

Kauai Police Commission
APPROVED Open Session Minutes of
Teleconference May 28, 2020 Meeting

The teleconference Open Session meeting of the Kaua‘i Police Commission was called to order by Chair Morita at 9:00 a.m. Thursday, May 28, 2020 The following Commissioners were present:

Roy Morita, Chair
Catherine Adams, Vice Chair
Gerald Bahouth
Mary K. Hertog
Leina`ala Jardin
Kevin Mince

Excused
Dean Pigao, Commissioner

Also present:
Boards and Commissions Support Clerk, Mercedes Omo
Boards and Commissions Administrator, Ellen Ching
Deputy County Attorney, Chris Donahoe
Deputy County Attorney Mark Ishmael

Also present:
Police Chief, Todd G. Raybuck
Police Captain Elliott Kalani Ke
Police Lieutenant Scott Williamson

CALL TO ORDER

Chair Morita: I would like to call the meeting to order.

ROLL CALL TO ASCERTAIN QUORUM

Chair Morita: Can I have a roll call to ascertain quorum?

Ms. Omo: Chair, due to work obligations Commissioner Dean Pigao could not attend the meeting.

Chair Morita: Okay, thank you.

Ms. Omo: Commissioner Mince.

Mr. Mince: Here.

Ms. Omo: Commissioner Jardin.

Ms. Jardin: Here.

Ms. Omo: Commissioner Hertog.

Ms. Hertog: Here.

Ms. Omo: Commissioner Bahouth.

Mr. Bahouth: Present and accounted for.

Ms. Omo: Vice Chair Adams.

Vice Chair Adams: Present.

Ms. Omo: Chair Morita.

Chair Morita: Here.

Ms. Omo: Boards and Commissions Administrator Ellen Ching.

Ms. Ching: Present

Ms. Omo: Deputy County Attorney Chris Donahoe.

Mr. Donahoe: Present.

Ms. Omo: Deputy County Attorney Mark Ishmael.

Mr. Ishmael: Present.

Ms. Omo: Police Chief Todd Raybuck.

Chief Raybuck: Present.

Ms. Omo: Police Captain Elliott Ke.

Mr. Ke: Present

Ms. Omo: Lt. Scott Williamson.

Mr. Williamson: Present.

Ms. Omo: A quorum is ascertained and everyone else is accounted for Chair, you can go ahead.

Chair Morita: Okay, thank you. I can't see anyone so is there anyone from the public who would like to testify on any of the items listed on the agenda?

Ms. Omo: Chair, I haven't receive any requests for public testimony.

Chair Morita: Okay, thank you.

CHAIR'S COMMENTS/ANNOUNCEMENTS INCULDING BUT NOT LIMITED TO:

Chair Morita: Our next monthly regular teleconference meeting will be at 9:00 a.m. Thursday, June 25, 2020. Executive Session to follow. Subject to change.

APPROVAL OF MINUTES

Chair Morita: Can I get a motion for the approval of the Regular Open Session Meeting Minutes of April 30, 2020?

Vice Chair Adams: So moved.

Ms. Jardin: Second.

Chair Morita: Can I have a roll call vote, please.

A roll call ensued with all six (6) Commissioners voting unanimously to approve the minutes of April 30, 2020 meeting as submitted.

Chair Morita: Okay, next on the agenda is the general update. Todd the floor is all yours.

GENERAL UPDATE BY POLICE CHIEF TODD RAYBUCK ON EVENTS INVOLVING THE KAUAI POLICE DEPARTMENT AND IN ANTICIPATION OF THE BUDGETARY SHORTFALLS FOR FISCAL YEAR 2020-2021 WHAT MEASURES ARE THE DEPARTEMENT TAKING TO ADDRESS THE SHORTFALLS

Chief Raybuck: Good morning everyone. I've been asked to provide a general update on Events regarding the Kaua'i Police Department and in anticipation of the budgetary shortfalls for fiscal year 2020/2021. Just real quick, I think one of the most important questions that most people have is what we are doing and how we responded to the COVID 19 crisis. Honestly, I can't remember what happened over this last couple of months it's all blended together into one big day. But I think that the March Police Commission meeting was cancelled and I didn't attend the April meeting so here we are almost three (3) months into this. Just to give you a quick overview, obviously this pandemic created a situation where we had to move quickly and develop policies, procedures and practices that we did not have in place, in fact nobody in the nation had in place and no law enforcement had in place. So the early throws of this is we spent

many, many hours trying to look at best practices, guidelines and considerations that were being put out from many sources across the country that mattered.

We implemented some policies and practices to protect the Department members from exposure to COVID and those were numerous, including schedule changes, the way how we operated internally, what we did externally and on the external front, one of the things that we did was we looked at our calls for service and in quick-time actually the credit goes to Sergeant Stacy Perreira to look at an online platform so we could continue to provide vital resources to the community but do so in a manner that required face-to-face response from a police officer, and so Stacey put together a bunch of online reports that allowed us to redirect complaints to an online format rather than the need to dispatch a police officer to take those reports. Once that online report was completed it was then put into a queue where a police officer would go into that queue pull that report and then contact the citizen who made the report for follow-up and then when a determination was made whether or not physical contact needed to be made or an investigation needed to be handled via teleconference and for further follow-up. So, we implemented a lot of internal policies and procedures that reduced exposure to our officers, as well as to allow them to respond to the increase need in dealing with COVID and the quarantine situation as it continuously evolved. So, we needed to find the right balance for that.

We met as a team and discussed what the control staffing should look like, many police departments across the country have implemented a wider array of different types of scheduling. Some of them went to twelve (12) day shifts, several departments I saw went to twelve day shifts followed by fourteen (14) days off and seven twelve day shifts again. So it was very interesting to see the many variables and variations of staffing. Here, Chief Begley made the decision that he wanted to remain flexible rather than modify actual shifts so we implemented a twelve (12) hour shift for our officers, but I did in a way that would provide the flexibility for us to manage their time. He (Chief Begley) initiated three (3) hours of pre-shift or post-shift overtime depending on the shift and that would give us the twelve (12) hour shift and gave us the flexibility to manage individual officers work hours should the need arise due to exertion or other issues, and so all of our officers were continually checked for their health and welfare due to the five (5) twelve hour shifts and they were continuously reminded that if they were tired and needed some time off that we would reduce their shifts. I'm very proud of the men and women that worked very, very hard. We had very little requests for shift accommodations. There were a few people who did come forward and said they were a little bit tired and could use a regular shift here and there and we were able to do that.

