuck’s Annual Job Performance Evaluation for the period of April 22, 2019 - April 22, 2020.	
ES KPC 2020-009	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 minutes of February 28, 2020 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 item.	
Enter into Executive Session	Chair Morita called for a motion and a second to enter into Executive Session. Mr. Pigao moved and his motion was seconded by Vice Chair Adams. Chair Morita called for a roll call vote.	A roll call vote ensued with all seven (7) commissioners voting in favor of the motion. At 9:32 a.m. the commissioners entered into executive session.
Return to Open Session to Ratify the actions taken in Executive Session	At 11:36 a.m. the meeting reconvened in Open Session. Chair Morita called for a motion and a second to ratify the actions that were taken in Executive Session. Vice Chair Adams moved and her motion was seconded by Mr. Pigao. Chair Morita called for a roll call vote.	A roll call vote ensued with all seven commissioners present voting in favor of the motion to ratify the actions taken in Executive.

SUBJECT	DISCUSSION	ACTION
		<p>ES KPC 2020-001: Motion carried 7:0 to defer item ES KPC 2020-001 to the Commission's next meeting in May.</p> <p>ES KPC 2020-002: Motion carried 7:0 to defer item to the Commission's next meeting in May.</p> <p>ES KPC 2020-006: Motion carried 7:0 to defer the item to the Office of the Chief to provide information on KPD's policy on videoing taping a person on public.</p> <p>ES KPC 2020-007: <u>Motion No. 1</u> Motion carried 6:0 not to consider the complaint due to the commission's rules that in no event, shall the Commission consider a complaint over where the date of occurrence has exceeded 180 calendar days.</p>

SUBJECT	DISCUSSION	ACTION
		<p><u>Motion No.2</u> Motion carried 7:0 to designate Commissioners Hertog and Mince to work with Mr. Ishmael and Mr. Donahoe on drafting a letter to Chief Raybuck to clarify KPD's complaint process.</p> <p>ES KPC 2020-008: Motion carried 7:0 to designate Chair Morita and Vice Chair Adams to meet with Chief Raybuck on May 6, to review his annual JPR.</p> <p>ES KPC 2020-009: Motion carried 7:0 to approve the Executive Session Minutes of February 28, 2020 as submitted.</p>
Adjournment	With no further business to conduct, Chair Morita called for a motion and a second to adjourn the meeting. Vice Chair Adams moved and her motion was seconded by Mr. Bahouth. Chair Morita called for a roll call vote.	A roll call vote ensued with all seven (7) commissioners present voting in favor of the motion. At 11:36 a.m. the meeting adjourned.

Submitted by: _____
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
Roy Morita, Chair

- Approved as circulated on May 28, 2020
- Approved as amended. See minutes of _____ meeting.