



CED Committee Meeting 10/24 Agenda Item 4 Public Comment

Leslie Levitt



Fri 10/21/2022 11:54 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>;steering.committee@billboardsno.org
<steering.committee@billboardsno.org>

 1 attachments (2 MB)

NDBSJ Electronic Billboards on City-Owned Property Status Report Commented 22-10-19 Rev F.pdf;

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[External Email]

Hello:

This is submitted from No Digital Billboards in San Jose a coalition of residents, neighborhood associations, and environmental and historic preservation advocacy groups opposed to new digital billboards in San Jose.

Please include the attached input with the public comment for the CED Committee Meeting 10/24 Agenda Item 4 CC 22-241 Electronic Billboards on City-Owned Property Status Report

The single attachment includes

- 1) Comments on SUBJECT: ELECTRONIC BILLBOARDS ON CITY-OWNED PROPERTY STATUS REPORT
- 2) Op-Ed: Taking Down Billboards in San Jose - Who Benefits?
- 3) NDBSJ Memo: Electronic Billboards vs. Static Billboards Power Consumption

Thank you.

Les Levitt
No Digital Billboard in San Jose Steering Committee

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Memorandum

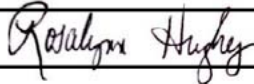
TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Rosalynn Hughey

SUBJECT: SEE BELOW

DATE: October 17, 2022

Approved



Date

10/12/22

SUBJECT: ELECTRONIC BILLBOARDS ON CITY-OWNED PROPERTY STATUS REPORT

RECOMMENDATION

Accept the status report on efforts to advance the placement of Electronic Billboards on City-owned property.

Comment [NDBSJ1]: We call for you to reject this report because accepting the report would be accepting a process fraught with delays, lack of transparency, and incomplete information. We urge you to defer action and to request more comprehensive information be made publicly available, before rubber stamping approval.

OUTCOME

Provide the Committee with a status report on the implementation of Electronic Billboards on City-owned property.

BACKGROUND

The placement of digital signage on City-owned property seeks to enhance the commercial vibrancy of downtown San José, remove blighted static billboards throughout the City, generate revenue opportunities for the City, and explore digital technologies that could allow real-time emergency notifications and City messaging to residents.

From 2016 to 2018, the Department of Planning, Building, and Code Enforcement and the Office of Economic Development and Cultural Affairs completed analyses and multiple rounds of engagement and discussion with community stakeholders, billboards/signage companies, and tenants in City-owned facilities around the placement of digital signage on City-owned property.

Comment [NDBSJ2]: From the 1970s until 2018 the City of San Jose had a ban on new billboards on public property based on the planning principle that beautifying the city would be good for business and good for the environment.

On September 25, 2018, the City Council approved new (replacement) [City Council Policy 6-4 \(Signs on City-Owned Land\)](#) allowing billboards, programmable electronic signs, and signs displaying offsite commercial speech. The Policy identifies 17 City-owned sites that could potentially accommodate up to 22 signs. A program-level California Environmental Quality Act (CEQA) analysis was completed for the 17 sites. Staff was directed to prepare and release

Comment [NDBSJ3]: We have asked many times for evidence of the community engagement in this time period, and no evidence has been produced. A 2020 City of San Jose survey with >2,000 respondents found 90% were either "strongly opposed" or "somewhat opposed" to new digital billboards in the city. Not one small business showed up to the Community meeting focused on Billboards in 2020.

Request for Proposal (RFP) solicitations for building-mounted digital signs in downtown and free-standing freeway-facing signage on City-owned property. The work was divided into two separate RFP processes beginning in 2019. In March 2020, the COVID-19 pandemic redirected City staff priorities to managing emergency relief programs that prioritized human health and quality of life for San José's most vulnerable including providing critical assistance to the small business community in San José. These efforts delayed any significant progress of digital signage-related efforts for two years. With the addition of much need staff resources, efforts to advance and complete the Council-directed work on electronic signage on the City-owned property have resumed.

ANALYSIS

Implementation of digital signage on City-owned property was divided into two efforts: 1) the Select Sites process, and 2) the Alternative Sites process. The following provides the status of each process, the milestones that have been achieved, and the proposed next steps and timelines.

Large-format Digital Signage on Select Sites (Building-Mounted Signage)

In the Select Sites process, the City issued an RFP for signage at eight properties in the downtown core. The solicitation sought proposals for leases to install, operate, and manage building-mounted static and/or digital commercial advertising signs in these City locations. The eight properties included the Market/San Pedro Street Garage, the Third and San Carlos Street Garage, the Hammer Theatre, the Center for Performing Arts, the McEnery Convention Center, the Second Street Garage, the San José Museum of Art, and The Tech Interactive. The initial RFP solicitation was released in August 2019 with a Notice of Intended Award (NOIA) issued in December 2019. This RFP solicitation was subsequently re-issued due to a technical violation following the NOIA issuance.

The second Select Sites RFP solicitation was reduced to six sites, removing the **San José Museum of Art** and the **Second Street Garage**, and issued in May 2020. Proposals for this solicitation were received in July 2020 and have been reviewed by an evaluation panel. A NOIA for this solicitation has not yet been issued due to staff workload and adjusted work plan priorities in response to pandemic recovery efforts.

Large-Format Signage on Alternative Sites Process (Free-Standing Signage)

For the Alternative Sites process, the City solicited potential leases to install, operate, and manage new free-standing digital commercial advertising signs in two locations cleared in the 2018 program-level CEQA analysis. Staff was also directed by the City Council to allow potential proposers to put forward additional sites that would meet the siting criteria outlined in City Council Policy 6-4. The Alternative Sites RFP was issued in July 2019 and 20 proposals were received. A NOIA for one site was issued in July 2020. The NOIA was subsequently

Comment [NDBSJ4]: Could it be that an art museum in a historic building is no place for electronic billboards with beer and soda advertisements? The fact that this site was *ever* considered calls into question the common sense and intentions of the entire billboard initiative

Comment [NDBSJ5]: What panel? The City's Phase 1 plan for billboards on public sites is shrouded in secrecy despite this being the public's business and a project that would alter public buildings with commercial advertising on large digital screens

For well over a year, the City's Office of Economic Development has refused to respond to our repeated Public Record Act requests for relevant documents that contain details of the proposed billboards

You should demand release of information about each proposal now so the City Council and the public will have adequate time and information upon which to make an informed judgment about these proposed billboards

rescinded in October 2020 for the City to re-examine its initial evaluation of the proposed sites. A new NOIA was issued in July 2021 for three potential sites.

