

BOARD OF PRIVATE DETECTIVES AND GUARDS

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Thursday, July 14, 2011

Time: 10:30 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, HI 96813

Present: Randall W. Mack, III, Industry Member, Chair
Douglas Inouye, Public Member, Vice Chair
Darryl Perry, Chief of Police, County of Kauai
Patrick W. Souza, Public Member
Gary Yabuta, Chief of Police, County of Maui
Rodney J. Tam, Deputy Attorney General
Charlene L.K. Tamanaha, Executive Officer
Lesley Matsumoto, Secretary

Guests: Moshe Alon
Edward Akiona
Patrick Reardon
Miles A. Tanabe
Donna Miller
Wendi Kominek
Tammy Beaumont
Lenny Rapozo
Marc Guyot

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor as required by §92-7, Hawaii Revised Statutes (“HRS”).

Call to Order: There being a quorum present, the meeting was called to order at 10:40 a.m. by Vice Chair Inouye.

Additions to
Or Deletions
From the Agenda: None.

Chapter 91, HRS
Adjudicatory
Matters: None.

Approval of
the Minutes: It was moved by Chief Perry, seconded by Mr. Souza, and unanimously carried to approve the minutes and executive session minutes of the May 12, 2011 meeting as circulated.

Executive Session: It was moved by Chief Yabuta, seconded by Mr. Souza and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consider and evaluate personal information relating to the applicant applying for licensure at 10:41 a.m.

EXECUTIVE SESSION

- Applications:
- a. Oral Interview for Licensure
 1. Moshe Alon, Principal Guard
Professional Security Consultants

The Chair arrived at 10:45 a.m.

It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to reconvene to the Board's regular order of business at 11:07 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Chief Perry, seconded by Mr. Souza, and unanimously carried to approve the above application subject to meeting all licensing requirements.

Executive Session: It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consider and evaluate personal information relating to the applicant applying for licensure at 11:08 a.m.

EXECUTIVE SESSION

2. Patrick Readon, Principal Detective
Insight Service Group Inc.

It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to reconvene to the Board's regular order of business at 11:12 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Chief Yabuta, seconded by Chief Perry, and unanimously carried to approve the above application subject to meeting all licensing requirements.

Executive Session: It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consider and evaluate personal information relating to the applicant applying for licensure at 11:13 a.m.

EXECUTIVE SESSION

3. Miles Akiro Tanabe, Sole, Guard

It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to reconvene to the Board's regular order of business at 11:23 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by the Vice Chair, seconded by Chief Yabuta, and unanimously carried to approve the above application subject to meeting all licensing requirements.

Executive Session: It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consider and evaluate personal information relating to the applicant applying for licensure at 11:25 a.m.

EXECUTIVE SESSION

4. Donna M. Miller, Sole, Detective

It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to reconvene to the Board's regular order of business at 11:33 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Chief Yabuta, seconded by Chief Perry, and unanimously carried to approve the above application subject to meeting all licensing requirements.

Executive Session: It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consider and evaluate personal information relating to the applicant applying for licensure at 11:34 a.m.

EXECUTIVE SESSION

5. Wendi E.T. Kominek, Principal Detective
US Investigations Services LLC [PDA 623]

It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to reconvene to the Board's regular order of business at 11:44 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Chief Perry, seconded by the Vice Chair, and unanimously carried to approve the above application subject to meeting all licensing requirements.

Executive Session: It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consider and evaluate personal information relating to the applicant applying for licensure at 11:46 a.m.

EXECUTIVE SESSION

6. Tammy L. Beaumont, Principal Guard
Honolulu Merchant Patrol & Guard Co. Inc. [GDA 10]

It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to reconvene to the Board's regular order of business at 11:51 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Mr. Souza, seconded by Chief Yabuta, and unanimously carried to approve the above application subject to meeting all licensing requirements.

- c. Review for Examination

Guard/Agency

It was moved by Chief Yabuta, seconded by the Vice Chair and unanimously carried to **approve** the following applications for examination:

- i. Neal O. Sakamoto, Sole

Private Detective/Agency

It was moved by Chief Yabuta, seconded by the Vice Chair and unanimously carried to **approve** the following application for examination:

- i. Jennifer L. Dunbar, Principal
US Investigations Services LLC, PDA 623
- ii. Scott L. Roberts, Sole

- d. Ratification

None.

- e. Ratification for Status Changes

None.

- f. Request to be a Principal for More Than One Entity

None.

The Chair moved out of order to address item #9 Unfinished Business.

Unfinished
Business:

- a. County of Kaua'i – Department of Personnel Services, Inquiry Relating to the Impact of Act 208 on Various Class Specifications

Executive Session: It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities at 11:51 a.m.

EXECUTIVE SESSION

It was moved by Mr. Souza, seconded by the Vice Chair, and unanimously carried to reconvene to the Board's regular order of business at 11:56 a.m.

Chief Perry recused himself from any discussion and action taken from the County of Kaua'i, Department of Personnel Services, Inquiry Relating to the Impact of Act 208 on Various Class Specifications.

Mr. Lenny Rapozo, Kaua'i Parks Director, and Mr. Marc Guyot, Corporation Counsel for the County of Kaua'i appeared before the Board to discuss the impact of Act 208 on various class specifications.

Mr. Rapozo informed members that he is asking the Board for a reconsideration of the Board's prior determination that the County of Kaua'i's Park Security Officer I and II classes are subject to the provisions of Act 208 and HRS Chapter 463.

