

The Maui News

Souza (again) chosen director of Liquor Control

WAILUKU – Despite calls from the public for more openness and transparency, the Maui Liquor Control Commission waived its selection process again Wednesday – choosing not to solicit a list of applicants – and after meeting behind closed doors re-appointed Dana Souza as director of the Department of Liquor Control.

Commission members did not explain their decision during the meeting and did not respond to requests for comment after the meeting.

The commission first appointed Souza to the position at its last meeting Oct. 7, but questions were raised about possible Sunshine Law violations because the selection of a new director was not part of the agenda posted for that meeting.

The commission called a special meeting for Wednesday morning, this time posting its agenda with not

only “discussion,” but “discussion and action” on the appointment of a new director.

During Wednesday’s meeting, the commission first rescinded its votes from the last meeting to waive the selection process and to appoint a new director – only to reappoint Souza to the position, unanimously, a couple minutes later.

Though Section 08-102-36 of the commission’s rules allows it to waive a formal selection process, its decision to forego opening the position to other members of the public and to quietly appoint Souza to head the

department after a closed-door meeting raised questions about how the semiautonomous body conducts business.

Commissioner Dawn Bicoy of Molokai was the only member to vote against waiving the selection process Wednesday, but then voted in favor of appointing Souza as director.

The job pays between \$102,820 and \$118,243 per year.

Commissioners did not discuss any agenda items in open session Wednesday. Immediately after receiving public testimony, the commission recessed into executive session, without citing a reason for the closed-door meeting as required by the Sunshine Law. After the commission reopened the meeting about 15 minutes later, Deputy Corporation Counsel Ed Kushi clarified that the executive session had been called so that the commission could consult with its attorney on its powers, duties, privileges, immunities and liabilities and to consider the hiring or evaluation of an officer or employee.

Commissioners then promptly voted on all four agenda items, without discussion, and adjourned the meeting. The special meeting was finished within 30 minutes.

Chairman Robert Tanaka declined comment after the meeting. An email request for comment to outgoing department Director Franklyn Silva, who is retiring, was not immediately returned Wednesday. An email request for comment from Deputy Director Traci Fujita Villarosa was forwarded to Kushi, the commission's attorney, who did not respond Wednesday.

Souza, a member of the commission, left the meeting Wednesday in the midst of the executive session and did not vote on any of the agenda items. He did not return a call for comment Wednesday.

Rod Antone, county spokesman, said, "we're glad that they (commission members) resolved the issue, and everything was done properly the second time." He declined to comment on whether the selection process should have been opened to other members of the public.

Silva, the current director who's held the post for 22 years, announced last month that he intends to retire effective Sunday, after which Souza will take the reins.

Commissioners told The Maui News earlier this month that "everybody felt he (Souza) was the right person" for the job.

Souza joined the commission in 2013, holding the Makawao seat. He is the son of former department Director Joseph Souza, who was accused of receiving payments from a convicted felon who had been granted a liquor license in violation of state and county liquor laws, according to published reports. Former employees alleged that liquor laws were selectively enforced under Joseph Souza's leadership.

The FBI was notified of the allegations, but no charges were ever brought against Joseph Souza, who retired in 1993 and was succeeded by Silva.

Still, the department's history of questionable decision-making prompted some testifiers to call for a change in the way the commission does business.

"The days of backroom decision-making are gone. The application process for the director should be an open and transparent process as set forth by the Sunshine Law," said Maui County Deputy Prosecutor Richard Minatoya, who testified Wednesday as a private citizen. "The vetting of any applicant should be done in a public manner, as with any other public decision-making process done by any public board or commission."

He added that if an applicant is unqualified or not properly vetted by the commission and later makes a decision that puts the department or county at risk, "there'd be potential liability for that person or entity.

"Going into executive session and coming out and making a decision with the vote . . . the inference is a decision is made behind closed doors, which typically is not a good one for an agency that has questions being raised about it at this point," Minatoya said at the start of the meeting. "The process should be open, the public should be allowed to comment on whomever the applicants is or are."

Lahaina resident Sara Gadarian, the wife of the late former Liquor Commissioner Arsene “Blackie” Gadarian, urged the commission to “revisit your obligation that you took when you signed on to represent the public at large.

“Your obligation is to meet and deliberate in due course, not in haste, but to do the process that’s set out in the rules and regulations.”

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