Next Steps: Implementation Timeline

The anticipated implementation timeline for each process—Select Sites locations and Alternative Sites locations—varies based on environmental considerations and the applicable legal and policy requirements. For the Select Sites process, staff intends to issue the NOIA in fall 2022. Project-level CEQA analysis would then be completed. Staff estimates six to nine months for this process. Staff would then finalize the contract terms and bring a recommendation to the City Council in fall 2023.

For the Alternative Sites process, project-level CEQA analysis is also required and expected to be completed within six to nine months once the environmental consultant is contracted. Staff anticipates finalizing the contract terms and bringing a recommendation to the City Council in early fall 2023.

Pursuant to City Council direction in February 2022 and as shared on August 30, 2022, Information Memorandum regarding the requirements for outdoor digital billboards at the Norman Y. Mineta San José International Airport, by Q2 2023, staff will bring to City Council the amendment to City Council Policy 6-4 changing the takedown ratio from 4:1 to 6:1. This amendment will require that for every new billboard that is installed, six existing billboards in the City would be required to be taken down. The timeframe for the Policy amendment will be aligned so that any future RFP under the Policy would be subject to the new takedown ratio.

CONCLUSION

Though staff work on digital signage on City-owned property has been significantly delayed due to the redirection of staff priorities to managing emergency relief and recovery programs, staff continues advancing the completion of the Select Sites and Alternative Sites processes. The timeline to complete both processes is fall 2023.

EVALUATION AND FOLLOW-UP

Staff will bring forward recommendations to the City Council for the Select Sites and Alternative Sites in fall 2023.

PUBLIC OUTREACH

This memorandum will be posted for the October 24, 2022, CED Committee meeting.

Comment [NDBSJ6]: Please provide an update on the (2) remaining alternative sites and confirm that all other sites and proposals for alternate sites were permanently rejected. Is the site that is at HWY 87 & Mission still proceeding considering the site is now under construction for housing?

Comment [NDBSJ7]: This is precommitment. Beginning CEQA review too late can mean the City no longer comes to the project with an open mind and that opportunities to implement feasible alternatives may have been lost. In such a case the City has unlawfully precommitted to the project.

Comment [NDBSJ8]: The City continues to use scare resources for the billboard project. For nearly four years, this project has been shrouded in secrecy, delayed, and costing tax payer dollars. You should shut this entire initiative down now before wasting more time and money.

Comment [NDBSJ9]: A glaring omission from this update is that the first new billboard project in 35 years is already mired in a lawsuit that contends the project was a backroom deal done without competitive bidding and in conflict with a contract that expressly prohibits billboards. Expect more litigation and more legal expenses if the City proceeds with more billboards.

<https://sanjosespotlight.com/san-jose-gets-sued-for-ignoring-its-billboard-rules/>

Comment [NDBSJ10]: See the attached Op-Ed discussing the takedown concept.

<https://sanjosespotlight.com/op-ed-taking-down-billboards-in-san-jose-who-benefits/>

San Jose's implementation of the takedown concept is a case study of how stupid just counting billboards is vs scoring them for a list of characteristics that would facilitate and justify their removal.

We've cited the flaws in the takedown requirement from our first involvement in the billboard issue and suggested a process to inventory billboards, score them for size, environmental impact, power consumption and other factors. Then when takedowns are feasible, the process is driven by this comprehensive matrix of information and community input to decide locations for removal.

Note: There is no takedown requirement for downtown billboards in the Phase 1 project. Is that clear to all of you?

COORDINATION

This memorandum has been coordinated with the Office of Economic Development and Cultural Affairs; the Department of Planning, Building, and Code Enforcement; and the City Attorney's Office.

CEQA

Not a Project, File No. PP17-009, Staff Reports, assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/
ROSALYNN HUGHEY
Deputy City Manager

For questions, please contact Nora Chin, Assistant to the City Manager, at nora.chin@sanjoseca.gov, or Blage Zelalich, Deputy Director, Office of Economic Development and Cultural Affairs at blage.zelalich@sanjoseca.gov.

Missing from this memo is a statement about Climate Smart San Jose.

Electronic Billboards are giant symbols of energy waste. See attached NDBSJ memo.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has ~~no~~ effect on Climate Smart San José energy, water, or mobility.

[Comment NDBSJ1] We call for you to reject this report because accepting the report would be accepting a process fraught with delays, lack of transparency, and incomplete information. We urge you to defer action and to request more comprehensive information be made publicly available, before rubber stamping approval.

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For well over a year, the City's Office of Economic Development has refused to respond to our repeated Public Record Act requests for relevant documents that contain details of the proposed billboards.

You should demand release of information about each proposal now so the City Council and the public will have adequate time and information upon which to make an informed judgment about these proposed billboards.

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[Comment NDBSJ8] The City continues to use scare resources for the billboard project. For nearly four years, this project has been shrouded in secrecy, delayed, and costing tax payer dollars, **You should shut this entire initiative down now before wasting more time and money.**

[Comment NDBSJ9] A **glaring omission** from this update is that the first new billboard project in 35 years is already mired in a lawsuit that contends the project was a backroom deal done without competitive bidding and in conflict with a contract that expressly prohibits billboards. Expect more litigation and more legal expenses if the City proceeds with more billboards.

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Note: There is no takedown requirement for downtown billboards in the Phase 1 project. Is that clear to all of you?

Op-ed: Taking down billboards in San Jose—who benefits?

by Special to San José Spotlight



OCTOBER 11, 2022



A blighted Clear Channel billboard in San Jose. Photo courtesy of No Digital Billboards.

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As recently reported, [San Jose is being sued](#) for not following its own rules. The case centers around the city's backroom deal to allow Clear Channel to erect new digital billboards along the Guadalupe River Trail near Mineta San Jose International Airport and Highway 101 without competitive bidding—and in conflict with an existing contract that specifically prohibits billboards.