We also shifted resources from across the Department into Patrol to help support them with the increase need which included moving investigation personnel into the field and the ATB personnel (inaudible) such as SRO's, community relations and some other uniform quote, unquote operations and put them out in the field. Because of our recent hiring's and graduation from field training along with the additional resources that we added into patrol for the first time Kalani (inaudible) in ten (10) years we were able to operate for the last two (2) months without any cancelled days off. I think we had one cancelled day off shift in this entire COVID operation and so, the officers for the first time in at least a decade; meaning some of them for the first time in their entire career actually got to see what it was like to get a full three (3) days off. So the increased hours on their regular shifts to twelve (12) hours it really offset and allowed them with their three (3) days off to get the rest and recovery they needed. So, we are continuing to look at

what our staffing model is, then if we pull back and stop the twelve (12) hour shifts for our First Watch (graveyard shift or overnight watch) it will reduce the strain and fatigue on them. We've continuously modified our response focus as the rules and regulations change regarding the stay-at-home or safer-at-home requirement, curfew violations or curfew requirements. We've even reduced our operations and refocused our operations to deal specifically with quarantine which is the highest risk for reinfection for the island. In addition, one of the things we did as an initial response was to properly manage and litigate...we pivoted so that our operations could move towards serving the community in their time of need. You've all seen some of our events like the police passing out pancakes at one of the events. Today, we actually have officers through the generous donation of General Motors and Kūhiō Motors deliver a hundred meals to our Kupuna's across the entire island and we've assisted Grove Farm with their events. We've also assisted food groups and the county with food distribution and we're continuing to look for ways where we can assist the community in their time of need. We wanted to ensure that our community realize that we have two roles, one is to provide enforcement activities and the other one is to establish and maintain a connection to the community by providing community service and outreach that they need in this difficult time. So that's my general update on events involving KPD.

I will now give you some numbers regarding KPD's calls for service. In the months of January and February (obviously) we had zero calls for service that were COVID related. In January the Department received a total of 3691 calls for service. In February, the Department received 3417 calls for service. In March, as we saw COVID begin to become a factor for us, we had 62 COVID related calls for service and that was for curfew violations, COVID violations and quarantine violations. In April, we had a significant increase in calls for service (as you can imagine), we had a total of 5707 calls for service of which 2891 of those calls were non-COVID related so as you can see our non-COVID related calls for service actually decreased between the months of January, February and March to 2891; however, our COVID related calls increased from 62 in March to 2816 in April. In the month of May (so far) and this is through May 21st we had 4201 calls for service and of those 2023 were non-COVID related which again is a decrease in our regular general calls for service, but the COVID calls also decreased to 2178. So for the first also five (5) months of the year we responded to a total of 20,188 total calls for service of which 15,132 are non-COVID and 5000 are COVID so a quarter of our calls for service year-to-date have been COVID related basically (inaudible) over last month. So with I will entertain any questions before I move on to the budget.

Mr. Bahouth: Chief, this is Chip. Based on what you learned about using technology to follow calls made to dispatch and having an officer respond later by calling the person who called for service. My questions has to do with best practice; do you think you are going to continue with that and my second question is how long did it take an officer to call a person back after they had called for service?

Chief Raybuck: I don't have the time on the average call back for follow-up so I'll have to research it. One of the things that we are in the process of doing is shifting our priorities and urgencies since COVID is starting to reduce is to look back and make those determinations and get some of that data because we haven't gotten it yet, Commissioner; however, I can tell you that it's reference to best practice. Prior to COVID we have actually reviewed the Chief's office

along with Patrol...Stacey Perreira actually had reviewed what reports our officers were required to generate. A large portion of the time our officers were spending on are completing reports in essence they were required to complete reports just about every single call they had responded to if a crime had been committed or not and so prior to COVID we had reduced and modified the type of reports and the amount of reports that were required. It substantially decreased patrol administrative time and increased their ability to be more proactive and responsive to the community. What we found with this online reporting system is that it was an extension of that where a lot of the time our officers are using to address calls for service are travel time so they may get dispatched to a call and have very general information it may take fifteen (15) to twenty (20) minutes to drive to that call – they get there and spend twenty (20) to thirty (30) minutes hearing from everybody what the call was about and then they get to finally do their investigation on what the next course of action is. What the online reporting has done is take the travel time out and it's allowed our officers when they are available to pull up that report and immediately get to look at that report without the drive time. So, I guess the long answer is we still have a lot of data to look at and determine. I think that we will see some of our online reports remain as a best practice to free up our police officers so they can more priority type calls.

Mr. Bahouth: And a second question to what you had talked about earlier is you mentioned that you put everybody on twelve (12) hour shifts and obviously there are challenges that are happening. In general, how much overtime did we run in comparison to this period where we had the virus in comparison to the same time last year. What was the impact in terms of the need for additional hours because of the virus and its impact on overtime?

Chief Raybuck: That's a great question. We are still compiling those number, as you know everything here is done manually and it requires those timesheets to come in. I can tell you while I don't have the hard numbers in front of me about the comparisons and as I mentioned previously moving people to twelve (12) hours shifts is costly – right we're multiplying every officer times three (3) on overtime. However, the other unforeseen benefit on what we did was we didn't have cancelled days off so we weren't paying officers on those days any overtime. How that offsets one another and what the overtime is right now, I can't tell you now but it's something that I will follow-up with you on.

Mr. Bahouth: Yes, that was the bases of my question because you had one call and I wondering from a financial standpoint if that was a better move. That was the bases of the conversation.

Chief Raybuck: Right, I can't tell you for sure. I can tell you that from the top of my head I don't want to quote numbers because I was looking at a lot of numbers and I would hate to misquote and mislead you. It wasn't cheap to put the people on twelve (12) hour shifts but neither is cancelled days off and paying guys ten (10) hours overtime every (you know) every day to cover shifts that we don't have the manpower to do. I'll look into it and will that get.

Mr. Bahouth: Right. Okay.

Chair Morita: Todd, I just have a question. Are you receiving federal monies to cover some of the costs that you're dealing with right now?

Chief Raybuck: That's a good question actually. Just prior to this state trying to respond to COVID we started to see...I don't think I had the opportunity to see, in fact I know I didn't have the opportunity to share with you that the Managing Director Mike Dahilig and I had gone to the Big Island the first week in March to attend the Pacific Management Leadership Program that was put on by the Department of Homeland Security and they were post-graduate school. Interestingly the major of our conversation, amongst all of the other things that we learned and discussed. It began on Monday talking about the COVID crisis and at that time Washington State was seeing their first cases so it gave the Managing Director and I some insight into what we were going to need to do to prepare our county for what was being experienced around the world. Tom Bosert who is the Homeland Security adviser to post Donald Trump for eighteen (18) months to George Bush was one of the guest facilitators and he was incredibly knowledgeable about the epidemiology on the spread of COVID and what other jurisdictions and nations have seen. So we had incredible insight to begin planning on how we were going to need to respond in our county and I think that what the results of what we did here and the results of our cases here is a testament to what we were able to think about in early March and implement.

