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The clock is ticking to appoint a new Moraga council member

By Vera Kochan

When former town council member David Stromberg resigned from office on Sept 9 the remaining four council members agreed that it was prudent and fiscally responsible to fill his vacancy through an application, interview, and appointment process, with a Nov. 8 deadline, rather than hold a costly special election.

Four applications were received by Town Clerk Marty McInturf by Sept. 30: Moraga residents Seth Freeman, Kerry Hillis, Kendall Langan and Sona Makker. The town council held a Special Meeting on Oct. 12 to interview the applicants and hopefully select a new member, who would serve through November 2022. During the meeting, Freeman informed the council that he reluctantly needed to drop out of contention due to a possible conflict of interest with the firm that employs him. Makker, a technology policy lawyer who has lived in Moraga for two years, looks to preserve open space as well as address the town's long-term infrastructure, fiscal, housing and retail needs. Hillis, a principal government and community relations representative for the Bay Area Rapid Transit District (BART) and a four year resident, currently serves as the vice chair of the Moraga Planning Commission and vice president of the Moraga Community Foundation. The final applicant, Langan, a 68-year resident, is currently a commercial property owner within town who has been president and CEO of several companies throughout his career.

Vice Mayor Steve Woehleke opened the meeting, saying, "We're trying to find the right candidate . to serve the citizens of the town, and that's the way I look at it."

Woehleke went on to say that while he was impressed with Makker's enthusiasm and great promise, he was concerned about her newness to the town. With regards to Hillis, Woehleke appreciated his contributions to Moraga, but wished he had more experience in finance and fiscal responsibility, adding, "He tends to not be willing to change his position" after listening to all viewpoints. Referring to Langan, "I value his input," but he didn't provide a complete application for evaluation.

Council Member Teresa Onoda felt that Makker "has tremendous potential" and she liked her focus on transparency, call to action, and fact-based decisions. Onoda wanted Makker to get involved with the understanding of land use and the planning commission. She appreciated Hillis' background and "how he's been active in the four years that he's been here. He's held lots of positions and given, I think, good guidance" while on the planning commission. When referring to Langan, Onoda commented, "A council is about showing up and doing the work, and if you can't put together an application, then in my book, that doesn't cut it."

"He knows the world of government and has been doing it virtually his entire professional career," said Council Member Renata Sos when speaking of Hillis. "He understands the decision making process; the public boards and councils." Sos said that Makker "has shown a commitment and willingness to learn quickly by how she's prepared for this interview," and that being new to the town could be a strength. Sos felt that Langan's many appearances during public comment portions of council meetings where "he quite honestly berated our staff and disparaged individual council members" wasn't a good fit.

Mayor Mike McCluer said, "We need someone with a broad grasp of the town's issues and a deep knowledge of Moraga." While he was impressed with Makker's background and thought process, he felt she hadn't been a resident long enough, and although he appreciated Hillis for his "deep public policy experience in government," McCluer believed that he too, was a relatively new resident of the town at four years. McCluer agreed with the others when it came to Langan.

With the topic of land use high on the list of town council discussions for the upcoming year, the importance of someone with planning commission experience pre-empted the first motion to appoint Hillis as a council member by Onoda and seconded by Sos. The motion failed with a 2-2 vote. Sos then made a motion to appoint Makker, to which there was no second.

"Can I just ask what we're doing here?" questioned Sos. "We have two qualified candidates, and we just had a vote on each of them, and you said `no' to both of them, so I don't understand what we're doing here."

McCluer reiterated that he felt both candidates hadn't been residents long enough. However, Sos pointed out that they all started out green to the job. "To measure people up, people who are assuming office for the first time, to a seasoned council member, I don't believe is the appropriate way to be looking at this."

Woehleke felt that the town council has not been supportive of staff, and that there has been a lack of cooperation with regards to decision making, especially when he raises an issue. He mentioned that McCluer tried to organize a meeting to discuss the issues, but that it was rejected. He was also concerned about the possibility of three council members out-weighting the other two on a regular basis.

Onoda pointed out the urgency of making a decision that evening in order to avoid a potential special election (in May or June), after which Town Manager Cynthia Battenberg stated the cost to Moraga could be anywhere between \$93,104 and \$162,932.

"I'm very concerned that whoever we choose has to be a good team member," replied Woehleke. "We have to work together as a group of five."

McCluer agreed, saying that if the application process is opened up again, possibly more applicants will come forward. "Ideally a broad-based business person with a government background that's been in Moraga for a while."

Making another attempt at appointment, Onoda motioned for Makker with Sos seconding. Once again, McCluer and Woehleke voted against.

A clearly upset Onoda suggested that McCluer and Woehleke get together to discuss the issue in order to avoid more work for staff. "If you guys are this tender about it, it needs to be taken care of, and I don't think it has anything to do with the people who are trying to be on the council. If you two would swallow whatever rancid thing that you have in your mouth from the past, and we make this decision tonight and get this done, then we have meetings - the four of us - and get this taken care of!"

The decision was made to continue the process to the next day's regular town council meeting in the hopes that "sleeping on it" might change some minds.

On Oct. 13, Onoda immediately cut to the chase and moved to appoint Hillis to the council with Sos seconding the motion. Yet again, the vote ended in 2-2.

Sos addressed the concern about a "new to the town" member, suggesting that a mentorship from the others could be helpful, to which Woehleke replied that canvassing for a new set of applicants "may provide better clarity. I personally think we owe it to the residents since there are questions to open it back up again, and we'll be no worse off."

"This isn't going to sound very nice, so I'm warning you guys ahead of time," stated Onoda. "If we have to go to a Special Election, it is on the vice mayor and the mayor, because Council Member Sos and I have both said okay to two candidates that are very qualified, so I just want it to be very clear that that's what I'm thinking, and it is completely 100% on you two, and that will cost \$100,000, perhaps, and I don't think this town wants to spend money doing that when they have elected us to make decisions. That is our job. As ugly as my statements just were, I stand by them." With that being said, she once again motioned to appoint Makker to town council and was seconded by Sos. The vote again was 2-2.

"When you say it's on us, it sounds like you're saying it's our fault," challenged McCluer. "It sounds like you're saying your opinion is right and our opinion is wrong. When you have a 2-2 vote, you have a difference of opinion." He once again suggested reopening the application process as a benefit to the residents.

Sos felt that opening another round of applications was disrespectful to the candidates who initially responded in a timely manner for the Sept. 30 deadline. Posing the idea that McCluer and Woehleke needed more time to reconsider Hillis and Makker she motioned that the entire matter be continued to the Oct. 27 Regular Town Council Meeting. Seconded by Onoda, the vote failed 2-2.

McCluer motioned to open the application process up to another round with Woehleke seconding. This time Onoda and Sos voted against.

Battenberg stated that the issue would be agendized again for the Oct. 27 Town Council Meeting, as it is the last regular meeting before the 60 day period of appointment expires on Nov. 8.

The town received 32 public letters of concern about this topic as of Oct. 22. An Oct. 17 letter addressed to the mayor and council members pointed out that "the refusal of half the Council to make a selection risks forcing the Town into an eight-month period with only a four-member Council - and the inability to break tie votes." The letter was signed by 13 former Moraga mayors and council members whose term in office ranged from 1974-2020. It went on to urge them to "set aside internal disputes, swiftly appoint one of the applicants before you, and return your attention to executing the urgent business of the Town."

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