But there is a parallel story here of how the city continues to defer to the billboard companies and along the way attempts to dupe the public into thinking city decision makers are doing good for the community.

As an example, we're highlighting the billboard takedown concept enthusiastically promoted by those who originally voted to rescind the ban on new billboards on public property that had been in force since Norm Mineta's term as mayor in the 1970s.

The takedown rules stipulate that for every new digital billboard approved, a number of existing static billboards will be removed. Originally proposed as a 10:1 ratio by the city planning department, the San Jose City Council adopted a watered down 4:1 ratio, meaning only four static billboards will be removed for every new, much more profitable digital billboard approved.

Fast forward to August 2022 and how the takedown rule is being applied—especially in light of an additional requirement added by the council that takedowns should be from low-income and high-crime neighborhoods.

Our assertion is based on Clear Channel's takedown list included in a recent city memo, revealing a plan so imbalanced that the company is giving up next to nothing relative to gaining millions of dollars in revenue from new digital billboards while simultaneously creating a new form of blight with a long list of negative environmental and aesthetic impacts duly noted by the Sierra Club, Audubon Society and others.

Clear Channel's billboard takedown list for the Airport project.

| San Jose Council District # | Panel # | Address | Latitude | Longitude | CDBG Low and Mod Income Tract | High Crime Area | # of Faces |
|-----------------------------|----------------|--|-------------|--------------|-------------------------------|-----------------|------------|
| 1 | 3039/3040 | 3120 Moorpark Ave San Jose CA 95117 | 37.31573 | -121.950479 | No | No | 2 |
| 3 | 1504/3050 | 3050 - 1st St WS 75ft S/O Margaret F/W 1504 - 1st St WS 75ft S/O Margaret F/S | 37.32510 | -121.88253 | Yes | No | 2 |
| 3 | 3090 | 452 F Hedding San Jose CA 95117 | 37.35776923 | -121.8935747 | Yes | No | 1 |
| 3 | 2349/2750 | 452 F Hedding San Jose CA 95117 | 37.357912 | -121.893468 | Yes | No | 2 |
| 5 | 2713 | 131 S. Capitol Ave San Jose CA 95127 | 37.3600919 | -121.834203 | Yes | No | 1 |
| 5 | 2894 | 1604 East San Antonio St San Jose, CA | 37.347985 | -121.856234 | Yes | No | 1 |
| 5 | 2948 | 1680 Alum Rock Ave San Jose CA 95116 | 37.352226 | -121.856242 | Yes | No | 1 |
| 6 | 1547/2800/2801 | 645 Lincoln Ave San Jose CA 95126 | 37.317148 | -121.907909 | Yes | Yes | 3 |
| 6 | 2966/2967 | 2966 - Stockton ES 171ft S/O Taylor F/W - 1 2967 - Stockton ES 171ft S/O Taylor F/S - 1 | 37.340362 | -121.912786 | No | No | 2 |
| 6 | 3059/3060 | 1720 N. First Street San Jose CA 95112 | 37.367471 | -121.909943 | Yes | Yes | 2 |
| 7 | 2621 | behind 1691 Villa Stone Drive San Jose CA 95125 | 37.306366 | -121.877311 | Yes | No | 1 |
| 7 | 2627 | 1817 Stone Ave San Jose CA 95125 | 37.30396 | -121.87495 | Yes | Yes | 1 |

Courtesy of No Digital Billboards in San Jose.

Some of the billboards on the list, like the site on South First Street, have been in an abandoned and dilapidated state for years. These should have been removed through condemnation and code enforcement.

For the city to ignore these sites and then claim the only way to get rid of these billboards is to reward the same company that created this blight with a takedown credit is obviously wrong.



A billboard on South First Street in San Jose. Photo courtesy of No Digital Billboards in San Jose.

Many other sites on the list are in industrial areas, not neighborhoods. They are within the boundaries of a zone that may be considered low income or high crime to give proponents something to boast about, but they are not as beneficial as removing an existing billboard from an actual area where people reside.

The site shown below is in an industrial/commercial area that meets both the low income and high crime criteria, but is nowhere near a neighborhood.



Billboard on North Fourth Street in San Jose. Photo courtesy of No Digital Billboards in San Jose.

There are many billboards in low-income neighborhoods that residents would choose to remove well before most of those designated on Clear Channel's list.

So once again we have the city deferring to a special interest while exhibiting contempt for the public interest. We have a list of takedowns developed without any evidence of community engagement, and with the mindset that as long as the billboard to be removed can check a box, it's a victory for those in low-income neighborhoods concerned about existing billboard blight.

San Jose's implementation of the takedown concept is also a case study of how stupid just counting billboards is vs. scoring them for a list of characteristics that would facilitate and justify their removal.

We've cited the flaws in the takedown requirement from our first involvement in the billboard issue and we have referenced how other cities inventory billboards, score them for size, environmental impact, power consumption and other factors. Then when takedowns are feasible, the process is driven by this comprehensive matrix of information and community input to decide locations for removal.

San Jose has done none of this while billboard proponents on the city council have celebrated the coming of digital billboards as a victory for neglected and marginalized neighborhoods. Don't you believe it.

In fact, the title of the list in the city memo alone is pretty telling, calling it Clear Channel's takedown list. What we need is the community's takedown list and a city council and staff who will work honestly and transparently to produce results for the public's benefit—instead of working on behalf of billboard special interests who don't care about you and never will.

Iason Hemp, Les Levitt and John Miller are co-founders of No Digital Billboards in San Jose.

March 1 2022

From: No Digital Billboards in San Jose

Subject: Electronic Billboards vs. Static Billboards Power Consumption

This memo is a guide to understanding the power consumption trade off of static vs. electronic billboards in the context of San Jose City Council Policy 6-4 take down rules.

This is presented to rebut the misconception propagated during the City Council airport billboard project deliberations that taking down conventional billboards yields an environmental win in terms of power consumption.



Many billboards in residential areas and neighborhood business districts in San Jose look like those shown in the photos above. They are usually lit 12 hours per day with a single 100 to 250 Watt LED light fixture. Many are not lighted at all.

