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Hawaii News

Ethics panel to review strict media policy

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Work continued Sunday on the project to extend Ala Moana Center.

The Honolulu Ethics Commission is poised to rescind a controversial media policy one month after passing it.

Four members of the seven-member commission asked that the matter be placed on its Thursday agenda. Also on the agenda is consideration of a less stringent policy for the commission as well as its executive director and commission staff.

The commission voted 5-1 on June 24 to adopt a policy that severely limits what Executive Director Chuck Totto, other commission staff and even commission members can say to news reporters.

The policy was immediately assailed by open-government and media advocates as draconian because it effectively muzzles the executive director.

Commission members Stephen Silva and Stanford Yuen are joining Chairwoman Katy Chen and Vice Chairman Michael Lilly in asking that the policy be reconsidered, according to support documents accompanying Thursday's meeting agenda.

Silva and Yuen voted with the majority in June. Chen cast the sole dissenting vote, while Lilly was out of state and did not attend the meeting. The other three commission members who voted to support the policy were Riki May Amano, Victoria Marks and Allene Suemori. All three are former state or federal judges appointed by Mayor Kirk Caldwell since he took office in January 2013.

Authored by Lilly, the proposed policy states that "staff should refrain from interpreting" the commission's formal advisory opinions that are issued with news releases.

However, it would be "permissible to extrapolate from advisory opinions or findings of the commission to comment on how those opinions or findings may affect future hypothetical situations."

The policy adopted in June requires the executive director to "work with staff on the response (to media inquiries) and consult with the Ethics Commission, if time permits."

Under the Lilly proposal, the executive director need only "inform the commission members by email of the content of the comments made to the media" when there is a reasonable opportunity to do so.

Lilly's version, however, retains a paragraph that states that when media require immediate response, the executive director is supposed to consult with the commission chairman, vice chairman or a designee before responding to media.

Also, according to the proposal to be discussed Thursday, in an effort to "avoid confusion and potentially contradictory information," commission members and staff should not communicate with the media on behalf of the commission. But commission members and staff would be "permitted to comment publicly in their individual capacities."

The commission staff, in its background material on Lilly's draft, said it prefers Lilly's version, with one exception. It recommends scrapping its call for the executive director's media responses to be monitored and vetted by commission members.

Since the current policy was adopted a month ago, Totto has had to field six questions

by the media. While previously it would take him 10 minutes to respond to a typical media inquiry, the new process has tripled the time involved "because of emails going back and forth, phone discussions and work interruptions," the commission staff said in its report.

The report also said that of 11 state or municipal jurisdictions that responded to a query about media policies, eight have no media policy and expect their respective executive directors to respond to media questions.

Several commission members were already contemplating the creation of a media policy when, in early summer, Totto was chastised by city Corporation Counsel Donna Leong for telling the Honolulu Star-Advertiser and other media that votes cast by former City Councilman Nestor Garcia on rail and other key development projects should be nullified because he failed to disclose that he had been given gifts of food and golf play by lobbyists benefiting from the projects.

Leong, a Caldwell appointee, said it was not the place of Totto or the commission to determine whether votes should be nullified, and she cited his remarks at the June commission meeting while supporting the more stringent media policy introduced by commission member Amano.

Leong and Totto have clashed on other issues, including how much authority Leong's department has over the commission's budget. The commission is attached administratively to Leong's department.