In those early days, the Managing Director and I had a conversation about manpower needs and how this was going to have happen and I discussed the fact that it was going to be very expensive for me to be able to properly staff and do everything that I needed to do in KPD to keep our community safe and the Mayor went to Council and requested a two (2) million dollar appropriation to cover COVID related expenses including the overtime costs for KPD, and so at a minimum, and this was prior to all of the CARES Act money and all of these other federal funding that has come forward from FEMA and other entities. My overtime was going to be covered and currently is being covered by a portion of that two (2) million dollars. FEMA, we are in the process of submitting requests through FEMA for reimbursement for the overtime and so (again) I apologize for my long answer but we will be getting...we are putting in for FEMA reimbursement and we anticipate we might get that.

Vice Chair Adams: Chair, I have a question.

Chair Morita: Go ahead.

Vice Chair Adams: Chief do your officers have enough personal protective equipment or need?

Chief Raybuck: Yes, and because Wilcox donated was it two (2) thousand masks?

Vice Chair Adams: I don't know about two (2) thousand, but... (2) two hundred.

Chief Raybuck: Was it two (2) hundred face shields, I think.

Vice Chair Adams: It was more than face shields its masks, gloves and alcohol and...

Chief Raybuck: Yes. Fortunately one of the things that we were able to do is masks through KEMA and public donations and acquire grants from other entities, I think we have a sufficient amount of PPE particularly now since there is no virus and the risk of infection currently on

island is very, very low because we have no cases that we are aware of. So, I think we have sufficient PPE to carry us should we start to see an increase in infections again. Thank you for that question. Okay, if there is no other questions, I'll move on to the budget.

Just a quick overview, in 2020 our budget was \$37,725, 560 and for fiscal year 2021 we were requesting an increase of 3.152 million for a total of \$40, 878, 401. That's about an 8.14 percent increase over 2020. A large majority of that was by the way of salaries and benefits but there were some other incidentals in there that increased the budget as well. But we also had some decreases, the Mayor's office requested that we reduce our budget by \$400,000 and so for our 2020/2021 proposed budget we were able to reduce some of our requests to about \$400,000, but then again of course COVID came and that obviously has impacted everyone. The Mayor's office came back and requested us to cut from travel and training – overall our budget request cuts were about \$231,000 from travel and training. So, we actually ended up with the Mayor's proposed budget for us and we're in really good shape. The overall budget for us hasn't changed dramatically from our first request outside of the biggest hit being travel and training which is going to impact us negatively as we go...we have to find creative ways in funding sources in order to do that, but our budget request currently before the Council is \$40, 667, 125 which is about an increase of 2.8 million over last year. One of the things that the Mayor's office did fortunately at present they did not eliminate any of our staff positions, the proposed budget includes four (4) dollar funded police officer positions, one police officer position that short funded for three (3) months and with the travel and training budget decrease. So, I think we're going into 2021 should this budget be passed we will be in good shape and the only significant impact that's detrimental to us currently would be our ability to provide training and travel.

Ms. Hertog: Chief, this is Commissioner Hertog and I got a question for you.

Chief Raybuck: Sure.

Ms. Hertog: I saw on the agenda for the next County Council meeting, I think it was Bryson going in and asking to expend over \$200,000 – it looks like maybe modulate furniture to accommodate the reorganization to set-up more areas in the investigative area...you're going to need unexpended salaries, is that true?

Chief Raybuck: Yes, in fact, there are a couple of reasons for that. The intent to purchase those modular desks actually I think it goes back to 2014 when it was first discussed doing that and then over the years it just hasn't moved forward for whatever reasons. Going into the next couple of years we recognized that there are going to be significant budget shortfalls and the good news is beginning next year we don't anticipate having any unexpended salaries because it looks like our January class will put us at a point where we'll have hired all of our vacant police officer positions. In addition, it currently looks like we're going to be fully staffed in our dispatch center as well so we'll have very few unexpended salaries moving forward and as you know the unexpended salaries has been a way for us to purchase the necessary equipment and or training opportunities without increasing our budget. But part of the reorganization plan is the architects who design this building came out pre-COVID and did a full walk through and realized that this building wasn't built the way it was design to be built...there's a variety of reasons why things change and the space needs have changed as well over the years as our Department has grown

and different things have moved into different areas. So we've discussed a lot about making sure we are using our space effectively prior to engaging in a another building project in the same campus and so one of the things involved in looking at our reorganization plans in terms of where people are going to work and what they needed to get there. COVID increased the need for us to look at our work space in particular and how people work and where they work because we have a lot of people sharing offices, and in some cases there are four (4) people working on one office that was meant to be a storage closet or otherwise. So we had to move people all over the building in different place to be able to fit them and to provide them with space. So, that gave us a need for urgency to try to begin to better use our space and purchase the modular desks in a way that would do that. So, yes, in part that is to facilitate our reorganization instead of having investigations taking up two (2) sides of the investigation bureau bay; if you're familiar with the building we have detectives on both sides of that bay, it will move all of investigative services over into one bay including the captain and the chief and that will free up the other bay that is currently under-utilized with space needs to be able to put other people in there and redesign that space as well.

Ms. Hertog: Thanks Chief. One other question, when is your recruit class graduating is it in June or July and for next month if we are not meeting in-person can you, please provide us with your manpower stats like we use to get on a monthly bases such as your monthly vacancies, your fill rates etc.

Chief Raybuck: Sure. The graduation is in a few weeks in June, I don't...I want to say June 15th or 16th somewhere around there. I'll get that date and send it over to you all to make sure you have it. I apologize for not having it right now. We are actually looking at doing our graduation out in the courtyard in a way where it allows for social distancing. I haven't seen it yet, but everyone who participated in the mock and the process said they had chicken skin, so it's going to be real cool. We can facilitate it and I think people are going to Facebook it live so that people can witness it and watch it. So, I'll get those numbers for you, right now we have a total of nineteen (19) vacancies on the commission side with ten (10) new officers entering into the July academy or July recruit class so that would drop us to nine (9) commissioned vacancies and then we are ready and anticipate having nine (9) in the January class because for our upcoming we already have nine (9) background for the January class and our upcoming class we have a total of thirty-six applicants applying for those remaining eight (8) or so positions.

Ms. Hertog: Great, thank you very much.

Chief Raybuck: Sure.

Vice Chair Adams: I feel like applauding for that. Thank you.

Chief Raybuck: So that's all I have on the general updates.

Chair Morita: Are there any more questions for the Chief? No, okay, thank you Chief. Moving on to business item KPC 2020-6.

BUSINESS

KPC 2020-6

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)

Chair Morita: Mercedes, I’ll give you this one; there’s something about the hotel that you mentioned earlier.

Ms. Omo: Yes, due to COVID-19 the major of the hotels on island are not open so there is no communication for me to ask for prices quotes so everything is status quo until further notice.

Chair Morita: Okay, we’ll just defer it until we get more...what would a good time be for us to make a decision on whether to cancel the conference or not?

Ms. Omo: That would be up to the Commission to decide; just let me know, then I can call the other commissions from the other islands to let them know.

Chair Morita: Okay, well as we get closer...being that it’s going to be deferred and if nothing happens in the next couple of months I guess we can cancel it.