Comparing billboards:

Static Single Light Billboard: $.25 \text{ kW} \times 12 \text{ hours} \times 365 \text{ days} = 1,095 \text{ kWh/year}$

Digital Billboard: $46,600 \text{ kWh/year}^1$

The electronic billboard consumes 42.5 X more power (46,600/1,095)

Approximately 42 conventional billboards like the type shown above left would have to be taken down to equal the power consumption of a single new electronic billboard like planned for the airport.

¹ Environmental consultant from David J. Powers quoted 140,000 kWh/year for (3) screens in the Airport project at the Airport Commission study session. $140,000/3 = 46,666 \text{ kWh/year per screen.}$

Taking it even further, with today's technology, it is possible for a static billboard light to be entirely solar powered and off grid. This is not an option for digital billboards.

With the current take down ratio stipulated in Council Policy 6-4, there is no factual basis for arguing that there is anything close to a power savings win. The new billboards will be a significant net increase to power consumption. Furthermore they will be giant symbols of disregard for the City's Climate Smart and Carbon Neutral 2030 policies and the very definition of wasteful energy use.

No Digital Billboards In San Jose - Steering Committee



I oppose electronic billboards in San Jose

Wanda [REDACTED]

Fri 10/21/2022 3:12 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

[You don't often get email from [REDACTED]. Learn why this is important at

<https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you.

Wanda Waldera

Sent from my iPhone

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I oppose electronic billboards in San Jose

lucille david [REDACTED]

Fri 10/21/2022 3:13 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

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Thank you.

Lucille David

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I oppose electronic billboards in San Jose

Michael Kevane 

Fri 10/21/2022 3:13 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

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Thank you.

Michael Kevane

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Electronic billboards

Sandi Strouse [REDACTED]

Fri 10/21/2022 3:18 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

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[External Email]

Electronic Billboards are a distraction to drivers, causing accidents. The city should not allow trees to be eliminated to put up billboards! Our trees are very important to our environment. Instead of billboards we should be planting more trees!

Sandi Strouse

Sent from my iPad

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I oppose electronic billboards in San Jose

Bette Linderman



Fri 10/21/2022 3:24 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

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[External Email]

Listen to the people who have voted for you and expect our voices to be heard.

I am opposed to the installation of new electronic billboard downtown or anywhere else in San Jose

Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboard are not what the public want, and it is not in the best interest of the City

Thank you.

Bette Linderman

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

I oppose electronic billboards in San Jose

Perig Vennetier [REDACTED]

Fri 10/21/2022 3:37 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

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[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you.

Perig Vennetier

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I oppose electronic billboards in San Jose

April Halberstadt [REDACTED]

Fri 10/21/2022 3:38 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

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[External Email]

I am absolutely opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

City leadership has totally lost any credibility on this issue. This makes any claims of "transparency" ludicrous.

Historically Yours,

April Halberstadt

Voting in Naglee Park since 1973.

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I oppose electronic billboards in San Jose

David Chai [REDACTED]

Fri 10/21/2022 3:50 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

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<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

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[External Email]

To whom it may concern,

Considering the outpouring of opposition to new billboards in San Jose, I can't understand why this topic keeps coming up.

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you,

David Chai

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I oppose electronic billboards in San Jose

Massimo Maniaci [REDACTED]

Fri 10/21/2022 3:51 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

Some people who received this message don't often get email from [REDACTED] [Learn why this is important](#)

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Do the right thing.

Thank you.

Massimo Maniaci

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Digital Billboards CED Committee Meeting: Oct 24

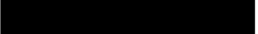
Brian Carr



Fri 10/21/2022 3:52 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>

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[External Email]

Why is the City Council moving ahead with digital billboards in San Jose --when an overwhelming majority of the **citizens in the city oppose them for valid reasons which have been set forth over and over?**

This is a mystery that has never been explained. Is it a function of campaign contributions from supporters?

Once again, please oppose this unnecessary and unpopular scheme.

City Clerk: Please provide copies to all members.

Brian Carr
San Jose

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I oppose electronic billboards in San Jose

Patricia Gomez [REDACTED]

Fri 10/21/2022 5:15 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>;steering.committee@billboardsno.org
<steering.committee@billboardsno.org>;Reid, Tara <Tara.Reid@sanjoseca.gov>

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important](#)

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose. Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas. Thank you. [your name here]

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No Electronic Billboards

Michael Fjordback [REDACTED]

Fri 10/21/2022 5:53 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important](#)

[External Email]

I oppose electronic billboards in San Jose. It's bad enough that our neighborhoods are being ruined with high density housing, we don't need to ruin out downtown as well.

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you.

Michael Fjordback
[REDACTED]

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NO electronic billboards in San Jose

RC Lavia

Fri 10/21/2022 5:55 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>;Reid, Tara <Tara.Reid@sanjoseca.gov>;steering.committee@billboardsno.org <steering.committee@billboardsno.org>;District3 <district3@sanjoseca.gov>;District1 <district1@sanjoseca.gov>;District2 <district2@sanjoseca.gov>;District4 <district4@sanjoseca.gov>;District5 <district5@sanjoseca.gov>;District 6 <district6@sanjoseca.gov>

[You don't often get email from [REDACTED] Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

We along with the majority of residents are vehemently opposed to the installation of new electronic billboards downtown or anywhere else in San Jose.

Stop wasting City resources and our tax dollars on this proposal !

Digital billboards are not what the public wants, and it is not in the best interests of the City.

Listen to us the people!

Do not turn our town into another Los Angeles or Las Vegas.

Thank you.

Roseanna and Anthony Lavia

San Jose

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I oppose electronic billboards in San Jose

Aine O'Donovan



Fri 10/21/2022 10:47 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>;steering.committee@billboardsno.org
<steering.committee@billboardsno.org>;Reid, Tara <Tara.Reid@sanjoseca.gov>

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[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboard are not what the public want , and it i not in the be t intere t of the City Li ten to the people! Let' not turn our town into another Los Angeles or Las Vegas.

Thank you
Aine O'Donovan

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I oppose electronic billboards in San Jose

Joseph Gemignani [REDACTED]

Fri 10/21/2022 10:50 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

[Some people who received this message don't often get email from [REDACTED]

Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you.