It is their position that their Park Security Officer I and II classes are law enforcement officers as they are sworn County personnel who are able to issue citations for ordinance violations and should not be subject to Act 208.

Mr. Guyot also stated that these park security officers are sworn to uphold and enforce ordinances, and have powers to issue citations. They are law enforcement officers and should be exempt from HRS 463.

The Chair asked Mr. Rapozo as to the training park security officer's I and II receive? Mr. Rapozo responded that are trained in self defense and instructed to call the authorities (Kauai Police Department). They also work with the prosecutor's office and the Kaua'i Police Department on how to issue citations and they also will go to court to provide testimony for cases.

Mr. Guyot stated that their park officers or rangers issue citations, as they call them to go to court, and are focused on keeping order in the parks.

Executive Session: It was moved by Mr. Souza, seconded by Chief Yabuta, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities at 12:13 p.m.

EXECUTIVE SESSION

It was moved by Chief Yabuta, seconded by Mr. Souza, and unanimously carried to reconvene to the Board's regular order of business at 12:29 p.m.

After careful consideration and based solely on the information provided to date, the Board determined that the County of Kaua'i Park Security Officers I and II are acting in a guard capacity and are not "law enforcement officers" under HRS section 710-1000 and 712A-1 (for purposes of HRS section 463-1's definition of a "guard").

It was moved by Chief Yabuta, seconded by Mr. Souza and carried with a vote of four for with Chief Perry recusing himself to reaffirm its March 17, 2011 determination that the Park Security Officers I and II **are** subject to Act 208 and HRS chapter 463, and denied the County of Kaua'i's request to amend the Board's prior determination.

The Chair moved back to the order of the agenda to discuss item #6 Executive Officer's Report.

Executive
Officer's Report:

- a. Office of Information Practices ("OIP")
None.
- b. Ethics Commission
None.
- c. Board Policies and Procedures
None.
- d. Other
None.

Examination: a. Review & Report

The Executive Officer distributed the following results of the Private Detectives' and Guards' examination:

Private Detectives' Exam (administered May 19, 2011)

Exams Administered	3
Successful	2
Unsuccessful	1

Guards' Exam (administered May 19, 2011)

Exams Administered	2
Successful	1
Unsuccessful	1

Private Detectives' Exam (administered June 16, 2011)

Exams Administered	2
Successful	1
Unsuccessful	1

Guards' Exam (administered June 16, 2011)

Exams Administered	3
Successful	1
Unsuccessful	2

Mr. Mack informed members that he's still working on the questions for the examination. Also, Chief Perry and Chief Yabuta will compose questions based upon the pertinent HRS sections members feel are important.

Scope: None.

New Business: a. County of Hawai'i Department of Human Resources, Inquiry Relating to the Impact of Act 208 on Various Class Specifications

The Board reviewed and discussed the County of Hawai'i's inquiry regarding the impact of Act 208 (SLH 2010) ("Act 208") on various Hawai'i County employee classifications.

In particular, the Board reviewed the following definition of a "guard" in HRS section 463-1 that was amended by Act 208:

"Guard" means a registered uniformed or nonuniformed person responsible for the safekeeping of a client's properties and persons within contractually prescribed boundaries, and for observation and reporting relative to such safekeeping. "Guard"

shall not include any active duty federal, state, or county law enforcement officers or personnel.
(Emphasis added).

Although the term "law enforcement officer" is not defined in HRS chapter 463, the Board noted that it is defined in HRS sections 710-1000 and 712A-1, respectively, as follows:

"Law enforcement officer" means any public servant, whether employed by the State or subdivision thereof or by the United States, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses;"

"Law enforcement officer" means any public servant, whether employed by the State or subdivisions thereof or by the United States, vested by law with a duty to maintain public order, to make arrests for offenses, or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses. The attorney general, deputy attorneys general, county prosecuting attorneys, and deputy prosecuting attorneys engaged in the enforcement of criminal laws are included in the definition of the term law enforcement officer."

After much discussion, the Board voted unanimously to apply the above definitions of a "law enforcement agency" to the amended definition of a "guard" in HRS section 463-1. Thus, governmental officers or personnel who are employed by a "law enforcement agency" as defined above, are not required to comply with the new guard registration and training requirements imposed by Act 208, nor are they required to obtain a guard agency or individual guard licenses. Consequently, the Board determined that the following governmental agencies are "law enforcement agencies" and thus, are not subject to HRS chapter 463:

County Police Departments (Honolulu, Maui, Kauai, Hawaii)
Department of Public Safety
Department of the Attorney General
County Prosecuting Office (Honolulu, Maui, Kauai, Hawaii)
Sheriff's Department
Federal Marshall's Office
Federal Bureau of Investigations
Internal Revenue Service
Federal Food and Drug Administration
Department of Transportation Harbor Police
County Liquor Commissions (Honolulu, Maui, Kauai, Hawaii)

With respect to the specific job classifications that you provided, the Board determined that the following Hawai'i County employee classifications are subject to Act 208 or HRS chapter 463:

Parking Control Officer
Security Attendant

- Legislation: a. Act 208 (S.B. No. 2165)
i. Subcommittee Report

This issue was deferred to the next meeting.

Correspondence: None.

Next Meeting: Thursday, September 15, 2011, 10:30 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, HI 96813

Adjournment: There being no further business to discuss the meeting adjourned at 12:55 p.m.

Reviewed and approved by:

Taken and recorded by:



Charlene L.K. Tamanaha
Executive Officer



Lesley Matsumoto
Secretary

8/12/11

- Minutes approved as is.
 Minutes approved with changes; see minutes of _____.