Ms. Omo: Okay, usually the conference is held in the month of April and it’s less than a year away. Just let me know.

Chair Morita: HSLEOA has already been cancelled right?

Ms. Omo: I’m not sure, but I can check with Gayle.

Chair Morita: Didn’t we get a letter from the Big Island Chief informing us that it was cancelled?

Chief Raybuck: HSLEOA was cancelled until next year.

Chair Morita: Yes, okay, thank you. Okay, moving on to item KPC 2020-07.

KPC 2020-7

Update on proposed changes to the Kaua‘i County Charter in regard to higher education and experience requirements for the Chief of Police position.

Chair Morita: Any comments?

Ms. Ching: Chair, I think that I reported last month and if I didn’t I apologize, but the Charter Commission did adopt the proposal and it’s at the county attorney’s office for final review before being transmitted over to the County Clerk.

Chair Morita: Okay, thank you. Is this going to be on-going or should we just take it off of the agenda.

Ms. Ching: No, it's not be on-going so I think you can take the item off of the agenda because the amendment was adopted by the Charter Review Commission.

Chair Morita: Okay, can I get a motion and a second to take the item off of the agenda.

Vice Chair Adams: So moved.

Ms. Jardin: Second.

Chair Morita: Okay, roll call, please.

A roll call ensued with all six (6) Commissioners voting unanimously to remove item KPC 2020-7 from the agenda.

Chair Morita: Thank you, next item is KPC 2020-09.

KPC 2020-9 Discussion on conducting a 360 performance evaluation on Police Chief, Todd G. Raybuck, Kawa'i Police Department.

Chair Morita: Cathy and I met with the Chief a couple of weeks ago regarding this matter. Chief, do you have any input on that?

Chief Raybuck: In the discussion I was asked if I would be interested or would be willing to participate in a 360 degree assessment. Personally, I'm not shy and I'm not that worried about a 360 degree assessment. I share that I had one in the past (actually) and it was not for a performance evaluation it was for a development seminar and after promotion; I was a newly promoted sergeant and the Department I use to belong to put all newly promoted sergeants through a 360 degree three day training and orientation for career and leadership development and they utilized the 360 assessment in order to do that.

So after being posed the question by the Chair and the Vice Chair on whether or not I would support this being implemented into my performance evaluation; one of the things that was pointed out to me was that there was couple of areas in my most recent Annual Performance and in those two areas, one of the seven (7) Commissioners was unable to rate (of course I don't know which Commissioner) but there was otherwise six (6) Commissioners who were able to rate in both of those areas whereas the others were unable to. So, one of the things that I have to consider before I would say yes, I would do this is not how this impacts me because to be honest with you there is no greater critic of my performance than myself. But also how it would impact future chiefs and also implementing this program with the current board; however, also before I agree, I have to consider what the potential impact in using this tool would be in future boards with maybe future chiefs and myself included. So rather than responding to anecdotal evidence I started looking into research about how 360 degree assessments were used and I found a lot of

interesting data and opinions and a lot of pros and a lot of cons some of them by very well respected individuals in the business world. Markus Buckingham said that 360 reviews have a fatal flaw in that they turn out to be used against (audible) and they use that as quantify measures and the New York Times says that a 360 degree performance evaluations lead to cruel and not constructive criticism so those are opinion pieces. I actually found a study that was done by the Rad Corporation (*sp.*) if you are not familiar with them they are well respected research firm that does a wide variety of peer review research. In 2015, they were commissioned by the Department of Defense to do a research “Entitled 360 Degree Assessments, Are they the right tool for the US Military”. I found this one particularly interesting because the Police Department being a para-military organization based on high archural system that includes similar promotional process and performance evaluation process so I think it would be interesting to see what Rad said.

That research in 2015, they concluded that it was not advisable for performance evaluations, but it could be used for development but even in that they faced legitimate concerns. They also said that overzealous use without careful attention to content design and delivery could be (inaudible) and not worth the time and money spent on it. These assessments may lead to distrust and have the potential to do more harm than good and finally they said it may, in fact cause leaders to become undisciplined people as they become more interested in being light than holding people accountable because of fear of what people would put in those 360 degree evaluations which by the way I also had that occur in mine where someone used my discipline of them as a matter of saying I wasn’t a good leader. So I just have to say that I would ask the Commission into this research tool or this research product – it’s a very comprehensive research/tool and utilize this in your decision-making and I ask that we have a continuing conversation about this. I didn’t get fully into it, the Army at the time was the one branch of the service that had the longest running use of the 360 Degree assessment. They had done so for fourteen years (inaudible) utilizing that process and they only used it for career development not for evaluating performance. In fact, out of the (I think) sixteen (16) different individuals from the arms services that were questioned about the use of the 360 for performance – fourteen (14) of them mathically said no it should not be used for performance, the sixteen (16) did say that you could use it for career development. So that is my take on it and I guess my response is I don’t know if it’s the right thing to do. I just want to make sure what I did learn from this is that the 360 evaluations are a whole lot more labor intensive and associated cost to implement it correctly that I knew about before reading this material.

Chair Morita: Okay, thank you Todd.

Mr. Bahouth: Chief, this is Chip Bahouth. I’ve got to concur with you, having been in business for forty (40) years, the 360 degree analysis is quite frequently use with leaders we think have the potential of moving up in the company, so we look at as a tool growth opportunities for supervisors to department heads and so forth. We utilized the tool as a development tool, we never use it in the years with ITT, Starwood and now with Marriott. I’ve never seen them being used as a part of a performance for an individual. I have seen and we do this company wide – is we do an associate satisfaction surveys and they are done yearly and based on the baseline that’s created by the associates index that’s done once a year, then goals are put forth on how we can grow the satisfaction levels with our associates that we manage, and our management team

(here) is responsible for those scores, so I hold the overall score and each manager holds their individual department and this will be something like your assistant chiefs would have for their different areas and when its detective and so forth. To me that's a better tool because it is a metric driven tool although there is a section for comments we do not make any of the managers or any of the teams – we don't make it accessible to them because some people write some every hurtful things that make no sense. But we do use the scores as a means by which we can grow associates satisfactions. As an example, when we ask the question, do you like your pay and benefits; we always score low on that, we know what that metric has looked like over the past four (4) to nine (9) years, it runs at the fifty-five (55) percent level because people always want to make more money. So, we know what the base line is on some of the questions that are being asked, but if the question does your supervisor give you the appropriate feedback, you know we want that number to be higher than seventy (70) percent. So, to me that would be a more effective means to grade you and the management of your management team of everybody on KPD, then a 360 development. I don't think we need a 360 development in your tenure. You might need it for somebody who's a sergeant that wants to become a captain and so forth...but it's certainly not (I don't think) at your level that it would be necessary. Those are my thoughts.