[your name here]

Joseph (amateur weatherman)

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I oppose electronic billboards in San Jose

Janet Gillis [REDACTED]

Fri 10/21/2022 11:23 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

[You don't often get email from [REDACTED] Learn why this is important at

<https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

I AM OPPOSED to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting city resources on this proposal which the overwhelming majority of residents oppose. Digital billboards are NOT what the public wants, and it is NOT in the best interests of the City. LISTEN TO THE PEOPLE! Let's not turn our town into another Los Angeles or Las Vegas. Thank you,
Janet Gillis

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I oppose electronic billboards in San Jose

Bob Burres




Sat 10/22/2022 5:20 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

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[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you.

[your name here]

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I oppose electronic billboards in San Jose

Olga Martynenko [REDACTED]

Sat 10/22/2022 7:58 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

[You don't often get email from [REDACTED]. Learn why this is important at

<https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you.

[your name here]

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I oppose electronic billboards in San Jose

Ryan Smith [REDACTED]

Sat 10/22/2022 9:02 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important](#)

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you.

Ryan H, Smith

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Do NOT do any type of billboards in San Jose

Bill H



Sat 10/22/2022 9:31 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

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[External Email]

Please do not install billboards (electronic or otherwise) in San Jose. This issue comes up over and over, and every time the citizens voice their overwhelming opposition.

Please listen to us and stop allowing “business interests” to push their own agenda!

Best regards,
Bill Herndon

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I oppose electronic billboards in San Jose

Oscar M. Siguenza [REDACTED]

Sat 10/22/2022 9:59 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

[You don't often get email from [REDACTED] Learn why this is important at

<https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you.

Nadine & Oscar Siguenza

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I oppose electronic billboards in San Jose

Doris Tuck [REDACTED]

Sun 10/23/2022 7:57 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara <Tara.Reid@sanjoseca.gov>; No Digital Billboards In San Jose <steering.committee@billboardsno.org>

[Some people who received this message don't often get email from [REDACTED]. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

The city of San Jose is trashy enough without you greedy and ignorant people making it so many times more disgusting. Please find a bit of sense, and have a touch of caring and grace for the citizens (and taxpayers) of what was once a safe and decent city.

Please.

Thank you.

Doris Tuck, Noble Neighborhood

--

Doris Tuck
[REDACTED]

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I oppose electronic billboards in San Jose

Judith Wells-Walberg [REDACTED]

Sun 10/23/2022 10:06 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara <Tara.Reid@sanjoseca.gov>; NDBSJ Steering Committee <steering.committee@billboardsno.org>

Some people who received this message don't often get email from [REDACTED] [Learn why this is important](#)

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you.

Judith Wells-Walberg, [REDACTED], San Jose, CA

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No digital billboards in San Jose

Lincoln Bourne



Sun 10/23/2022 11:17 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov ;District9 district9@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>;Reid, Tara

<Tara.Reid@sanjoseca.gov>;steering.committee@billboardsno.org <steering.committee@billboardsno.org>

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[External Email]

I understand the San Jose City Council's Community & Economic Development (CED) Committee will be discussing "Electronic Billboards on City-Owned Property Status Report" tomorrow.

Why the heck is the city still putting digital billboard when it's clear there's overwhelming public opposition? Stop it!

Lincoln Bourne



District 9
San Jose

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I oppose electronic billboards in San Jose

Suzanne Morrone [REDACTED]

Sun 10/23/2022 4:28 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara <Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

[You don't often get email from [REDACTED]. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

I am utterly opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

I will not vote for anyone who supports electronic billboards. Ever.

Thank you.

Suzanne Morrone

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Another citizen opposed to digital billboards.

vickie r [REDACTED]

Sun 10/23/2022 10:36 PM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>;Reid, Tara

<Tara.Reid@sanjoseca.gov>;steering.committee@billboardsno.org <steering.committee@billboardsno.org>

[Some people who received this message don't often get email from [REDACTED]. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! Let's not turn our town into another Los Angeles or Las Vegas.

Thank you

Victoria Rivard

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Status Review of Digital Billboards, 24 Oct 2022

plynam [REDACTED]

Mon 10/24/2022 2:04 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara <Tara.Reid@sanjoseca.gov>

[Some people who received this message don't often get email from [REDACTED]. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[External Email]

Dear Members of the Community and Economic Development Committee,

The University of California Observatories/Lick Observatory (UCO/Lick) urges the City of San Jose to adopt the 2022 recommendations of the City's appointed panel of expert advisors (i.e. the Airport Commission) regarding electronic billboards on City owned property.

Lick Observatory, the world's first high altitude astronomical observatory, stands sentinel atop Mount Hamilton, overlooking Santa Clara Valley. The observatory hosts multiple cutting edge research instruments, serving hundreds of faculty (including Nobel laureates) and students of the University of California system, in addition to 35,000 visitors annually. Named in classic literature and in radio transmissions during the (20 July 1969) Apollo 11 Moon landing, Lick Observatory leads the world, setting standards on astronomical matters and responsible lighting. New vistas on the universe and new worlds are routinely discovered from Santa Clara County. Next month (December 2022) shall mark the 140th anniversary of Lick Observatory's unique observations of the 1882 transit of Venus. This heritage and catalog of world renowned, on going scientific contributions could not have been achieved without cooperation between the observatory and neighboring settlements.

In 2018, the City of San Jose consulted with UCO/Lick. The billboards then under consideration were limited to 17 City owned locations, primarily in San Jose's downtown. This understanding shaped UCO/Lick recommendations, a denuded selection of which appeared in Council Policy 6 4. Post 2018 phasing and proposed expansions of electronic billboard initiatives on City owned property have relied upon unjustified extrapolations of out of date, out of context recommendations. These post 2018 billboard initiatives are incompatible with other City Council policies (e.g. 4 2) which strive "to meet the astronomical research needs of the University of California Lick Observatory on Mount Hamilton". By adhering to the inadequate guidance of Council Policy 6 4,

the proposed advancement of electronic billboard initiatives by the City of San Jose shall exacerbate the already-vexing phenomenon of anthropogenic light at night (ALAN) and render a disproportionate and deleterious impact on astronomical pursuits, fauna, flora and public health. Despite Council Member Peralez (25 September 2018) urging "industry experts to [...] speak with representatives of Lick Observatory", no such consultation has subsequently taken place. Quite apart from astronomers' niche concerns, the most commonly cited objection to billboards (electronic and conventional) is visual blight. Billboards are notorious for intrusive, poorly-maintained, malfunctioning, decrepit and unsightly structures, often imposed on under-served neighborhoods. The outdoor advertising industry is noted - even celebrated - for wasteful practices. Outdoor advertising typically constitutes a minor fraction of overall advertising budgets. As on-line media continues to grow, revenues derived from outdoor advertising are projected to decline.

