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Panel eases its rules on limiting director's comments

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The Honolulu Ethics Commission voted Thursday to rescind a strict media policy that severely curtailed what its executive director and even the commissioners themselves could say, opting for new guidelines that would allow a little more freedom.

But the meeting was contentious. The vote to overturn the 1-month-old version was a narrow 4-3.

A proposal to keep in place a policy requiring the executive director to consult with at least the chairman of the commission before speaking to the media was defeated 4-3.

After those votes, the commission voted 7-0 to OK a new policy.

Media and open-government advocates had assailed the now-former media policy soon after it was passed 5-1 in June, describing it as a muzzle on longtime Executive Director Chuck Totto because it required him to consult with at least the commission chairman, and all other commission members when there is time, before responding to the media. Commission members, meanwhile, were to defer all media queries to Totto.

Commission members Steven Silva and Stanford Yuen, who were among the five who supported the June policy, were among the four Thursday who voted to rescind it.

On Thursday members of the League of Women Voters of Honolulu and several individuals submitted testimony urging the commission to reverse itself on its June policy.

Ann Sack Shaver, president of the Honolulu League office, said the policy passed in June flies in the face of open and accountable government.

"In fact, we find it likely to impede the mission of the Ethics Commission because the new policy also obstructs citizens' right to be informed about the commission's determinations and advisories," she said.

Lynne Matusow, a longtime member of the Downtown Neighborhood Board, called the June action "absolutely disgraceful" and said the public looks to Totto to "keep government employees on the straight and narrow, to conduct investigations and make recommendations to the commission for action." As a result of the June policy, "the commissioners now have to earn the respect of the public, the trust of the public," adding, "I do not trust them. That will take time."

But the three commission members who wanted to retain a stricter media policy said they simply wanted to ensure they had a say in what their executive director, because he represents them, tells media.

Commission member Riki May Amano, who authored the June media policy, said she first approached Totto about creating a policy last September. After finding out about a city ethics matter on television, she learned that the commission had no media policy.

"My primary concern (is) we are the commission, and I think Mr. Totto should be speaking for the commission," Amano said. "But I'm not sure because with regard to media presentations and publications, the commission has no opportunity for input, review, anything, until after it's done."

Commission member Elizabeth Marks called it "appropriate for ... commissioners to hear about these things from the staff rather than hearing it for the very first time reading it in the newspaper or hearing it in a news broadcast."

Commission member Allene Suemori said, "We would like to know what we're supposed to be knowing that he's talking about." If they don't, she said, "that's a problem."

But commission member Michael Lilly, who introduced the new policy adopted Thursday, said his version calls on the executive director to inform the seven commissioners when there is an inquiry as soon as is reasonably possible to avoid them needing to learn about it from the media.

To require the executive director to get approval or direction from one or all the commission members would be cumbersome and a sign of distrust, Lilly said.

"Our primary job on this commission is educating the public and city employees about ethics laws. That's more important than our enforcement. And we communicate best by (having the executive director) extrapolating our advisory opinions and findings, to

be able to explain how the commission has ruled on certain things so people can understand what's a violation and what's not."

Lilly's version also takes off the muzzle on the commission members themselves, allowing them to speak on issues so long as they make clear they do not speak for their colleagues.

Some critics of the June policy noted that it came out after city Corporation Counsel Donna Leong publicly chastised Totto for telling reporters that the votes former City Council members Nestor Garcia and Romy Cachola made on rail and other key development issues should be invalidated because they had failed to disclose receiving gifts from parties that benefited from their votes.

Those critics also noted that commission members Amano, Marks and Suemori were the three members appointed by Mayor Kirk Caldwell, as was Leong. Lilly, Silva, Yuen and commission Chairwoman Katy Chen were appointed by former mayors.

But Lilly, a former state attorney general, said Amano, Marks and Suemori, all former federal or state judges, "have the highest reputation for honesty integrity of anybody I know."