Ms. Hertog: This is Commissioner Hertog. I would like to chime in with what Chip said. First off, I've said this many times that if your name isn't written on the bathroom wall somewhere as a leader you are not doing your job so you are going to get some of those comments. Speaking from my time in the military (because you brought that up there Chief) is that the Air force doesn't engage in 360's unless it was for development of senior officers, and the one thing they did and the one thing we did discuss with KPD on many occasions was doing a, internal climate assessment of the Department. We may have one opinion of you and the public may have another opinion of you, but your officers may have a different opinion of you which I think is valuable that you get feedback that way. We've never done a climate assessment to find out but many of the comments/questions Chip that brought up would be on that (kind of) climate assessment and I think that's something that we as the Commission ought to discuss further that we need something like that now that you've been in place for over a year because that might give you some valuable feedback that would not be used as part of your performance evaluation. That would be solely for you to work on any areas that were valid in terms of (inaudible) disgruntled employee for disciplinary action that you felt would be needed areas of improvement. So I think as a Commission we ought to take a look at (once again) engaging in developing a climate assessment.

Chair Morita: Ellen, I have to apologize and I don't know if anybody else is having this problem, but I got cut off twice during when Todd was speaking so I don't know what's going on. I'm not sure if you guys could hear me go in and out back and forth.

Vice Chair Adams: We thought that you just needed a break.

Chair Morita: I don't know. I can hear Todd talking and all of a sudden it goes blank and I got to log back in again. I'm sorry. Todd, I think I missed most of what you were saying so. Is there any more discussion regarding the 360?

Mr. Bahouth: This is Chip Bahouth. I concur with Mary Kay on this and want to reiterate that this has been an on-going item that we have discussed way back as a Commission with Darryl Perry about doing this, but it never went anywhere. I really believe as Mary Kay does that this is something we should be doing or at least establish some kind of baseline, then we can determine what the goals are thereafter.

Chair Morita: Are you talking about the 360 or the climate assessment?

Mr. Bahouth: The climate assessment, we've been talking about it for the last three (3) or four (4) years.

Chair Morita: Okay.

Chief Raybuck: This is Chief. I would be interested in having more conversation and learning more about how to properly conduct a climate assessment. I think that it would require – Chip, it sounds like you guys have utilized professional organizations or at least gotten some sort of consultation on how to set that up appropriately. What I've seen is that if it's not properly conducted and the questions are not formulated and formatted properly it turns into a complaint session like I'm going to air out every unsubstantiated unbiased opinion about what I feel about somebody. So I think that the usefulness of it depends on the thoughtfulness and preparation of the questions and the implementation of it. But I will be happy to continue to have that conversation because I think it would be useful; obviously I can't as much as I would like to have a conversation with every single employee on a regular bases to see how they are doing. I try to gage that during my contacts and having conversations and asking questions individually as I can. But I certainly would be open to do some more discussion and research on the implementation regarding a climate study.

Chip, I appreciate what you said to use this as a mechanism for us to see where we can obtain feedback in areas that we may need to address and areas (which is very important as well) where we have success. But the down side to that is it's no secret that you guys had requested (I'm very new in my tenure) which I okayed questions be sent out in a guise "quote, unquote" climate survey. I got to be honest with you out of the responses probably only two (2) percent of them provided any type of constructive feedback, majority of the feedback was attacks; personal attacks that were unsubstantiated and unbiased (to be completely honest) and based upon opinions of people who didn't have any information on why certain things were done and the reason behind them. I'm not sure of it was a communication issue but nonetheless it created this expectation that all of that would become public and to be honest with you, I killed that report because it was so damaging based upon the way people responding to it. I think it would have caused more harm to this organization (looking back) than it was going to benefit it going forward.

Mr. Bahouth: Chief, just a question. When you did that you formulated some questions and there were written responses or was it a numeric score because as I said earlier we have found – you know it's a numeric score...happy is ten and unhappy is one (inaudible) and to your point earlier it does need to be administered by a professional organization and those questions that are asked they have to be thought through very well to get to what you are really looking for.

Everybody has a gripe, but that isn't what this thing is about, it's really about are you getting the feedback that you need, do you feel like you have the tools that you need, do you feel you have the tools to work with (you know) those types of things. We have ours professional administered here at the hotel, we've been doing it for years. Sometimes when we ask a question from one year we see the score change and we sometimes change the question next year to dig into it. But (again) we do not let the written comments go forth and I'll ask this question again, was it just written comments or was numeric scores.

Chief Raybuck: The survey (first and foremost) I was new and I certainly didn't...you know it was one of those things where it was just presented to me...this has been out...you know the Commission wanted us to do this for a long time. I don't know where those questions came from and the questions that were actually presented to me had already been prepared and presented to the Department. To be honest, I'm not an expert and I didn't do any research before I did this survey. I was unprepared to look at it in a way that it needed to be looked at. There were way too many questions, I think there were an upwards to about forty (40) questions half of them being written responses and half being scored responses and it was...yeah, the written responses were (honestly) disappointing.

Mr. Bahouth: Yes, I can imagine. I think you would need to get a professional company to come in and do it. You can't just do this on your own because if you have someone in the Department writing the questions they already have a bias.

Chief Raybuck: Yes, exactly.

Vice Chair Adams: I would like to make a comment and that is the Hawai'i Pacific Health has used Gallup for at least twelve (12) years or so and their questions are standardized across industries, across with years and years of research and it's very hard to come up with the exact wording necessary but they've done it because that's what they do nothing but surveys. I think it's going to be a budgetary issue that you got to come up with to be able to afford these folks or anybody that's out there.

Mr. Bahouth: Quite true.

Chair Morita: Is there any more discussion?

Mr. Bahouth: I guess the question is what to take away here. I mean what is the take away are we going to ask the Chief to move forward and look into this or we just going to kick the can down the road?

Ms. Hertog: It should be for us to...

Chair Morita: Yes, it should be for us to decide.

Mr. Bahouth: Okay, well we need to either make a motion to move forward with this and ask the Chief to come back with some sort of recommendations as it relates to using an outside

company and what it would cost or some kind of timeline on moving this forward otherwise in another year of from you'll never see an assessment.

Chair Morita: I agree. Ultimately we are going to make the final decision. I mean the Chief can give his input as to what his thoughts are in regards to whether we do a 360 or a climate assessment. But I think ultimately it's up to the Commission to determine what tool we are going to be using.

Mr. Bahouth: Okay.

Chief Raybuck: If I can chime in. This is the Chief. I agree with you Commissioner on the need to move this forward and not to let it languish and continue the conversation. I just want to reiterate my last conversation about my budget and the fact that I don't have a budget for training and travel. Moving into this next year, as you guys know, one of my goals was to commission a company for a strategic plan that was going to include a climate survey within the organization as well as the community. The early estimate for that to be completed was anywhere between ninety (90) and sixty (60) thousand dollars for an outside agency to come in and do a strategic plan that included a survey and other stuff. I don't have the funding to do that. So, I would ask you all to assist me and move this conversation forward but to also take into consideration that I don't have the funding to do what we need to do to make it happen.

