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## CITY OF WALNUT

February 11, 2015

Mt. San Antonio College Board of Trustees  
1100 N. Grand Avenue  
Walnut, CA 91789

Re: Proposed Resolution No. 14-05  
Proposed Parking Structure - Lot A

The purpose of this letter is to request, on behalf of residents of the City of Walnut, acting through their City Council, that the Mt. San Antonio Board of Trustees either withdraw its' proposed Resolution No. 14-05, or if considered, deny it.

What started out to be a community debate is now becoming a legal battle, which if continued, will have long-term adverse side effects. Your proposed finding:

“WHEREAS, since the Campus existed prior to the incorporation of the City and when the City incorporated, the City's zoning ordinances and general plan only acknowledged the location of the College, but they do not provide for the location of college-level schools”,

demonstrates the long-standing trust between the City and the College. This cooperation is now going by the wayside, as evidenced by another finding:

“Section 1. Provision of School Location. For good and sufficient cause, the Board of Trustees hereby finds the City's zoning ordinances including, without limitation, the City's General Plan and Walnut Municipal Code Title VI (Planning and Zoning) Chapter 25 (Zoning), and Title V (Public Works) Article IV (Public Tree Preservation) (collectively, "Zoning Ordinances") do not provide for the location of schools, and thus, the District is not required to comply with the City's ordinances for the District's facilities.”

Your long list of findings do not justify the College's stealth in ultimately placing the over-sized parking structure in its proposed location. Your Resolution findings do not recognize that your own Trustees advised the Board on June 18, 2008:

“Trustee Hall, and other trustees, voiced concern that the idea of a parking structure might not be well received by the voters. He doesn't want voters to be upset about a specific project and, as a result, not vote to support the bond measure as a whole. He asked if the College had conducted focus group meetings to test the viability of the project. Dr. Nixon stated that he would pursue polling information on those projects with the consultants.”

Those “focus groups” never occurred. Your contract with Antarctica Infrastructure that provides,

“WHEREAS, Consultant and District desire to enter into a long-term Groundlease-Leaseback arrangement for the development, operation and financing of the Project pursuant to Education Code section 81335. This arrangement will be documented by a Site Lease, Facilities Lease and Construction Services Agreement (“Lease-Leaseback Documents”),

apparently recognizes that the 2008 bond issue violates the provisions of Proposition 39 as to the five-story parking structure. You do not cite the bond issue in the proposed Resolution, meaning that you agree that you have no consent of our residents to build the structure as proposed.


As to the litany of events listed in the Resolution, staff apparently considers this project as steeped in equitable considerations favoring the College. You could just as well adopt a two-paragraph resolution declaring “the College is putting the five-story parking structure at Lot A, whether the City likes it or not.” The quoted history is meaningless until the College declares its intention to use a specific site, which you will possibly do this evening. Your selective findings ignore the unanimous letter of August 28, 2014 from the City Council to the Board of Trustees calling attention to the traffic impacts, noise, and impairment of air quality. It attached the City’s Resolution No. 14-45, August 27, 2014, again unanimous, protesting the Lot A location. These follow the College’s first candid disclosure on March 26, 2014 (Nellesen). The Resolution also contains excerpts from memos by me, as City Attorney, and by our Special Counsel. These of course pre-date my memo of September 24, 2014, written after discovery of concealed facts, size based upon student projections, staff parking and alternate sites of less impact, including “no build”. The City does not doubt your ability to build a parking structure for college use under alternative financing, but desires that you put it at a location of less severe impact to Walnut residents. The Memorandum of Understanding 2008-01, did not mention the parking structure.

The City’s efforts to mitigate the losses notwithstanding, it appears that the Board is prepared to move forward with Lot A (note the language “passed and adopted by unanimous vote” after “Section 5” of the proposed resolution, but hopefully a typo). The bottom line is that adoption of the Resolution puts us both on the necessary path to litigation because of applicable statutes of limitation. As to the exemption under this Resolution, it is a single-site selection, and is clearly a

“support facility”. We don’t think putting telescopes on the roof, now mentioned for the first time, will cure the substantive defects.

There are more projects, more traffic, and more bond issues in the future. This hostile act, if carried out, will generate numerous alternatives sponsored by residents.

Very truly yours,

  
MICHAEL B. MONTGOMERY  
City Attorney

MBM/pp

cc: City Manager  
City Clerk

Encl.: City of Walnut Letter, 8/28/2014  
Walnut Resolution No. 14-45  
City Attorney Memo, 9/24/2014