In the case of electronic billboards, it appears that preservation of dark sky environments of the Santa Clara Valley is being neglected. We are not alone in our anxieties. During the 25 September 2018 City Council meeting, Mayor Liccardo expressed reservations regarding public consultation: "there has not been a lot of generalized outreach". Council Member Rocha complained of "frustration" with the process. Council Member Peralez stated "there may be a change of heart or direction based on what we hear back from our community". Similarly, Mr Bruce Qualls (Clear Channel Outdoor) assured us that "with individual studies on individual sites we think we can ameliorate the concerns [...] or those sites can be rejected by planning commission or Council". Tremendous (in excess of 93 per cent) community opposition to digital billboards has not been assuaged. "Immense public outcry" has been repeatedly cited, augmented by other concerns including contract validity, energy consumption and inconsistencies with the City's long-term objectives. Mr Anthony Leones (Out Front Media) stated "there is a fundamental flaw in this process". In the 15 February 2022 City Council meeting, Mayor Liccardo proclaimed "the Public hates billboards [...] if you took a poll on the Council it would be 11:0 [...] we would be happy to have a city without billboards".

Given this widespread dissatisfaction, it is confounding that the advancement of electronic billboards persists as a priority issue for the City. The most recent, thorough and unbiased review of billboards on City property has been the 2021/2022 analyses undertaken by the Norman Y. Mineta San Jose Airport Commission. Any succeeding status report on electronic billboards on City-owned property cannot be considered representative if the work of the Airport Commission goes neglected or understated. At minimum, the recommendations of the Airport Commission should be reiterated. Furthermore, we urge the City to adopt the 2022 recommendations of the Airport Commission in full.

Yours sincerely,

Dr Paul D Lynam FRAS

Astronomer
University of California Observatories/Lick Observatory

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I oppose electronic billboards in San Jose

Laurel Torney [REDACTED]

Mon 10/24/2022 8:14 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

Cc: City Clerk <city.clerk@sanjoseca.gov>; Reid, Tara

<Tara.Reid@sanjoseca.gov>; steering.committee@billboardsno.org <steering.committee@billboardsno.org>

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[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San José. Please stop wasting resources on this proposal that the overwhelming majority of residents oppose.

Digital billboards are not what the public wants and it is not in the best interests of the city. Listen to the people! It is bad for the environment (light pollution and urban wildlife).

Thank you!

~Laurel Torney

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I oppose electronic billboards in San Jose

Connelee Shaw [REDACTED]

Mon 10/24/2022 9:46 AM

To: CEDCommittee CEDCommittee@sanjoseca.gov

You don't often get email from [REDACTED]. [Learn why this is important](#)

[External Email]

I am opposed to the installation of new electronic billboards downtown or anywhere else in San Jose. Stop wasting City resources on this proposal which the overwhelming majority of residents oppose.

Billboards are an eyesore and a distraction for drivers. Electronic billboards are a waste of energy and a source of light pollution, adversely affecting wildlife.

Digital billboards are not what the public wants, and it is not in the best interests of the City. Listen to the people! If we wanted to live in a "well lighted" area we would move to Las Vegas or Times Square.

Thank you, Conne Shaw

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October 23, 2022

VIA EMAIL

Community & Economic Development Committee
City Council
City of San Jose
200 E. Santa Clara St.
San Jose, CA 95113
Pam.Foley@sanjoseca.gov
Maya.Esparza@sanjoseca.gov
Magdalena.Carrasco@sanjoseca.gov
Matt.Mahan@sanjoseca.gov
Raul.Peralez@sanjoseca.gov

Re: October 24, 2022 Agenda; Item 4
Electronic Billboards on City-Owned Property Status Report

Dear Community & Economic Development Committee Members:

This law firm represents No Digital Billboards in San Jose (NDBSJ), a group of citizens concerned with environmental, aesthetic and community impacts of digital billboards in the City of San Jose. With respect to the above referenced agenda item, NDBSJ is concerned with the City's pending action to issue a Notice of Intended Award (NOIA) which commits the City to the establishment of electronic billboards on City-owned property before undergoing proper California Environmental Quality Act (CEQA) review.

As an initial matter, it should be noted that NDBSJ has made several Public Records Act requests to obtain relevant project documents in an attempt to better understand the City's process. The Public Records Act expressly provides that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." (Government Code § 7920.110.) The purpose is to give the public access to information that enables them to monitor the functioning of their government. (Government Code §7920.110.) However, the City has denied NDBSJ's several requests by stating said documents are "confidential." In fact, the City has not responded to various requests from our client starting in 2021 until this office intervened and asked for documents. As such, the concerns outlined in this letter are based on the limited information that the City has provided to NDBSJ. With respect to the records before us, it is apparent that if the City issues an NOIA as outlined in the staff Memorandum on this item, the City will be making a precommitment to the establishment of electronic billboards on City-owned property without undertaking proper environmental review prior to the issuance of the NOIA in violation of the California Environmental Quality Act. Here the City proposes performing environmental review after the issuance of the NOIA.

