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## Moraga renegotiates Mulberry Tree Preschool lease agreement



Photo provided

Mulberry Tree Preschool located next to Moraga Commons Park on St. Mary's Road

By Vera Kochan

The Mulberry Tree Preschool, founded by Robert and Victoria Felton, has been operating since 1972 on land leased from the state of California that was originally intended as part of the Highway 77 right-of-way. With the incorporation of Moraga in 1974, the property along with Moraga Commons Park was acquired by the town. When the original lease of five years expired, a series of year-to-year leases were issued until 1981, when a 10-year lease came into effect. In 1983, the town transferred the lease to new owners William and Maryann McLeod. The town entered into its First Amendment of the Ground Lease in 1989, which extended the lease indefinitely unless terminated by written notice of at least 30 months.

In 2010, the McLeods had the lease transferred to Susan

E. Allison who was Mulberry Tree's director since 2001 and later a part owner since 2003. A Second Amendment of the Ground Lease came into effect in March 2011, changing the lease term of "indefinite" to provide an expiration date of Dec. 31, 2020.

On Jan. 13 of this year, a Third Amendment of the Ground Lease was created for a six-month term that included a \$1,000 per month rent reduction, whereby the school's parking lot could be used by the public during evenings, weekends and holidays. This provision was made in an effort to help Mulberry Tree navigate through the COVID-19 mandates of remaining closed for nearly 8.5 months. Allison was able to reopen the school in December to limited capacity, but had to teach classes alone as she was unable to meet payroll.

By February, enrollment grew enabling her to hire an

additional teacher. The town also offered to extend the term of Allison's lease for six months. The new amendment provided that the town would become owners of the improvements on the property due to Allison expressing the possibility of retiring. After many pleas from parents, she decided to hold off on that plan.

With the lease set to expire on June 30, Allison appeared before the June 23 town council meeting hoping for a Fourth Amendment to the Ground Lease that would extend the proposed three-year lease to a five-year lease with a five-year option; a reasonable limitation on assignment should she decide to retire and pass the school over to a like-minded successor with a similar business model; and have the ability to either remove the modular building or have the option to leave it in exchange for its fair market value, given the fact that she has invested thousands of dollars for improvements.

Council Member David Stromberg began to question Allison in a manner that public commenters later described as a form of cross-examination. "I'm aware that you sent an email out to Mulberry Tree Friends, and you did it to notify them about the status of negotiations with the Town of Moraga regarding lease extensions, correct?"

"Yes," replied Allison. "I had done that after I asked for an option to renew and was told that there would not be one."

Stromberg wanted to know if Allison composed the email herself in which she requested the Mulberry Tree Friends to either forward or make personal additions to, before they forwarded them to the town council. Allison said that her attorney helped her, but clarified that she herself wrote a letter to Mulberry Tree Friends asking for their support in the email campaign to the council.

Stromberg said that he'd read her letter many times and "I noticed you didn't inform the Mulberry Tree Friends, the recipients of your email, that you had notified town staff in April of this year, just a couple of months ago, that you intended to retire. You didn't mention that did you?"

"That is not true," stated Allison. "I notified them much,

much earlier than that."

Stromberg was concerned that Allison was negotiating with a potentially new entity – a corporation that planned on running Mulberry Tree in a Montessori style, rather than the Mulberry Tree method that parents have come to expect and assumed would continue, and that she did not inform the parents of the possibility.

Allison assured Stromberg that she informed the Mulberry Tree Friends that she wanted to be able to choose a successor who would continue the Mulberry Tree style and put it in the hands of someone who would continue to run a preschool.

During the Public Comment portion, participants were emotionally vocal about Stromberg's line of questioning. Many had stated that with all of the young families in Moraga, the town shouldn't lose a preschool.

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