Ms. Ching: Chair.

Chair Morita: Yes, go ahead.

Ms. Ching: I have a question for our County Attorney. My question is where I'm in agreement with the conversation in that it's the Commission's decision on what they want to do and how they want to move forward, but I do have an issue with if the Commission decides to move forward that the budget item would come out of the Police Department. In my mind that would potentially go over the line to Department activities or direction so I would want the County Attorney to waive in on that.

Mr. Donahoe: Mark on you in on this? Can you guys hear me?

Chair Morita: Yes, go ahead.

Mr. Ishmael: The Department (inaudible).

Mr. Donahoe: Yes, we would need to...

Ms. Ching: Mark, I'm sorry, I didn't quite hear everything you said because you and Chris kind of overlapped.

Mr. Ishmael: Okay, well I'll talk to Chris. The Commission is part of the Department and depending on who executes this contract...would this just be for the Chief or would it be for...as far as the Commission they would only have purview in doing some review of the Chief. If the

Chief wanted to use that instrumentality to do his other officers that's a different thing. But nonetheless under the Charter it says there shall be a police department and it shall consist of a police commission, a chief of police and staff. So as far as spending money the boards and commissions is different...you 'all expenditures is kind of different from just raw police commission stuff.

Chief Raybuck: Mark, this is the Chief. I think you may have missed part of the conversation...we moved passed the 360 and this is regarding the internal climate survey. I want to make sure that I understand you, did you just say...are you suggesting that the police commission has the authority to tell my how to expend my budget?

Mr. Ishmael: No. I'm not going to go there, okay. But what I want to say is, per the Charter they are part of the Department, but we keep them separated. I have to talk to Matt about some budgetary things. The Charter doesn't offer a whole lot of guidance for how the Commissions expenditures of funds are different from the Departments funds. All the Charter says is there shall be a police department and it shall consist of a commission, a chief and staff. But we've commonly separated out stuff that we put into a basket that we call Boards and Commissions. If it was spent on monies from Boards and Commissions that is a different basket, but for example, I'm pretty sure that Honolulu their Commission gets...the Police Department budget includes money for the Police Commission to do things because they too are part of the Police Department. I just don't think that we've ever done it here that way and so before Chris gives you a definitive answer we are going to have to look at the Charter more closely and see how we divided things up fiscally. Plainly because the Charter doesn't give you a whole lot of guidance about how the Police Commission spending money is different from the Police Department spending money. Okay, and it's because we generally group that activities where the Police Commission spends money in the Boards and Commission's Department which is a different Department under the Charter.

Ms. Ching: Thanks Mark. I think part of the question or the clarification that needs to be made which is related to the budget issue is the climate survey whereas the survey...a 360 survey is related to the evaluation of the Chief. I think there's been a lot of good discussion at the Commission's meeting today, but I think some of the questions are coming from not having a clear vision of the direction and the purpose and the use of what is being proposed.

Ms. Hertog: Can I make a suggestion, this is Commissioner Hertog. I think that we just need to clarify whether or not we are going to support a 360 degree and take that as a motion and then separately do we want to discuss further a climate assessment which is not a 360 at all and it does not lead into the performance of the evaluation of the Chief. It would only be for development and to give the Chief an idea of areas for potential improvement once you subtract a lot of any grappling and grumbling. But I think that we need to get back to the 360 and say do we support it or not and close that out one way or another and then a motion to discuss whether or not having a climate assessment at some point in time once we figure out who would have to pay for it would be of any value to the Chief and to the Commissioners.

Ms. Jardin: I agree with Mary K.

Chair Morita: Okay, can I get a motion?

Ms. Jardin: So moved.

Ms. Hertog: I would like to make a motion that we do not conduct a 360 degree performance evaluation on the Police Chief.

Vice Chair Adams: Second.

Chair Morita: Okay, can I have a roll call, please.

Mr. Mince: Roy, I have a question first before you do a roll call.

Chair Morita: Okay.

Mr. Mince: If we vote to drop the 360 can we then having it not posted on the agenda the question about the climate assessment?

Vice Chair Adams: Good question.

Ms. Omo: Chair, the discussion on the climate assessment cannot go forward because it's not part of the agenda.

Ms. Hertog: We can put it on next month's agenda. Right?

Ms. Omo: Yes.

Chair Morita: Okay, is there any more discussion before we do the roll call? Hearing none. Go ahead Mercedes.

A roll call ensued with all six (6) Commissioners voting unanimously not to conduct a 360 degree evaluation on the Police Chief.

Chair Morita: Mercedes, for next month can you put on the agenda the climate assessment?

Ms. Omo: Yes.

Chair Morita: Okay, moving on to item KPC...does someone have a question? No, okay, KPC 2020-9.

KPC 2020-9

Response by Chief of Police Todd G. Raybuck on the results of his administrative review on the Department's handling of an incident that occurred November 2016, specifically addressing the facts and circumstances surrounding the initial incident, the response by the Department, submission or lack of submission to the County Prosecutor's Office to review for criminal charges, potential relationship between KPD personnel and possible witnesses, undue influence

of KPD personnel, and compliance with KPD policy and procedures.

Chief Raybuck: Okay, this is Chief Raybuck. I want to first discuss the challenges that we have on this complaint and that's the timelessness of it. You mention it was an incident that occurred on November 26 of 2016 which is nearly three and a half years almost...well at least three and a half years ago, and the reason why the timelessness of citizen complaints are important is because it gives the Department and or the Police Commission the opportunity to properly conduct an investigation into allegations to determine the facts, and if appropriate administrator discipline, address policy and procedure issues, and if clear...potentially clear the officer and the Department from allegations into misconduct when none occurred.

The ability to investigate complaints made by the public is limited within certain timeframes from the date of occurrence. The limitations for the Police Commission is the complaint must be filed within thirty (30) days of the incident. For the Police Department the complaint must be filed within one year according to the SHOPO collective bargaining agreement for us to be able to do an investigation. As highlighted, this is for the Administrative Review. I could not conduct an investigations on the allegations on a variety of reasons 1) it's outside the scope and timeframe of my ability to do so under the collective bargaining agreement; 2) the three primary personnel that responded to and has a part in this investigation or this incident have all retired. The initial responding officer, the investigative officer retired in February of 2018 and the back-up officer retired in July of 2017. The supervisor that approved the report retired in March of 2018. And so it would be impossible nonetheless for us to do a complete review of the allegations made in this complaint.

I want to kind of walk through the timeline of this incident and the complaints that were made to the Kaua'i Police Department and the Police Commission. As I mentioned before and this has been mentioned before that the incident took place on November 26, 2016. The complainant first made his complaint to the Department as he mentioned in his most recent complaint as I confirmed by having a conversation with the Lieutenant who was in charge of the Office of Professional Standards at the time. He made his first complaint March 9th of 2018 a full sixteen (16) months after the initial incident. At that time, the complainant was also advised that the Department was unable to investigate the complaint due to it being outside of the twelve (12) month window. The complainant then made a second complaint, this time to the Attorney General Office in June of 2019. I believe that's thirty-one (31) months after the incident. The Attorney General Office notified the complainant that they were not the proper body to do the investigation and referred them to the Police Commission. I received a copy of the complaint to the Attorney General's Office in July of 2019 I have been the Police Chief for approximately two and a half months when I received that email from the Attorney General's Office.