“The foremost principle under CEQA is that the Legislature intended the act ‘to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.’” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390, citing *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259.) “CEQA embodies a central state policy to require state and local governmental entities to perform their duties ‘so that major consideration is given to preventing environmental damage.’ [Citations.] [¶] CEQA prescribes how governmental decisions will be made when public entities, including the state itself, are charged with approving, funding — or themselves undertaking — a project with significant effects on the environment.” (*Union of Medical Marijuana Patients, supra* 7 Cal.5th at 1185, citing *Friends of the Eel River v. North Coast Railroad Authority* (2017) 3 Cal.5th 677, 711-712.) Overall, the basic purposes of CEQA are to: (1) inform the government and public about a proposed activity's potential environmental impacts; (2) identify ways to reduce, or avoid, environmental damage; (3) prevent environmental damage by requiring project changes via alternatives or mitigation measures when feasible; and (4) disclose to the public the rationale for governmental approval of a project that may significantly impact the environment. (Cal. Code Regs., tit. 14, § 15002(a).) Accordingly, CEQA requires that “a development decision having potentially significant environmental effects must be *preceded*, not *followed*, by CEQA review.” (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132, citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 394.)

CEQA applies when a public agency proposes to “approve” a “project.” (Public Resources Code § 21080(a); Cal. Code of Regs., tit. 14, § 15004.) Under CEQA, “project” is broadly defined as

an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- (a) An activity directly undertaken by any public agency.
- (b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
- (c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

(Pub. Resources Code, § 21065.) The CEQA Guidelines also add

- (a) **“Project” means the whole of an action**, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

- (1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.
- (2) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
- (3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

(Cal. Code of Regs., tit. 14, § 15378, emphasis added.)

The “approval” of a CEQA project is not merely the formal and final approval of a project, but also extends to the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person. (Cal. Code of Regs., tit. 14, § 15352(a).) Moreover, “With private projects, approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project.” (Cal. Code of Regs., tit. 14, § 15352(b).) “On its face, this regulatory definition suggests a public agency's execution of a contract to convey a property for development would constitute approval of the development project.” (*Save Tara v. City of West Hollywood, supra*, 45 Cal.4th at 132.) In addition,

public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance. For example, agencies shall not:

- (A) **Formally make a decision to proceed with the use of a site for facilities which would require CEQA review**, regardless of whether the agency has made any final purchase of the site for these facilities, except that agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance.
- (B) Otherwise take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.

(Cal. Code Regs., tit. 14, § 15004(b)(2).)

According to the staff Memorandum, City staff has undergone a site selection process for digital billboards which has been divided into two efforts: 1) the Select Site process, and 2) the Alternative Sites process. In the Select Site process, the City issued a Request for Proposals (RFP) for signage at eight properties in the downtown core. The solicitation sought proposals for leases to install, operate, and manage building-mounted static and/or digital commercial advertising signs in eight City locations. Though a NOIA has not been issued yet, the Memo states that “For the Select Sites process, staff intends to issue the NOIA in fall 2022. Project-level CEQA analysis would then be completed.” (Memo, p. 3.) In other words, the City plans to select the project *prior* to CEQA review.

With respect to the Alternative Sites Process, the City issued an NOIA to Clear Channel Outdoor for a digital, commercial, free-standing sign at three locations: Hwy 87 and West Mission (APN 259-04-019), 1404 Mabury Road (APN 254-01-004), and a site on I-880, just south of Hwy 87 (APN 230-38-111). In that NOIA, City staff analyzed the aesthetic qualities of the proposals without the requisite environmental review. (See Exhibit A attached hereto.) We expect that the NOIA proposed to be issue this fall will have the same analysis. Based on the limited documents available to the public, issuance of an NOIA would constitute a precommitment to move forward with a project without conducting review prior thereto. Several cases, including those brought before the California Supreme court, have made clear that such precommitment actions violate CEQA.

In *Save Tara v. City of West Hollywood*, *supra*, 45 Cal.4th 116, the California Supreme Court analyzed whether CEQA review was required before the City of West Hollywood approved a land conveyance and development agreement for the construction of 35 housing units. West Hollywood and real parties in interest argued that, “‘commit[ment]’ that constitutes approval of a private project for CEQA purposes” is limited “to unconditional agreements irrevocably vesting development rights. In their view, ‘[t]he agency commits to a definite course of action ... by agreeing to be legally bound to take that course of action.’” (*Id.* at 134.) The court disagreed.

We note as well that postponing EIR preparation until after a binding agreement for development has been reached would tend to undermine CEQA's goal of transparency in environmental decisionmaking. Besides informing the agency decision makers themselves, the EIR is intended “to demonstrate to an apprehensive citizenry that the agency has in fact analyzed and considered the ecological implications of its actions.” [Citations.] **When an agency reaches a binding, detailed agreement with a private developer and publicly commits resources and governmental prestige to that project, the agency's reservation of CEQA review until a later, final approval stage is unlikely to convince public observers that before committing itself to the project the agency fully considered the project's environmental consequences.** Rather than a “document of accountability” [Citation], the EIR may appear, under these circumstances, a document of post hoc rationalization.

(*Id.* at 136, emphasis added.)

The court in *Riverwatch v. Olivehain Municipal Water Dist.* (“*Riverwatch*”) (2009) 170 Cal.App.4th 1186 dealt with a similar issue on whether a municipal water district’s agreement to provide recycled water, which was to be used in support of landfill operations, constituted an approval of part of the landfill project. The *Riverwatch* court concluded that such actions constituted improper precommitment approval, reasoning

Under CEQA, “approval” is a “decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person.” (Cal.Code Regs., tit. 14, § 15352, subd. (a), italics added.) Furthermore, “[w]ith private projects, approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract” (Cal.Code Regs., tit. 14, § 15352, subd. (b).) Because the Agreement set forth the specific details regarding OMWD’s 60–year obligation to deliver recycled water to GCL, and the construction required to allow that delivery, OMWD’s approval and signing of the Agreement satisfied the definiteness requirement (i.e., a definite course of action). Furthermore, when on February 17, 2006, OMWD’s board approved the Agreement and OMWD’s execution of the Agreement, OMWD clearly committed itself to the course of action set forth in the Agreement, which is a discretionary contract. Therefore, by February 17, 2006, OMWD made its earliest commitment to a definite course of action regarding its part of the Landfill project (i.e., to deliver up to 244,000 gallons of recycled water to GCL per day for a period of 60 years for use at the Landfill project site).

(*Id.* at 1212.)