I initiated ...I provided the complaint to Captain Ke (the Captain in the Chief's office) and I asked him to reach out to the complainant (nonetheless) to determine what if there was anything the Kaua'i Police Department failed to do in that incident to determine whether or not we needed to remedy anything at that time. Captain Ke reached out to the complainant and scheduled a meeting with the complainant and his wife, in fact spent two and a half hours with the complainant and his wife going over the entire incident. At that time, he and his wife was again advised that the formal investigation into the complaint could not be conducted because of the

timeline it being more than thirty-one months after the initial investigation. That meeting took place in the first week in July 2019. But he was advised on how the proper course on how complaints should be filed in the proper timeline should he have further complaints in the future, he was advised on the timeline and the process of making complaints to the Police Commission as well as to the Police Department.

Then in March of 2020, he made a third complaint and this time to the Police Commission more than three and a half years from the original incident. The complainant and the Department was advised via a letter from Police Commission, Chair Morita that the complaint was outside of the timeframe to be investigated and in fact the complaint was closed. On May 14 I received a letter from PC Chair Morita requesting an Administrative Review to address the questions listed in this agenda item KPC 2020-9. So, I'll do that for you now.

First, address the fact and circumstances surrounding the initial incident. On November 26, 2016 KPC officers arrived on an assault call. Prior to the officer's arrival the complaining party alleges that a confrontation occurred regarding his attempt to retrieve the alleged property from another person (the involved party; the second person in this complaint). During the confrontation a physical altercation occurred, the complaining party and the complaining party's wife both allege that the physical contact was instigated by the other involved party. The physical altercation ended prior to the officer's arrival (meaning that the officers did not visibly see what had taken place or who had initiated the initial assault), the complaining party and his wife at the (inaudible) alleged to the investigating officer that he was attacked by the involved party and assaulted. The wife also made a similar allegation to the fact that the involved party also attacked her husband unprovoked and the assault occurred. Both parties alleged that a third individual joined into the affray and that individual is still on scene. The officer then initiated contact with the other involved party, that other involved party alleged that it was in fact the complaining party that initiated contact with him, that the individual had reached over the fence and grabbed him over the collar during the dispute over the property he was there to retrieve. That individual alleged that he then responded back in defense and that the third party that joined in the affray was doing so to try to separate the two men. The officer then interviewed no less than four (4) other witnesses who all said the same thing. The fact that the officer was unable to determine who the primary aggressor was he continued his investigation and he spoke to his supervisor on the incident. Again, I want to reiterate that the facts I'm presenting to you are based upon reports that was presented to me through our research and not through any type of interview of the employee as those employees are no longer available nor can I do an investigation to this further. To fast forward, the outcome of this incident was the incident occurred on a Saturday, November 26 and the citation was issued on Tuesday, November the 29th three days after the incident to the complaining party who made this allegation and complaint to the Police Commission.

On December 1, Tuesday, two days later, the other party that was part of the affray was also issued a citation, both of them received citations for assault in the Third Degree; a petty misdemeanor, a petty misdemeanor is punishable up to thirty (30) days in jail and the statute of limitations for the prosecuting for a petty misdemeanor is one year. The outcome of the case, the defendant and the complaining party, both received citations to respond to court in January 2017. The complaining party in this allegation arrived in court and there was no record of the citations

at the court and therefore, both citations were dismissed without prejudice by the court. In my initial review, the response to the Department submission or lack of submission of the Prosecuting Office to review the criminal charges. In our initial review, what appears too have happen was that at that time we were utilizing (what's the name of it) tri-tech as the record manager system. Tri-tech was the system that the report was completed in and at that time the process for transmission of reports and citations to the Prosecuting Attorney's office was conducted manually; it was not as it is today, under Spillman where we could just transfer it electronically, it had to be manually pulled. From what I am told that the process at that time was that the Prosecutor's Office would come over and request the document we would present to them. It doesn't appear and I don't know the reason why it was put forth prior to the January 17 court date; however, in March of 2018 when the complainant came forward to OPS (Office of Professional Standard) the case was presented to the Prosecuting Attorney's office and as I laid out earlier, the case couldn't move forward because it was outside of the window of the statute of limitations.

In response to a potential relationship between KPD personnel and possible witnesses, undue influence of KPD personnel. The response to that is this, in this complaint this individual made unsubstantiated allegations that had no fact and were based upon what he quoted as his feelings and beliefs that the reason why this case didn't move forward was because KPD personnel (in some way) prevented it from happening. I wish that this case had been presented in a timely manner so the unsubstantiated claims could be addressed properly and appropriate so that we could assure the community that what – first and foremost make a determination on whether or not these unsubstantiated claims occurred and they did held people accountable and that they didn't clear the police officer and the Department's reputation based upon the unsubstantiated claims. Unfortunately, we can't do that because even the initial complaint was over a year after the incident itself and here we find ourselves now almost three and a half years later once again looking at this complaint. I have no way to clear the Department's name. I have no way of identifying whether or not the two individuals involved had any undue influence or pressure otherwise.

In regard to KPD policy and procedures, I found no evidence that the KPD's policy and procedures were not followed. My only assumption, in this case is that due to the constraints and challenges that the old records management system that were in place created some additional challenges for this being handled in a proper course, and so with that I no further information to present to you on this matter.

Chair Morita: Are there any questions for the Chief?

Vice Chair Adams: No, but I have a comment and that is there's a reason we switched from the old system to Spillman and that I think we put a lot of time and energy into this complaint that I don't feel there's further action; we've already sent the letter saying it's beyond it's time...Am I correct, Mercedes.

Ms. Omo: Yes, the complainant revised it.

Vice Chair Adams: Okay, thank you.

Chair Morita: Are there any more questions? Can I get a motion?

Vice Chair Adams: To close...

Ms. Hertog: I move that we accept the Chief's response and close this out.

Vice Chair Adams: Second.

Chair Morita: Any discussion? Roll call.

A roll call ensued with all six (6) Commissioners voting unanimously to accept Chief Raybuck's verbal response and to close the matter.

Chair Morita: Okay, can I get a motion to receive items KPC 2020-10 and KPC 2020-11 for the record?

Vice Chair Adams: So moved.

Ms. Hertog: Second.

Chair Morita: Can I get a roll call vote?