In *John R. Lawson Rock & Oil, Inc. v. State Air Resources Bd.* (2018) 20 Cal.App.5th 77, the court considered whether the State Air Resources Board violated CEQA by issuing a “regulatory advisory” concerning its plans to issue amendments to “Truck and Bus Regulations” before analyzing the environmental impacts of said amendments. The court found that the issuance of the regulatory advisory constituted the improper precommitment approval of the project under CEQA. (*Id.* at 98.) The court explained

A project is a broad concept under CEQA that asks whether certain entities’ activities “ ‘may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.’ ” (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653, 54 Cal.Rptr.3d 500.) Analogous to this case, “[t]his means that agency action approving or opening the way for a future development can be part of a project and can trigger CEQA even if the action takes place prior to planning or approval of all the specific features of the planned development.” (*Id.* at p. 654, 54 Cal.Rptr.3d 500.) This “opening the way” can trigger CEQA where it constitutes an approval.

...

While the Board contends no project approval could exist prior to the formal approval from the Board, this is not correct. An approval under CEQA is “the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person.” (CEQA Guidelines, § 15352, subd. (a).) “Generally speaking, an agency acts to approve a proposed course of action when it makes its earliest firm commitment to it, not when the final or last discretionary approval is made.” (*North Coast Rivers Alliance v. Westlands Water Dist.* (2014) 227 Cal.App.4th 832, 859, 174 Cal.Rptr.3d 229, italics omitted.) **Approvals under CEQA, therefore, are not dependent on “final” action by the lead agency, but by conduct detrimental to further fair environmental analysis.**

(*Ibid.*, emphasis added.)

Here, City staff is prematurely determining which billboard proposals it prefers despite the possibility of alternative proposals that could present less environmental impacts. As explained above, approvals under CEQA are not limited to final actions by the lead agency. (*John R. Lawson Rock & Oil, Inc. v. State Air Resources Bd, supra*, 20 Cal.App.5th at 98.) Approvals under CEQA extend to commitments to a particular action. (*Save Tara v. City of West Hollywood, supra*, 45 Cal.4th at 136.) By issuing NOIA’s before undergoing CEQA review, the City is prematurely committing to a “definite course of action” by narrowing its potential project components and locations without considering the environmental impacts of doing so. Such actions are in direct violation of CEQA.

Thank you for your consideration of these comments.

Very truly yours,
WITTWER PARKIN

/s/

Antoinette Ranit

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EXHIBIT A



July 20, 2021

NOTICE OF INTENDED AWARD

RFP# OED60-19-2

Large Format Signs For Alternative City-owned Property

RFP #OED60-19-2, Large Format Signs For Alternative City-owned Property, was issued on August 16, 2019 and requested proposals for new free-standing digital commercial advertising on two City-owned properties in San Jose. These properties are parking lots located at Hwy 87 and West Mission (APN 259-04-019) and 737 North San Pedro Street (APN 259-06-054). Additionally, a proposer could provide a proposal for free-standing digital commercial advertising at one or multiple City-owned properties that also met the site selection criteria set forth in Council Policy 6-4 and Title 23 of the San José Municipal Code as noted in Section 2.2.2 of the RFP.

The City received one proposal to place a digital, commercial sign in the parking lot at Hwy 87 and West Mission and 19 other proposals for 18 unique sites. The City’s evaluation team has concluded the proposal evaluation process pursuant to Section 14 of the RFP and is recommending award of a contract for a digital, commercial, free-standing sign at three locations: Hwy 87 and West Mission (APN 259-04-019), 1404 Mabury Road (APN 254-01-004), and a site on I-880, just south of Hwy 87 (APN 230-38-111). The signs at Hwy 87 and West Mission and 1404 Mabury Road are recommended to be awarded to Clear Channel Outdoor and the sign at I-880, just south of Hwy 87 is recommended to be awarded to Outfront Foster Interstate.

The City has decided to reject all other proposals submitted, pursuant to Section 15 of the RFP, because they do not meet the outlined site selection criteria. Of the 18 sites, two site proposals were reviewed by the City’s evaluation team, nine were not City-owned sites (submitted proposals did not provide adequate proof of City ownership of these sites) and seven others had a variety of non-conformance issues including being located within 100’ of a designated riparian corridor, being in a public right-of-way where off-premise signage is not consistent with state law, or having a residential or other non-compliant zoning designation.

The evaluation scores for the qualifying proposals received are summarized in the following tables:

Hwy 87 and West Mission (APN 259-04-019)

| Evaluation Category | Weight | Clear Channel Outdoor |
|----------------------------|-------------|-----------------------|
| Experience | 15% | 13 |
| Aesthetic Quality | 30% | 19 |
| City Benefit | 35% | 34 |
| Removal of Existing Signs* | 20% | 23 |
| TOTAL | 100% | 89 |

*The RFP allowed for additional points to be assigned to this category if the proposal offered a greater than 4:1 takedown ratio.

1404 Mabury Road (APN 254-01-004)

| Evaluation Category | Weight | Clear Channel Outdoor | Outfront Foster Interstate |
|----------------------------|---------------|------------------------------|-----------------------------------|
| Experience | 15% | 13 | 11 |
| Aesthetic Quality | 30% | 17 | 12 |
| City Benefit | 35% | 35 | 31 |
| Removal of Existing Signs* | 20% | 21 | 16 |
| TOTAL | 100% | 86 | 70 |

*The RFP allowed for additional points to be assigned to this category if the proposal offered a greater than 4:1 takedown ratio.

I-880, South of Hwy 87 (APN 230-38-111)

| Evaluation Category | Weight | Outfront Foster Interstate |
|----------------------------|---------------|-----------------------------------|
| Experience | 15% | 11 |
| Aesthetic Quality | 30% | 12 |
| City Benefit | 35% | 32 |
| Removal of Existing Signs* | 20% | 14.5 |
| TOTAL | 100% | 69.5 |

*The RFP allowed for additional points to be assigned to this category if the proposal offered a greater than 4:1 takedown ratio.

Unsuccessful proposers may submit a protest within ten days after the date of this notice pursuant to Section 16 of the RFP addressed to Deputy City Manager Rosalynn Hughey.

Thank you for your interest and participation in this RFP process for large format signs for alternative City-owned property.