KPC 2020-10

Copy of a Letter of Intent under the U.S. Department of Defense Law of War Manual, 1949 Geneva Convention and Title 18 USC Section 2441 War Crimes Act from the Kingdom of the Hawaiian Islands Noa Kanealiiopono Mau-Espirto, Kaua'i and Ni'ihau Governor/Hawaiian National, Kaimi C.D. Hermosura, Konohiki Chief/Hawaiian National, Charles D. Hepa, Konohiki Chief, Hawaiian National, Lance Kamuela Gomes, Konohiki Chief, Hawaiian National, Punohu Nalimu Kekaulua III, Konohiki Chief, Hawaiian National, Kapana Brown, Konohiki Chief, Hawaiian National, Antone J. Maderios, Konohiki Chief, Hawaiian National and Gilbert Madeiros, Konohiki Chief, Hawaiian National to Dr. Mark T. Esper, U.S. Department of Defense, Secretary of Defense, Michael R. Pompeo, U.S. Department of State, Secretary of State, Peter Mauer, International Committee of the Red Cross, President, Clare E. Connors, State of Hawai'i Attorney General, Jason Redulla, State of Hawai'i DOCARE Enforcement Chief, David Y. Ige, Governor, State of Hawai'i, Justin Kollar, County of Kaua'i Prosecuting Attorney, Matthew Bracken, County of Kaua'i Attorney, Todd G. Raybuck, Police Chief, Kaua'i Police Department, Roy Morita, Chair, Kaua'i Police Commission and Gerald Y. Sekiya, State of Hawai'i Commission Judicial Conduct Chair.

KPC 2020-11

Copy of a Letter of Demand requesting compliance of legal obligations under the U.S. Department of Defense Law of War Manual, 1949 Geneva Convention Treaty and Title 18 USC Section 2441 War Crimes Act from the Kingdom of The Hawaiian Islands Noa Kanealiiopono Mau-Espirto, Kaua'i and Ni'ihau Governor/Hawaiian National, Kaimi C.D. Hermosura, Konohiki Chief/Hawaiian National, Charles D. Hepa, Konohiki Chief, Hawaiian National, Lance Kamuela Gomes, Konohiki Chief, Hawaiian National, Punohu Nalimu Kekaulua III,

Konohiki Chief, Hawaiian National, Kapana Brown, Konohiki Chief, Hawaiian National, Antone J. Maderios, Konohiki Chief, Hawaiian National and Gilbert Madeiros, Konohiki Chief, Hawaiian National to Dr. Mark T. Esper, U.S. Department of Defense, Secretary of Defense, Michael R. Pompeo, U.S. Department of State, Secretary of State, Peter Mauer, International Committee of The Red Cross, President, Clare E. Connors, State of Hawai'i Attorney General, Jason Redulla, State of Hawai'i DOCARE Enforcement Chief, David Y. Ige, Governor, State of Hawai'i, Justin Kollar, County of Kaua'i Prosecuting Attorney, Matthew Bracken, County of Kaua'i Attorney, Todd G. Raybuck, Police Chief, Kaua'i Police Department, Roy Morita, Chair, Kaua'i Police Commission and Gerald Y. Sekiya, State of Hawai'i Commission Judicial Conduct Chair.

A roll call ensued with all six (6) Commissioners voting unanimously to receive items KPC 2020-10 and KPC 2020-11 for the record.

KPC 2020-12

Public announcement for notarized complaint KPC 2020-001 that was filed with the Kaua'i Police Commission.

Chair Morita: What is this one about Mercedes?

Ms. Omo: You need to read the announcement into the record.

Chair Morita: Okay, can I get a motion to enter into Executive Session?

Mr. Mince: Hey, Roy, this is Kevin.

Chair Morita: Yes, Kevin.

Mr. Mince: I don't think you covered the first item under business.

Ms. Hertog: It's about the Police Commission rules at the very bottom.

Vice Chair Adams: It's on the first page.

Chair Morita: You know, why when I printed the agenda it got cut off at the bottom. Can someone read that for me, please?

Ms. Hertog: I'll do it.

KPC 2019-36

Discussion and decision-making on recommendations to amend the Police Commission Rules on Administrative Practice and Procedure in accordance with Hawai'i Revised Statutes Section 92-2.5 (a). (On-going)

Ms. Hertog: I can give an update, then I ask Chris and Kevin to weigh it. Kevin sent Chris our attorney all of the information that he needed on the background and how we were trying to

update the rules. Chris received it all and he's taking the time to digest this and the last email conversation we had was he just have to let Kevin and myself know when he would be available to discuss this. We did ask if we could meet face-to-face and I believe that has been cleared. But it's really when Chris has the time to digest all of this and then Kevin and I can come down and sit with him.

Mr. Donahoe: Yes, this is Chris. Thank you to Kevin and Mary Kay for getting me that information. I didn't have the chance to go over it. The intent is I'm going to meet with Mark Ishmael next week and Kevin and Mary Kay, I'm going to let you know when we can meet in person, hopefully soon after that.

Ms. Hertog: Thank you.

Chair Morita: Okay, thank you Chris, I appreciate that.

Mr. Donahoe: No problem.

Chair Morita: Can I get a motion to move into Executive Session?

Vice Chair Adams: So moved.

Ms. Jardin: Second.

Chair Morita: Roll call.

A roll call ensued with all six (6) Commissioners voting unanimously to enter into Executive Session. At 10:29 a.m. Deputy County Attorney Donahoe cited the Hawai'i Revised Statutes.

EXECUTIVE SESSION

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 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.

ES KPC 2020-001

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.

ES KPC 2020-002

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.

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. (Referred to the Kaua'i Police Department for additional information)

ES KPC 2020-011

Notarized Complaint KPC 2020-003 received on May 5, 2020 filed against officers in the Kaua'i Police Department. The complaint alleges conduct unbecoming of three detectives and four patrol officers for showing up at the complainant's residence for a call made by a female who claimed to have seen a Caucasian female getting into the back seat of the car the complainant's family member was driving only to realize that what they thought had happen was a misunderstanding.

ES KPC 2020-012

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 April 30, 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.

At 10:34 a.m. the Commission entered into Executive Session.

At 12:27 p.m. the Commissioners reconvened in Open Session.

RETURN TO OPEN SESSION

Ratify the actions taken by Police Commission in Executive Session for the following agenda items: ES KPC 2020-001, ES KPC 2020-002, ES KPC 2020-006, ES KPC 2020-011 and ES KPC 2020-012.

Chair Morita: Can I get a motion to ratify the actions taken in Executive Session?

Vice Chair Adams: So moved.

Ms. Hertog: Second.

A roll call ensued with all six (6) Commissioners voting unanimously to ratify the actions taken in Executive Session.

ADJOURNMENT

Chair Morita: Can I get a motion to adjourn the meeting?

Vice Chair Adams: So moved.

Mr. Bahouth: Second.

A roll call vote ensued with all six (6) Commissioners voting unanimously to adjourn the meeting. At 12:31 p.m. the meeting adjourned.

Submitted by:

Mercedes R. Omo
Support Clerk

Approved on: June 25, 2020
Approved as amended:

Roy Morita, Chair Kaua'i Police Commission